



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

AUGUST 5, 2014

APPROVED MINUTES

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, August 5, 2014 at 7:30 p.m. in the Matthew Thornton Room.

Chairman Robert Best presided:

Members of the Board Present: Stanley Bonislawski
Lynn Christensen
Desirea Falt
Michael Redding
Councilor Thomas Koenig
Nelson Disco, Alternate

Members of the Board Absent: Alastair Millns, Secretary

Also in Attendance: Donna Pohli, Assistant Planner

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 19, 2014 in the Matthew Thornton Room.

Chairman Best appointed Nelson Disco to sit in as a voting member in the absence of Alastair Millns.

2. Planning & Zoning Administrator's Report - None

3. **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. ***This item is continued from the July 22, 2014 Planning Board meeting.***

Ms. Pohli informed the Board, due to the large industrial user's plans not yet being finalized; no decision could be made on the Conditional Use Permit (CUP) until the lot areas have been finalized. She also noted Arnett Development Group is currently reviewing fiscal impact(s). Staff will inform the Board and Applicant once information is received. Additionally, staff recommends, given the complexity of the traffic report, that CLD be utilized for review of the submitted Traffic Impact Analysis.

Mr. Chad Branon, Fieldstone Land Consultants, stated he and Kevin Walker, John J. Flatley Company, were before the Board seeking a CUP for a mixed-use development consisting of industrial, multi-family residential, commercial, restaurant, and retail uses. He noted the application was before the Board on April 15th for a pre-submission hearing. Presently John J. Flatley owns a series of five contiguous parcels identified as Tax Map 6E, Lots 003-1, 003-3, 003-4, 003-5, and 003-6. The collective area of the parcels totals approximately 149 acres with 4,300 linear feet of frontage on D.W. Highway.

The property is located on the east side of D.W. Highway just north of Hilton Drive and approximately 1,350' from the intersection of Bedford Road and D.W. Highway. The site is situated in the I-1 Industrial District and

portions of the site are situated in the Aquifer Conservation and Wellhead Protection, Elderly Housing, and Wetland Conservation Overlay Districts.

The geometry of the site is somewhat unique due to the Saint Gobain Company owning a lot, which is basically situated in the center of the parcel. The subject properties are mostly vacant with the exception of a single-family home and garage as well as the former fish hatchery located along the D.W. Highway, which is near the center of the site. The existing ground cover for the site consists of a mix of open field area on the southwesterly portion, natural woodland areas along the southeasterly portion, and the remainder consisting of a mix of woodland and brush (recently logged).

The parcels have jurisdictional wetlands within the boundaries. Those wetlands were field delineated and located by Fieldstone Land Consultants, and consist of a few isolated wetlands, an area adjacent to the D.W. Highway, and two ponds having associated wetland boundaries, which outfall into a stream that runs west to east ultimately going under the railroad and discharging into the Merrimack River. The last wetland on the property is located along the northern boundary, which discharges off the property.

The terrain of the property generally consists of mild slopes throughout ranging from 1-10% with the exception of the areas adjacent to the stream where the slopes exceed 25% in some areas. Throughout the property there are gravel roads providing access to the various parcels. They also provide access to the municipal sewer easement and lines that traverse through the property.

Sewer, water, natural gas, and overhead electric, telephone, and cable utilities are available along the D.W. Highway. The site has been laid out in such a way as to transition from residential to retail to industrial while moving from south to north through the property. The project situates the multi-family residential housing in an area compatible with the single-family residential housing along Lantern Lane.

There is a large warehouse development along the railroad and behind the Saint Gobain property. This portion of the property is current under Purchase & Sales Agreement with F.W. Webb to construct over 1 million square feet of warehouse and office space. This development will take place over approximately 64 acres and will be handled as an out parcel, and; therefore, not be part of the CUP process.

While under a P&S, the John J. Flatley Company had this in mind in its mixed-use concept while dealing with F.W. Webb. Mr. Branon spoke of mention made at a past meeting of other mixed uses in Town, in the past, that have built apartments/condos and done nothing else. They believe the F.W. Webb development taking place on this project needs to at least be acknowledged as it would not be occurring if it were not for John Flatley. As such, they would like the ability to build the apartments with no restrictions. Mr. Branon spoke of concern expressed regarding allowing the apartments to be constructed in Phase I as the Town would typically be looking for some commercial or industrial development to occur at the same time. There is a large industrial development that will be happening basically at the same time, and they are hoping to take benefit of that and that the residential portion would be allowed to be Phase I. When taking out the F.W. Webb area (approx. 64 acres), what remains is 85 acres, which continues to meet the requirements for a mixed-use development per the regulations.

The development associated with this project includes a multi-family residential complex consisting of 240 residential apartments, 296,000 sq. ft. of commercial retail space, 120,000 sq. ft. of industrial space, and a 242-seat restaurant. This may change to some degree as the site is marketed and users become evident. Mr. Branon noted it is understood issues such as traffic, parking, drainage, etc. will be handled on a site plan-by-site plan basis as each user becomes known, and plans are submitted.

The apartment area currently proposes five 48-unit buildings, a club house, pool area, tennis courts, and a playground area. The 242 units will consist of 110 one-bedroom units and 130 two-bedroom units. This density conforms to the requirements as outlined in the Planned Unit Development (PUD) regulations. That regulation states you are allowed seven single-family units per acre and 6 two-bedroom units per acre. The requirement to satisfy the density is 36.7 acres. A map included in the Master Plan, a copy of which was provided to the Board in advance of the meeting, depicts an area highlighted in green which identifies 37.5 acres of acceptable land.

Mr. Branon stated his understanding a number of meetings have taken place with staff, which resulted in an understanding the area that supports the density can somewhat sprawl through the site. He noted they get relatively close to some of the retail space in order to satisfy that density requirement.

Member Bonislowski stated his disagreement with the parking depicted for the residential area. He spoke of the plan attributing 1 car to each of the one-bedroom apartments, which he does not believe to be sufficient. Mr. Branon responded in the plan before the Board, every one of the uses satisfies the local parking requirements. The requirements stipulate 1.25 spaces per bedroom plus .5 spaces per dwelling unit, which ends up being in the area of 600 for required parking spaces. What is depicted on the plan averages out to about 2.7 parking spaces per unit. The Flatley Company has found, through the years, that there needs are typically in the 1.8 range. He suggested the plan could show, design for, and obtain permits for future parking while only constructing 1.8 spaces per unit as needed, which would reduce the parking that is built by 233 spaces.

Mr. Branon stated the apartment area has been located on the southern boundary of the site as this use is more compatible with the adjacent single-family homes on Lantern Lane. The intent is to transition into the retail and industrial uses. The required buffering between single-family residential and the multi-family is 30' using natural buffering (Type 4). The current layout provides for 67+ feet of natural buffering at the narrowest spot. The buffer area will also be incorporated into a proposed open space area as depicted on the Master Plan.

The buffer area will be incorporated into a proposed open space area. The open space area will extend all along the southern boundary, wrap around the residential, encompass the stream that runs through the property as well as the wetland and wetland buffers, extend up into the retail area, and ultimately come out towards D.W. Highway, and capture the two ponds (former fish hatchery). That total area consists of approximately 22.5 acres. As part of the development the area will be enhanced to include seating and walkways. There will be an internal trail/walkway network that will connect all of the components of the development.

The commercial/retail component of the development is proposed to consist of 296,000 sq. ft. The plan shows this broken up over nine buildings ranging from 6,000 sq. ft. to 180,000 sq. ft. The retail area will consist of various sized buildings that may house 1 or multiple retail stores. The 120,000 sq. ft. high-bay industrial building proposed is essentially the same building and layout that the Board previously approved on Lot 003-05. It has been relocated in order to allow for the construction of the F.W. Webb building.

Parking for each component of the development meets local requirements. The Master Plan has been prepared to meet all regulations from the standpoint of parking, and is believed excessive in some cases. Mr. Branon remarked in reviewing the April 15th meeting minutes, he noted a request from a Board member to consider alternative ways of addressing parking, e.g., reduce paved area, etc. Although that is the intent, it was believed important to first show the site meets the regulations and perhaps address that on a site-by-site basis through the site plan review process.

The entire site will be serviced by town sewer, water, natural gas, underground electric, telephone, and cable. The individual connections and designs will be prepared as part of the site plan approval process for each phase of the development. The property will be accessed through the existing signalized entrance at the Saint Gobain site as well as three new access points. Vanasse & Associates, Inc. prepared a traffic impact and access study, which details the proposed access points. Based on this study, one additional set of traffic lights will be required. This will be triggered when and if the big box store is constructed. A dedicated entrance to the residential development is outlined as the intent is to minimize the traffic through that area and isolate that use.

In summary, there will be offsite improvements at each of the four intersections and one dedicated access to the residential development, which will be a stop controlled intersection. The commercial and industrial components of the project will be serviced by three access points consisting of one new signalized intersection, one stop controlled intersection, and the existing intersection at the Saint Gobain entrance.

Mr. Branon noted there were many comments in the staff memorandum pertaining to the subdivision of the property and depicting individual lots for each building or use. The reason it was not incorporated in the original Master Plan was due to the fact the John J. Flatley Company has always maintained ownership of the property. It is also difficult to depict the proposed lot lines at this stage because the users are not yet known. Once the users are known there is a chance certain elements of the plan will be modified, which would require them to come before the Board for approval.

After weighing the comments and the potential need to subdivide for financial reasons, the plan they chose to bring forth was a conceptual plan of the property. The applicant desires zoning relief for setbacks to any future interior property lines as well as relief from the easterly property line along the Saint Gobain property. If identifying a line between the two buildings the plan would not meet the technical 20' setback requirements between the property line and the building. As such, in some areas they may not meet some of the buffering requirements, although buffering between like uses is pretty minimal. The applicant is of the belief the Board could grant relief as part of the CUP. The request was made for such relief to be granted.

With regard to phasing, Mr. Branon stated it to be difficult to project exactly how the project will be developed as so many aspects of it will be market driven. The residential portion will be Phase 1; ultimately constructed by the John J. Flatley Company. The remaining pad sites will be actively marketed and developed as users sign on. Mr. Branon stated there will be some discussion and ultimately some decisions made on what the next step will be, but he is sure it will be a function of what the response is once the property is marketed. He reiterated the desire that there be no restrictions on the residential portion of the project mainly due to the fact there is a large amount of development that is currently moving forward on this project.

Member Falt questioned the intended use of the F.W. Webb building, e.g., distribution, manufacturing, etc. Mr. Branon stated his belief it would be mainly warehousing and distribution. Mr. Walker stated it will mainly be a distribution center. If there is a small contractor that may need a specific boiler, etc., instead of shipping in bulk they will allow it to be picked up at the warehouse. He stated his belief it would be 970,000 sq. ft. of warehouse and the other 30,000 sq. ft. will be offices. Member Falt commented the purpose of her question was to ensure there would be no chemicals delivered or any hazards to the area.

Member Falt spoke of the calculation of green space with regard to density associated with the residential construction; specifically the inclusion of the area around the back side of the big box store. Her preference would be for the required green space to be achieved through areas that would be utilized by the multi-use aspects.

Member Falt stated her agreement with the approach to parking in terms of identifying the maximum amount, constructing in accordance with prior experience (1.8 per unit) and proposing future build-out if needed. She stated a desire to see more break-up in the parking layout, e.g., cantered and perhaps additional green space. Mr. Walker remarked, although the plan is a bit deceiving because of its size, the space between the buildings is approximately 80'-100'.

Member Disco questioned whether the fish hatchery property is part of the lot altogether in ownership by Flatley. Mr. Walker stated it is. Member Disco questioned the fate of the residential building located on that property. Mr. Walker responded the building is in relatively rough shape and is currently being rented out. It has just been learned there may be issues with the roof. Once the development is complete, the house will no longer be part of the property. There is also a large garage structure on the site, which will remain and be used for storage for site specific maintenance materials. Member Disco noted that is not indicated on the plan. Mr. Branon pointed out the house is located within the area shown on the plan as open space. Member Disco stated his impression the open space concept has been stretched. Mr. Walker commented the desire was to take advantage of the natural features that exist. Once the F.W. Webb parcel is conveyed discussions will take place regarding an area of the path; specifically whether it will be kept and turned into a waking path or ripped up, lawn placed down, and a walkway relocated in that area.

Member Disco questioned the reasoning behind the sort of leg that goes up and dead ends. Mr. Branon responded, initially the leg did not exist. In the process of the design of the F.W. Webb site they found they needed more area to address their drainage requirements. Given anything to the south would result in slopes and would be within the Shoreland Protection setbacks, the only place they could really address storm water for the southern portion of the site was in that area. They informed the Flatley Company of their need for more space, which resulted in that configuration. Mr. Walker added what they have now is conceptually drawn up. They seem to think that area will shrink. If so, Flatley would retain that and make it more of the green space.

Member Disco questioned whether there would be a footpath crossing the brook. Mr. Walker stated it would not cross the brook as the brook begins 200-300' beyond the end of the pond. Mr. Walker commented as there is an open area people could easily walk through, a walking path will definitely be put in that area. When asked he stated it does not cross the actual brook or pond; it crosses between the two. Member Disco stated water comes from across the street; there is a flow of water through there. The brook has been dammed in a few

places to make the ponds. He asked if people would be able to walk from one side of the pond to the other, and if so, where the bridge crossing would be. Mr. Branon stated there would be no bridge. He noted the area of the outfall from the pond, which goes subgrade and daylight in the area where the brook starts. There is an existing underground pipe from the pond to the river. Motorists drive over it now, and you wouldn't even know it was there. The path will cross on that.

Member Disco stated his desire for pedestrian connections. He could not tell from the plan whether or not a sidewalk is planned along Route 3. He reiterated he would like to see pedestrian accessibility from the residential to the commercial, which is the idea behind making a planned unit development of this kind; to keep all of the services together and make them walkable. He questioned why the restaurant is as far away from the residences as possible, and noted there seems to be no access to the existing restaurant on the corner of the property.

Mr. Walker responded, at the very least, for the next meeting they will come in with at least a walkway. He commented they have discussed the possibility of the restaurant being more centralized. Mr. Branon spoke of comments made at the April 15th meeting pertaining to putting a sidewalk along D.W. Highway and some regarding making the pedestrian connection internal to the site. He stated the preference for it to be internal to the site and then perhaps come out towards D.W. Highway on each end. He requested feedback from the Board. Member Disco stated he would like to see that in the plan.

Member Disco questioned the comments made regarding the lot lines among the different potential users. Mr. Branon stated it is one property, and he believes that is allowed in the regulations. With the feedback and dialogue that has occurred with staff and through internal discussions, he believed it would make sense to subdivide or show a potential subdivision of the property. In doing so, they would like to seek relief from the common interior buffers. Member Disco responded he does not believe the Board can grant the kind of relief they are looking for as he believes it to be a zoning issue.

Mr. Branon noted the staff memorandum references the Board being able to make that relief during this process, and the Planning and Zoning Administrator was the individual they had spoken with. Chairman Best stated within a CUP, with relation to a boundary that is created as a part of the CUP such as an internal boundary, he believes that relief may exist. If talking about relief to some of the external parcels or anything not part of the CUP, he agrees that relief would have to come from the Zoning Board.

Member Disco questioned whether official communication has occurred with the water and sewer departments, Ms. Pohli responded not in great detail at this point. They are aware of the project. Mr. Walker remarked they are aware of the project; the main sizes and capacities. There is substantial capacity in water and sewer for this project. He noted what they did discuss with MVD was their desire to loop it. While not etched in stone how it will be done, they can pretty much guarantee there will be a loop of the water line. It may be that it loops through the F.W. Webb parcel and then up in between the pond and river and then over across. There is talk of connecting over to Allen Road, which is a paper street. Any construction there would be strictly for a water line. That will be based on further discussion with MVD.

Member Disco questioned whether the CUP requires an approval from MVD. Chairman Best stated his belief it does. He added, if not in the CUP, the Board is typically inclined to see a development agreement between applicants with a CUP and the Town. It would be part of that.

Member Disco questioned the architecture; he stated there is no common architecture at this time. He questioned whether there are any particular objections to some form of common architecture/theme that carries through and ties the development together. Mr. Walker remarked he does not believe it to be anything they are opposed to. However, retail carriers may have their own type of color schemes, signage, etc. He would be reluctant to agree to a common architecture at this point as the desire is to see the parcel fully developed and he would not want to see someone back out because they don't want to match colors.

Chairman Best commented the concept of a CUP is that it is master planned. Master planned means that you have thought about all of the pieces as they come together. He understands they do not yet know what all of the tenants will be and he does not necessarily want to create a position where developments are turned away because of architectural standards. However, he does not know that a red and white TGI Fridays on the corner necessarily fits in with any part of a Master Plan, and we would be telling TGI Fridays I appreciate your thematic design for your building, but you have to make it fit in with the neighborhood. Mr. Walker stated agreement. He

commented it is definitely done in other places where facades will be changed. He stated there could be some sort of groundwork laid for either architecture or color scheme to some degree.

Chairman Best remarked there are a lot of different ways to tie it together, e.g., roof lines, shapes of landscape and layout, signage, windows, etc. He stated his agreement he does not believe it is the Board's intention to hinder the opportunity of a good tenant being turned away because of such a strict view of architecture.

Member Bonislowski commented he has spoken with people who live in developments that have 1.25 spaces per unit, and their major complaint is parking. He questioned the total number of parking spaces included in the residential portion. Member Christensen stated the total to be 720, which represents 3 per unit. When asked if that includes the 45 spaces attributed to the clubhouse, Member Christensen stated it does not. Member Bonislowski questioned whether there is public parking for visitors. Mr. Branon stated 3 parking spaces per unit is accounting for that. Mr. Bonislowski stated if there are three parking spaces per unit, he is satisfied with that. Member Bonislowski stated a desire to ensure the parking spaces are full size (minimum of 18'). Mr. Branon responded they are. He noted the regulation calls for 1.25 per bedroom plus .5 per dwelling unit. The 1.8 number referenced is typically where most of these facilities end up being. The result is an approximate additional 250 parking spaces that could be approved and shown that could be accommodated on the plan, but they would only build them if they are needed.

Chairman Best noted the differing opinions expressed by Board members relative to number of parking spaces. He spoke of the trend in multi-family developments being walkable communities and some of the latest in planning objectives to not pave the world, not block off all of the access the rain water has to the ground, build things closer together so people can walk between them, etc. He stated his belief there is a significant population of people who have less and less cars. Mr. Walker remarked he does not believe they would be requesting a waiver from the number of parking spaces, but rather a request to initially build 1.8 or 2 parking spaces per unit. The drainage will be designed for the full 3, and if it turns out additional parking spaces are needed they will be the first to notice that and get it done.

Chairman Best questioned how they would objectively measure when additional parking was needed. Mr. Walker stated the best he could respond is by saying this will be the same type of community as one they have in Nashua, which has 1.8 spaces per unit and has empty spaces. Chairman Best replied he believes that will work; however, if there are to be contingent spaces it is necessary to be clear on what triggers that contingency to build the new spaces so that it is measurable and objective. Mr. Walker remarked if they had 20 residents coming in saying they need more spaces, they would construct another 25-30 spaces in the general area of the complaint. Member Bonislowski questioned whether the parking spaces would be assigned. Mr. Walker stated they are not typically assigned.

Councilor Koenig spoke of concern with the green area/common space in that it does not seem to be appropriate to the residential when it is wrapped up next to the big box. He stated his understanding of the intent to try to connect it to the retail. He remarked the last time they were before the Board a good deal of discussion occurred around connectivity between the residential and retail. That big box sitting in the middle makes that very difficult to even begin to conceive of that being common space for the residents when they are looking at the back of something that seems like a Home Depot or something like that. To be right up within 5' of it seems a little disingenuous to him.

Councilor Koenig commented during the last discussion the issue of walkways through there was discussed as well as the concern of vehicular traffic. There is the one desire to keep connectivity through there and to avoid any commercial or retail traffic through the residential area, but on the other hand you have one point of access for 240 units. In the mornings when they are all going off to work that could be a choke point. He would like to see, from a safety perspective, another egress for that space. Mr. Walker stated the plan has been reviewed many times with the Fire Department. They didn't have too much of an issue with the entrance. They did have an issue with having multiple exits out of parking lots. Coming down the right hand side of the apartments is a road that basically goes all the way through. That is something they requested. It also loops around and goes around the other side of the buildings. There was also discussion that if there is a connection that doesn't necessarily need to be made for through traffic can we shrink it down to perhaps 14' wide instead of 24' wide so it is strictly for emergency access. It would provide a little bit more tree or grass space, but would also give the emergency vehicles enough access.

Mr. Walker stated his belief when all is said and done they will see multiple paths to get in there. Currently, where the sewer line comes through the property (bottom right hand corner of the big box then down into the apartment area), is drivable and emergency access can be achieved through that route. That has been discussed with the Fire Department. The last thing they discussed with the Fire Department is coming off the back end of the apartment area to get down to the railroad. They have had issues accessing the railroad in different areas. They will be providing an access for the Fire Department to the back end of the apartments to give them access to the railway system.

Councilor Koenig stated his concern with the residences. He remarked with the idea of a community or planned unit development he would like to see the residents be able to get to the retail area without having to get in their car, go out onto D.W. Highway, and come back in another entrance. He reiterated his desire for more internal drivable connectivity to pull the whole thing together. Mr. Walker commented they did discuss it, and it is kind of a weight between separating the apartments and not allowing people at the retail store to drive through the apartment complex. That was the basis behind this type of layout. The other part of it was talking with the Traffic Engineer and making sure this would work traffic wise. Part of the traffic report is work that will need to be done on D.W. Highway; widening and turning lanes. He stated his hope to have more details on that for the next meeting. Councilor Koenig echoed comments made by Member Disco relative to the location of the restaurant on the other side of the industrial park.

Chairman Best spoke of the open space used to calculate density. The drawing provided depicts a sort of zig zagging throughout the site in order to aggregate enough land for the calculation. He stated he would not have a problem granting a waiver to allow increased density, but on a more ordinarily shaped lot. He does not see a problem putting this number of residential units on that much space. He would like to see less parking around it. Whether that is done with a calculation that has the square plot of land or a request to allow higher density, he would not have a problem with either approach.

Member Redding stated a desire to find ways to make less of an impact. He believes the site to be heavy impact with a fairly large industrial use with other stuff worked into it. Although he likes the concept it is a heavy impact. He would like to see the way they utilize the creative low-impact development design concepts to maximize open space and create connectivity between the parcels and ultimately create curb appeal and attraction. Member Redding commented this project will serve as one of the gateways into the community, and it has to look great and be a destination spot. The concepts of similar architecture, less parking, being more creative with lot sizing all make sense to him, but he would like to see more detail.

Chairman Best commented he has viewed the plan believing the Board will see site plans for each of the pieces at one point, and the layout might be completely different in a site plan. He questioned whether the applicant desired feedback on those types of details at this time. When asked if the layout is in its final form, Mr. Walker stated it is not. He stated specific site plans will be more detailed, and will take into account feedback received thus far. He commented a low-impact design is something he has been discussing for over a year as the soils in the area are ideal for that. If they can get the numbers to work out, that would be his personal preference. The project is in a wellhead protection area, which has been discussed with the various town departments; however, he believes that would still work.

Chairman Best noted because the project is in a wellhead protection area, the Board would be looking for no or low salt or alternate ice melting anywhere in the wellhead protection area and likely everywhere on the site. Mr. Walker noted that was one of the issues brought up at one of the department head meetings, at least in the wellhead protection area, which basically extends to the right-hand side of F.W. Webb and cuts right down the middle of Saint Gobain.

Member Christensen commented when looking at what is being presented, she sees four individual developments. She does not see them tied together. She does not see it as a consolidated plan. She stated a desire for more connectivity. Mr. Branon commented the geometry of the project is somewhat unique with all of the elements. The architecture and perhaps the pedestrian connectivity is attainable, but when you start contemplating the Saint Gobain property there is only so much space and they have already tried to position the building to hide some of the parking, etc. He remarked that is the theme of the feedback being provided. They will take that into consideration and try to build upon it. A vehicular connection could be difficult because of the two ponds. They will definitely address a pedestrian connection.

A review of the April 15th meeting minutes noted discussion as to whether the pedestrian connection is supposed to be along the D.W. Highway or if it could be internal. They would prefer it to be internal. Chairman Best stated he does not mind seeing the internal sidewalk. They have to somehow cross the bridge of making that sidewalk that is internal to the site a public way, which means the whole town can use it not just those who live and want to shop there.

With regard to making it a destination point, Member Redding commented if there were an attractive feature such as if the pond could be more ornamental and would bring people down there, it might tie into the public space. Chairman Best suggested with the small retail that is between the restaurant and the big box the parking could be consolidated into one area making it more of a walking effort to get from shop to shop with architecture and pocket park type features.

Member Disco stated his belief agreement was reached for an internal sidewalk. Chairman Best stated agreement adding it does need to be connective and useful for the Town in general. Member Falt noted there was discussion at the last meeting around the history of the site. The previous civil engineer had mentioned the fish hatchery and suggested that could be used to tie the site together. The area of the ponds seems appropriate as a gathering place. Mr. Walker stated agreement. He noted the pond and former fish hatchery area has really been eyeballed as a good gathering place.

Member Bonislowski questioned whether the tennis courts at the Nashua location turned out to be a good use of the space or if the area would have generated more use if it were set up as a child's playground. Mr. Walker stated, although he is not in the area during the evenings/weekends, he has witnessed the tennis courts being used. While he tends to agree a playground is a good use of space, with the proposed apartments being 1 and 2 bedrooms and having 188 of them already filled and another 388 under construction, they have seen a total of 5 children. He pointed out the playground area depicted on the plan. Chairman Best remarked pools, tennis courts, open space, etc. have an aesthetic value that will help fill the properties even by people who will not utilize the amenities.

Councilor Koenig remarked he would think they would desire the playground facilities to be located more internal to the apartments instead of up against D.W. Highway. Mr. Branon spoke of buffering residence from the highway and the appearance when pulling into the project. He stated belief there is a fair amount of buffer from the clubhouse area to the highway. As the plan is formalized, he promised, there will be a pretty good landscaping plan that will enhance the area.

Mr. Branon commented the challenge is how much work do you do up front, and they have a pretty good idea now that the Board is looking for more work in the CUP stage. They were anticipating a lot of the details to be handled during the site plan process, and noted the residential aspect would be the first site plan process they would be going through. Chairman Best remarked that approach makes a lot of sense, and hopefully the feedback provided takes away some of the anxiety they would have in investing that work because they are providing the answers needed to develop it.

Chairman Best pointed out there is 1,500' between the bottom residential building and the clubhouse pool, and suggested that to be a bit far for people to make regular use of the facility. Mr. Branon remarked it is a good distance, but they have those same distances on a lot of the facilities they have worked on, and the trail system is a nice tool for getting people to the amenities. Mr. Walker spoke of efforts being made at the Nashua location for it to be resident friendly. He stated he would provide photographs of the Nashua site to the Board to give an idea of the type of landscaping.

Councilor Koenig remarked the big box in the middle seems like the elephant in the room. It breaks the whole project up. He remarked he does not know what the intent is there, e.g., if the retail continued through or the housing merged through there instead of a big box it would help to bring that whole project together as a single community. Chairman Best added it certainly is the thing that doesn't fit. It would be much easier to make a connected, master planned unit, if that space were used for more of the kind of retail that is to the right of it in the plan. He stated his understanding there are not a lot of sites left that are amenable to those and there may be some commercial value to it.

Public Comment

Sylvia Hunter, 664 D.W. Highway

Ms. Hunter informed the Board she resides across the street from the property. She requested clarification on the traffic lights. Chairman Best responded the location being discussed for the potential need of a traffic light is related to the box store. The driveway goes between it and the small retail next to it.

Ms. Hunter questioned the impact a light would have for her access to the highway. For the past 20 years she has always left her residence at 6:25 a.m. heading north to work. If she left at 6:30 a.m. she would have to plan on about 8 minutes to get out onto the highway. The same is true if she goes south around 4:45 p.m./5:00 p.m. as the traffic light at Bedford Road is often times backed up well past the farm stand. She stated her interest in how this will work out as far as traffic is concerned and what impact it will have on the properties such as her own. Chairman Best responded it is a good point and one which the Board will have to watch all the way through the process because it will certainly have an impact.

Chairman Best noted although there has been mention of a traffic light there, that discussion is not finalized. He believes there will be members of the Board not supportive of a traffic light in that location who may look for a different solution. He added he does not know what the right solution is because it is too early to tell.

Ms. Hunter informed the Board the abutters did not receive a written notification of the meeting. Chairman Best responded that is likely because the item was continued from a previous meeting. He explained when an item is continued from one meeting to the next, part of the decision to make the continuance which is announced at the meeting is there would not be further notice. He pointed out if a project is not continued to a specific date new notices are sent out.

Ms. Hunter questioned whether the grey area depicted in front of the yellow box on the plan was intended to indicate parking. Chairman Best stated that is what it represents on this plan; however his input to the applicant would be that is not what he would like to see on a final plan.

Chairman Best closed the public comment period.

Chairman Best remarked phasing was discussed and the idea of the residential being conducted as a single phase without any other limitations was stated as a desire. He remarked one of his pet peeves on CUPs is phasing that brings forward mixed-use right from the beginning so that it is always a mixed-use development because that is what a CUP is; it can only exist in this zone by virtue of being mixed. The applicant has mentioned the Board should account for some of that mixed use by giving some credit towards the F.W. Webb development. Where he gets stuck on that is F.W. Webb either has to be in the CUP, and then you get credit for it, or it is carved out of the CUP and then we don't think about them as being related to each other. It is one or the other.

Mr. Branon remarked that has become the difficulty of the project as ideally they would like it to be part of the CUP, but ultimately it could mean that F.W. Webb doesn't end up on this property because their timeframe can't be subject to the timeframe of the CUP process. He stated his opinion, the best way for them is not to be part of it, but the John J. Flatley Company is looking at it as it is on "my property". There has got to be some benefit to bringing in a million square feet of warehouse and office space to the Town of Merrimack.

Chairman Best responded he agrees with the approach of paying attention to what the needs of F.W. Webb are in terms of their time schedule, and he would encourage the same decision that has already been made. When you do that it essentially cuts it out of the CUP and treats it separately. F.W. Webb could buy those acres and put it on the back burner and never do it. It may be everybody's intention to do it right now, but it wouldn't be part of a development agreement, it wouldn't be part of phasing, the open space that is shared, etc. It is hard to consider it as part of it when, for valid reasons, you have deliberately separated it. He remarked if it were his decision he would deliberately separate it the way it has been done, but that may mean there is the need to think about at least some part of the retail or commercial getting developed at the time the residential gets done in the first phase. It doesn't necessarily have to be all or a majority of it. He provided the example of if a future plan has the restaurant closer to the residential and the restaurant and residential goes together at least then there is enough of a mixed use to say that there is the concept of a CUP. He stated that to be his personal opinion, and noted there are 6 other Board members who may have differing opinions.

Member Bonislowski stated his understanding F.W. Webb was going to purchase the property, and if they purchased it, it would not be part of the Flatley project. Mr. Walker stated that is correct and why it is omitted from

the actual plan at this point. Their desire is for the Town to look at it as F.W. Webb would not be building a one million square foot warehouse/office area if John J. Flatley didn't own the land to sell them. Mr. Walker stated the desire to build a good number of the apartment buildings to draw in retail. If it works at the same time even better. He noted at the Nashua location they had constructed some retail, which sat around a bit, and as the apartments got built up the retail picked up and is thriving. The thought process is the apartments will draw retailers.

Councilor Koenig spoke of a planned unit development located a little north of the site that built a lot of individual residences and a few apartment buildings, and had a few large commercial buildings. They appeared before the Board pleading they were unable to fill the commercial spaces and wanted to turn them into residential buildings. He stated a concern the project would construct the five buildings and then come back and say, well we can't sell this big box space so I need to fill it in with more apartment buildings, and then the industrial space is getting eaten up by residential space and the use of the whole CUP has been missed.

Mr. Walker stated there is a cap on the number of living quarters than can be built. At this point, there is literally not a single plan to do anything other than what is being presented. There is no desire to put up more buildings. They actually took one out of the plans as they initially had 6 buildings in the plan. He stated understanding the Board's past history of developments where just the apartments get built and that is the end of it, and commented it might be tough to convince the Board otherwise, but that is really not how John Flatley works. Chairman Best remarked he does not doubt his intentions and Flatley certainly has a reputation for doing things the right way, but the Board does have these other experiences with other folks who had every intention to do it.

Chairman Best added, for CUPs the ability to exist in the industrial zone exists singularly by virtue of being mixed use. That is why, to him, it is important to be mixed use at least to some degree along the path. It doesn't necessarily have to be equal. He suggested it might be something proposed by the applicant as a part of what goes into a development agreement where within a certain period of time after residential these things will be built.

Mr. Walker stated agreement with what was being stated, and brought forward his concern if a company owner were sitting behind him they might be thinking you will not build the third apartment building until you build my building; how much are you going to give it to me for. Then all of a sudden they have all of the leverage. Chairman Best stated his understanding and remarked he had not considered it in that way. He commented as that is worked through going forward, the Board can be sensitive to that idea and make sure the applicant is not put in that kind of bind. However, there has to be some way to accomplish all of the bases looked for. Mr. Walker stated, he would have to check with Mr. Flatley, but he believes they would be willing to show the Board the marketing efforts as well as provide periodic updates as to the number of individuals contacted, how discussions have gone, etc. to show that an effort is being put forth to get that end of it developed. Mr. Branon remarked, unlike many companies, the Flatley Company has their own marketing department, which is very active.

Member Disco questioned, since it is a CUP, could the developer live with the condition that this is approved when the F.W. Webb is constructed, e.g., to make it a requirement that their construction go ahead before Flatley goes ahead with its. Mr. Walker stated F.W. Webb has not yet purchased the property. The second hold up would be the amount of time it takes to build such a large facility. Member Disco commented it could be dependent upon the commencement of construction. Mr. Branon responded that is something that can be talked about. Member Bonislowski stated he would be more comfortable if they swapped the restaurant with the big box store as it would place it in where all of the traffic is. Mr. Walker remarked the restaurant shown on the plan would be like a Long Horn Steakhouse type facility. The anticipation is that throughout this there may be a sub shop, local donut shop, etc. They are shown as retail at this point, but the anticipation is really just to have one big restaurant there.

Chairman Best spoke of staff's recommendation for peer-review of the traffic analysis, and asked whether the applicant had any thoughts to share on that. Mr. Walker responded if that is the will of the Board. Member Disco questioned whether the feedback provided and the changes that will likely occur would impact the traffic report. Mr. Walker stated he did not believe it would have much of an impact. Chairman Best stated the message he received from staff is the sophistication of the site makes the traffic report beyond their comfort level with what they want to review internally, and that is why they have asked the Board to consider having a peer-review. He stated his belief the traffic related to this site will be very important to the community's comfort level with the proposal. He would like to see a peer-review conducted some point. Mr. Walker questioned if the Board or the Planning Department could inquire as to the amount of time a review would take, noting concern if it is a lengthy process he would rather it start now.

Chairman Best spoke of CLD Engineering being the usual peer-review firm utilized, and his understanding that is the one staff would like to utilize. On other types of peer-review they are time limited (10 business days after receiving plan and payment). Ms. Pohli stated she is not sure if it is the exact ten days, but it would be a quick turn-around. Mr. Branon stated a desire to work with staff on the timing given changes to the plan will impact how access points are evaluated, etc.

MOTION BY COUNCILOR KOENIG TO REQUIRE PEER-REVIEW OF THE TRAFFIC ANALYSIS PROVIDED BY THE APPLICANT AT A TIME TO BE DETERMINED BY STAFF AND THE APPLICANT
MOTION SECONDED BY MEMBER CHRISTENSEN
MOTION CARRIED
7-0-0

MOTION BY MEMBER CHRISTENSEN TO CONTINUE THE ITEM TO SEPTEMBER 9, 2014 AT 7:30 P.M. IN THE MATTHEW THORNTON ROOM WITH NO FURTHER PUBLIC NOTIFICATION TO ABUTTERS
MOTION SECONDED BY MEMBER FALT

ON THE QUESTION

Chairman Best questioned what would occur prior to the September 9th meeting. Mr. Walker stated they would incorporate into the plan a walkway system, perhaps break the rectangular retail buildings into identifiable uses, e.g., sub shop, etc., maybe move the big box restaurant to the second entrance over, etc. Chairman Best commented he does not know that it would be viable with all of the retail going from the Saint Gobain driveway over to the hatchery; however, suggested consolidating the parking and making that a little walking area from shop to shop would be a very attractive proposal.

Member Redding suggested incorporating some of the photos the marketing department already has of the Nashua development and telling that story as sort of a promo to this application. Mr. Walker commented he is considering having them come in and walk the Board through some of the properties, etc.

Councilor Koenig remarked he is still hung up on the lack of connectivity between the two sides around the ponds. If F.W. Webb has to have that space he is sure it is important, but having everyone go out to D.W. Highway to come over and get back in again to get to the space has a cumbersome difficultness about it. He reiterated the whole idea of a CUP is a community or mixed-use, and what you have is very distinct, separate uses. If there is any way to connect all of that through so that they are not having to go to the highway to get from one space to the other, except by walking, that would be helpful. Chairman Best remarked in order to make someone use a walking path it has to be an interesting walk.

Member Falt spoke of the area being broken out to gain the additional square footage F.W. Webb is required to have, and questioned whether an easement could be put in place across that. She noted the easement road at Saint Gobain and suggested continuing that through to connect with an easement over the F.W. Webb parcel. Mr. Walker stated the latest F.W. Webb layout he has seen was slightly different than what is depicted on the plan. They had some additional parking in that area, which kind of blocks that from being a throughway. He stated he would try to get ahold of the latest plan and see what could be done.

MOTION CARRIED
7-0-0

There being no objection, the Board recessed at 9:28 p.m.
The Board reconvened at 9:32 p.m.

- 4. Tomasian Drive, LLC. (applicant) and The Stephanie Tomasian Revocable Trust of 2001 (owner) –**
Pre-Submission Hearing to discuss a proposed 19 lot cluster subdivision located at Tomasian Drive in the R-1 (Residential), Aquifer Conservation and Flood Hazard Conservation Districts and Shoreland Protection Area. Tax Map 4B, Lot 009-01.

Ken Clinton, Meridian Land Services, stated over the past few months, consideration has been given to design aspects; designed the road, preliminary drainage, etc. In working out some of the aspects of the design they kept coming back to comments made at the first hearing. There was a lot of discussion regarding suitability of soils for septic systems and placement of those septic systems. The plan showed boxes with test pits on each lot, and they were diligent about explaining that. It was proper per regulation, etc., however, they recognized a few comments by Board members as well as Mr. Gagnon who had specific comments relative to the creation of the ordinance, how it applied, etc. There was a fair amount of discussion about some of the septic areas being "tight" even though they meet all regulations; Town requires 25' setback to property lines and the State requires 10'. The test pits were certainly suitable and everything was sized appropriately, but there was a general feeling by some members of the Board and certainly by Mr. Gagnon that it was a bit tight.

Mr. Clinton believed that issue needed to be addressed before reaching final design. He projected an image of the 6 lots prior to the cul-de-sac, which were the ones identified as tight. He commented when giving consideration to remedies, it is a matter of the width of the building area and less so the frontage. As an example, Lot 6 is about 180-200' wide in its frontage; however, due to the wetland on that property the effective area width is about 85'. Yes they can put a house on it and it is fully designed as far as being able to support a septic, etc., however, it could use a little extra width. They felt if they extended the road system 150' to the west they would be able to take the 6 lots and apply a little bit of varying values to each one of them to make a better subdivision, e.g., it would give more flexibility to whoever is building the house and to the end-user.

He remarked even if designing a septic system that is appropriate, installed properly, etc., an owner may not maintain it properly, may put something down the drain they are not supposed to, etc. By having a little extra width on these 6 lots in particular, it would alleviate a potential problem, and would help in case there is a problem in the future.

He stated if they do add about another 150' to the cul-de-sac location and provide additional width and place the cul-de-sac further west, everything gets shifted and expanded to a certain degree. With the current configuration they exceed 50% or inversely they don't have the required 50% of open space, which is a requirement of zoning. When considering this property in particular and some of the ecological importance of what is being protected specifically along the Souhegan River, he believes the quality of the open space should count substantially towards its compliance with the ordinance. However, it is a straight number in the ordinance; 50%.

Taking into account comments of the Board and Mr. Gagnon, they considered going for a zoning variance. In trying to brainstorm it, they came up with another option. He remarked what he has seen for past practice is if the open space itself is a lot, the lot is actually entirely in fee ownership whether it be conveyed to the Town, fractionally owned by each of the residents, or conveyed to a separate entity. If they took the fee, the lot portion of the open space, and had it slightly less than 50% (46.8%) they could also apply the ordinance, which is proper, and have some easements along the backs of some of the lots. That would make it compliant again in total to be greater than 50% open space.

Under Section 3.08, items #12 and 13 speak to open space. Item #12 reads that the open space is to be private, public or cooperative non-profit ownership and shall be designed by the cluster development applicant. In this case, part of the open space would be in fee in a single lot that could be conveyed to the Town if everyone was in agreement and the Conservation Commission felt that was something they would like to pursue. Then a portion of it could be under easement on top of lots. If you use that thought process all of the lot lines could be extended to the far side and the open space could strictly be an easement. Item #13, the opening sentence reads "Open space within a cluster development shall be protected by recreation and conservation easements." It is understood there are variable options for the ownership of the open space whether 1 entity or a fractional interest entity and then there is a second understanding that it is going to be protected by easement.

If the common goal is to make a few of the lots that were deemed somewhat tight a little bit wider in their building area and the option of a zoning pursuit may not really be appropriate, fully supported or achievable, clearly this option of having a dual type of open space meets the ordinance and achieves that purpose. He requested feedback from the Board.

Chairman Best questioned where there would be land in fee and a 40' easement along the backs of the lots, would he see the construction envelope observing a setback from the easement in addition to the 40', e.g., 40' easement, 20' setback and then the building envelope begins. Mr. Clinton responded in an open space, conventional setbacks don't apply (5' setback). However, he does not expect the nature of construction would even come close to that additional open space easement. Chairman Best stated his desire to clarify that they would be treated separately so that the 40' easement doesn't encompass the setback and they can build on the line of the easement. Mr. Clinton stated, at the very minimum, he would agree that the 5' should apply; however, he believes that a little light. Chairman Best commented it matters to him more at the end lots where they may be dealing with a wildlife corridor. That is where the land is getting narrowed in terms of what the open area is. He questioned the width of the strip from the back of the last lot. Mr. Clinton stated it to be 100'. He added if they were to apply an easement or additional setback along the line he believes that would be agreeable. Chairman Best remarked with the Town's conservation land beyond there you are already achieving the conservation goal of having the wildlife corridor.

Member Redding noted the building envelope would be protected, and questioned whether that would also prevent something such as a shed from going in the back. Mr. Clinton stated nothing would be allowed in the easement. It would be open space and subject to the very same easement language and conditions that a singular lot of open space would be.

Member Falt asked for clarification of the open space requirement/landscaping that would be required. Mr. Clinton stated the landscape requirement comes in at the 100'. The 100' is entirely within the open space, and there would be no disturbance whatsoever. If they then provide additional buffer beyond that limit it would be subject to the no-cut as well. The easement would be part of the open space, it is not to be disturbed, is for wildlife and recreation purposes perhaps.

Chairman Best commented as the area backs up to conservation land he does not know who it would be known if a resident were to put a shed 20' into the Town's property. He is unsure how enforceable that would be. Mr. Clinton stated there would be bounds in the ground or iron pins or pipes for rear lot corners, which would be evident when the home is purchased. In the woods or undeveloped sections they leave them up several inches so they can be found. In subsequent years it would be an enforcement item.

Member Disco questioned how the easement boundary is marked. Mr. Clinton responded technically there is no requirement to mark the easement boundary in the regulations or open space boundaries other than the occasional monument along the line. He is unsure at this point how they are proposing to mark them. Member Disco questioned if they would object to marking that. Mr. Clinton stated he is not opposed to that in some fashion although he is not sure what the marker would be at this time. He stated certainly they could discuss it and propose something reasonable.

Mr. Clinton remarked when the homes are developed the Town has the plot plan requirements. If they were to proceed with providing some construction services on the property a lot owner would have a plot plan showing where their house is, where their driveway is, and any easements on their property. That is a part of the record as well not just an obscure plan that might be at the Registry and noted in a deed that is forgotten someplace. Member Disco reiterated his desire for a mark in the field so the landowner can find it. Chairman Best stated agreement that would be helpful. He added if the effort will be undertaken to identify the back corners and placement of pins, measuring 40' up from the back corner and placing another pin would not be too difficult.

Member Redding noted discussions on other projects regarding some sort of open space signage. He suggested if there is a way to do that which is aesthetically pleasing to the lots he would be agreeable to something like that. Mr. Clinton responded that is a minor detail that some agreement can be achieved on.

Chairman Best commented conceptually what is being proposed in terms of the way it is being spread out, particularly on that one lot that is covered with wetland, he likes the idea and thought process, and can support it.

Member Bonislowski questioned whether, after construction, the property would be turned over to an association, in which case association rules would outline the land could not be used. Mr. Clinton responded they have discussed the hope of conveying the fee open space to the Town of Merrimack to be overseen by the Conservation Commission. The easement would be part of that oversight as well. If for whatever reason that doesn't happen then there would be an association of homeowners having most likely 1/19th interest, and they would have the obligation and responsibility to preserve it as open space. The Right-of-Way is proposed to be a public road to be turned over to the Town, and the lots are just individual residential lots like any others in town.

Chairman Best remarked you can arrange it any way you want, but if you do convey the fee to the Conservation Commission and it becomes a public roadway so that you don't have any commonly owned land that has to be managed by an association, that certainly makes life simpler going forward.

Member Disco stated agreement and remarked the Conservation Commission probably would have an interest in this because of the riverfront property. They would control all of that land in the 250' barrier to the river. He encouraged acceptance by the Conservation Commission. Member Christensen stated she would highly discourage setting it up as an association. Mr. Clinton responded that would not be their preference.

Member Bonislowski questioned how the 250' barrier would come under the control of the Conservation Commission. Mr. Clinton explained if they were to convey the open space lot as well as the additional easement area to the Town; it would be conveyed to the Town as the Town proper is the political body that would accept

ownership. The Conservation Commission would then have the oversight authority to manage it. He noted the open space lot was designed as it was because it is the most sensitive part of the property. The Shoreland Protection Area reaches the 250' off the river. All of the Shoreland area is within the open space lot. Member Bonislawski questioned whether there would be any physical work required of the Conservation Commission. Mr. Clinton responded not that is required of them. If they choose to they can do so, but it also goes to some of the terms and specifics of the open space easement documents; covenants and restrictions.

Public Comment

Pete Gagnon, 130 Bedford Road

Mr. Gagnon stated his opinion the cluster form is definitely the better way to go. He sees a very substantial improvement in there that provides more separation for onsite disposal systems, lawn care, fertilizers, and the like that normally get into the waterways. He noted he reviewed, very closely, the definition work of the scientist, and believes he did a very good job. It is very helpful in determining the effect of development on the different types of soils located within the project. Regardless of the soils work, most of those soils are still rated severe under the Soil Conservation Service (SCS) mapping. Under the State grouping they allow a more intense development. Subsequently this is a good trade-off, good combination of soils versus development. If there are any waivers needed it might be worthwhile to waiver the roads. He commented where he sees the cul-de-sac it is about the best place it can be put. Also it adds value to the lots, which adds value to the Town.

One thing that is very important that comes out in the SCS reports deals with roads and cross fractions. This is not even considered in the State's soil redefinition. But it has to be considered in this town. The other part of it is the water tables in that particular area are quite high. Subsequently the homes have to be raised and leech fields will have to go up.

Another important factor to be considered is that when the New Hampshire Department of Environmental Services (NHDES) approves a subdivision and septic systems they also do that with a disclaimer that they are not responsible because representation is made by the engineers and adopted by the town inspectors, the Planning Board, etc.

Mr. Gagnon remarked when looking at plans for a development of any type be sure to look for the signatures that certify the soils survey, and that they are signed off and dated. The same is true for the soil redefinition work, surveys, etc. All of these things are very important so you are not operating with a wide open door. Once they put their stamps on there they are representing to the Town that what you see is what you will see when the project is complete.

Chairman Best closed the public comment period.

Chairman Best questioned whether Mr. Clinton required additional information/vote. Mr. Clinton stated he is quite comfortable, and simply wanted to ensure it is clear to the Board what they are attempting to do and that it complies with the ordinance. Chairman Best noted he has not reviewed the ordinance, and staff has not seen the proposal. Offering them an opportunity to weigh in on how the ordinance has been interpreted is important. However, conceptually in terms of the function of the lot, he believes what has been done is good engineering and he likes the objectives of it. Mr. Clinton stated he would look to set up a meeting with staff. He commented as they pursue this road length some of the preliminary drainage may shift a bit.

Member Falt commented during the presentation of the proposal and explanation of the different steps used to get to the point of extending the area to the 150', it occurred to her they could do an easement along the wetlands crossing. Mr. Clinton pointed to the area delineating the limit of the buffer noting there is a 25' buffer that is enforced as an underlying requirement, and then a 40' building setback to it. He questioned whether she was suggesting a wider easement beyond the 40'. Member Falt questioned if the buffer would be natural or if owners would have the ability to landscape the area, fertilize, etc. Mr. Clinton stated that could occur up to the 25'. The 40' limit is a building setback (structure), but you can disturb, if you will, close to 25'.

Chairman Best stated he was requested by Member Millns to bring up his expectation, as this goes forward, that utilities would be underground. He commented the requirement for electric utilities to be underground was waived for the three lots on the other side. Hopefully the two projects get aligned and all of those utilities for both sides of

the road could be underground. Certainly for these 19 lots Member Millns' expectation as well as Chairman Best's is to go with the requirement of the regulation.

Chairman Best stated his understanding from staff that with respect to water connections, road development, and the three-lot subdivision there is some design consternation going on with respect to what sequence things get done in and coordination. He questioned whether Mr. Clinton is familiar with that issue and if there was anything the Board could do to help along that path.

Mr. Clinton responded there are some road upgrades planned for Tomasian Drive, which they have been discussing with staff. It is likely utilities will be installed, and that will occur in advance of this particular subdivision coming back before the Board in a final sense or it will be done in that same time period. He stated they are fully aware of the process that needs to go through, and some of the design requests from staff. He stated he is comfortable they will be able to proceed with upgrades on Tomasian Drive partially in advance and in conjunction with moving this through the process.

Mr. Clinton stated a commitment to the internal sidewalk, but as far as the sidewalk on Tomasian Drive, since it is neither a collector nor arterial road and they are merely doing upgrades within the Right-of-Way, they do not plan on having sidewalks designed and installed on Tomasian Drive. He added, the same kind of comments were made during the first hearing and his understanding from that is it was concurred Tomasian Drive, while a current public road, because of its nature would not require sidewalks.

Chairman Best remarked he does not remember an earlier discussion on sidewalks with that piece. Because it is going to be a very lightly used road he could see there is an argument that a sidewalk would be a construction expense without a lot of return. Mr. Clinton stated Section 4.20 Pedestrian Ways & Sidewalks, Item #2 reads: "A paved pedestrian facility shall be constructed along all existing or proposed collector or arterial streets or streets constructed as part of a subdivision." The latter they would fall into with the new road. The former they would not as it is neither a collector nor arterial street. Chairman Best commented he would not argue with the interpretation as he believes it makes sense. Member Disco stated his opinion the interpretation is correct.

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

Chairman Best noted two of the Planning Board members were interviewed by the Town Council for reappointment earlier in the evening. He stated his expectation their appointments would come before the Town Council on August 21, 2014.

6. Approval of Minutes – July 22, 2014.

The following amendments were offered:

Page 2, Line 51; replace the period with a question mark after the words "the CUP"

Page 2, Line 59; add the words "by Director Thompson" after the words "and was informed"

Page 3, Line 21; replace the words "sidewalks funds" with the words "funds paid in lieu of sidewalks"

MOTION BY MEMBER CHRISTENSEN TO APPROVE AS AMENDED

MOTION SECONDED BY MEMBER FALT

MOTION CARRIED

5-0-2

Members Disco and Bonislowski Abstained

7. Adjourn

MOTION BY COUNCILOR KOENIG TO ADJOURN

MOTION SECONDED BY MEMBER DISCO

MOTION CARRIED

7-0-0

The August 5, 2014 meeting of the Merrimack Planning Board was adjourned at 10:18 p.m.