



Town of Merrimack, New Hampshire

Community Development Department

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Town Hall - Lower level - East Wing

Planning - Zoning - Economic Development - Conservation

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MERRIMACK PLANNING BOARD

JULY 9, 2013

APPROVED MEETING MINUTES

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, July 9, 2013 at 7:30 p.m. at the Town Hall Matthew Thornton Room.

Chairman Robert Best presided.

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

Members of the Board Absent: Stanley Bonislowski
Nelson Disco, Alternate
Matthew Passalacqua, Alternate

Also in Attendance: Tim Thompson, AICP, Director, Community Development
Dawn MacMillan, Recording Secretary

1. Call to Order

Chairman Best announced that the next meeting of the Planning Board is scheduled for July 23, 2013. The Public Hearing on the Master Plan will be conducted during the Planning Board meeting of August 6, 2013.

The Nashua Regional Planning Commission has extended an invitation to members to attend a Water Infrastructure Workshop scheduled for July 18, 2013 between the hours of 11:00 a.m. and 3:00 p.m.

2. Planning & Zoning Administrator's Report

Director Thompson informed the Board the finalist for the position of Assistant Planner has signed a conditional offer of employment. It is hoped the individual will be on board by the beginning of next month.

3. YMCA/Melton Associates – Review for acceptance and consideration of final approval of a site plan application for a proposed 57-unit elderly housing development, community building & related site improvements in the R (Residential) district, located on D.W. Highway, between Island Drive and Angelo Drive. Parcel is located within the Aquifer Conservation District, the Flood Hazard Conservation District, and the Shoreland Protection District. Tax Map Parcel 4D-4/043-1.

Director Thompson stated the project dates back to 2006/2007. It was conditionally approved in 2007 and was granted a few extensions to meet the conditions of approval. Due to market conditions, the applicant was unable to get the project going and did not meet the conditions prior to expiration of the extensions. The application is before the Board starting anew. The plans submitted were to address the conditions of approval granted back in 2007 and have been reviewed by Director Thompson and the Planning & Zoning Administrator, to ensure compliance with the conditions of approval as well as any changes that have occurred in the Ordinances and Regulations.

Mr. Bernard Plante, Melton Associates, LLC, informed the Board Melton Associates are contract purchasers of an 8.2 acre piece of property owned by the Manchester YMCA. The application proposes 57 units of elderly housing

in a residential zoned district with municipal water and sewer. It is his belief the application is complete. When asked, he stated there to have been no substantial changes.

MOTION BY MEMBER CHRISTENSEN TO ACCEPT THE APPLICATION FOR REVIEW
MOTION SECONDED BY COUNCILOR KOENIG
MOTION CARRIED

5-0-0

Member Millns was not present for the vote.

Mr. Plante stated Melton Associates became involved with the property in October of 2002, at which time they executed a contract with the Manchester YMCA to acquire the 8.2 acres of land. Under their contractual arrangement they are obligated to also design and permit, for the YMCA, athletic fields on Wright Avenue.

In 1973, the YMCA was gifted 68 acres of land by Reverend Wright. As a condition of that gift, they were obligated to maintain the property for agricultural, recreational, and educational purposes. Before the YMCA could sell the 8.2 acres to Melton Associates it was necessary to appear before the Charitable Trusts Unit of the Office of Attorney General to gain approval for the sale and the obligation to invest the revenue from the sale into the construction of athletic fields.

In November of 2005, the Planning Board granted a subdivision of the 8.2 acres on which 57 units of elderly housing is proposed. The property has 750' of frontage along D.W. Highway and Angelo Drive (topographically 6-12' below D.W. Highway). There are 6 abutters; 5 residential homes and the Kindercare child care center. There is about 1,500' of frontage along a wetland that contributes to the Horseshoe Pond area. Horseshoe Pond and the wetland adjacent to it are about 19' below the average grade of the site. There are no wetlands on the 8.2 acre property. The property line is inside the edge of wetlands, which were determined by soil scientists. The requisite buffer has been maintained in terms of construction or site disturbance from the edge of wetlands.

Reverend Wright operated the property as a farm for cattle grazing and vegetable production. In the early '70s, the Town, in the process of constructing town-wide sewer, bisected the site with a 16" sewer interceptor, which remains today; runs through the site, and eventually makes a connection to the Merrimack Wastewater Treatment Plant. When the sewer was constructed, three 48" culverts were installed to allow Naticook Brook to continue to flow toward Horseshoe Pond. It was over those culverts that the 16" sewer line was constructed. The site is also affected by drainage easements; one that drains Angelo Drive to the Horseshoe Pond wetlands and one that drains D.W. Highway into Horseshoe Pond. Currently the drainage flows directly into Horseshoe Pond, is untreated, and has eroded the bank adjacent to the wetlands of Horseshoe Pond. That will be corrected under the plan. The engineering is completed and has been approved by The New Hampshire Department of Environmental Services (NHDES) and the Town.

The site is wooded with large mature trees along the wetland area, smaller secondary growth in the center of the site and the area where the site was farmed, and, as a result of the sewer construction, was opened up. Mr. Plante commented it is critical to understand between wetland setbacks, Shoreland protection, and the property line along the eastern border, a lot of the large trees that protect the wetland and the view of the site from the Island Drive area will remain in place and be protected.

Mr. Plante spoke of the number of regulatory agencies that reviewed and approved the proposed development back in 2007. Both the Hillsborough County Probate Court and the Attorney General's Office Charitable Trust Unit were involved in approving the sale of the property, the Army Corps. of Engineers has looked into the design due to the wetlands. The New Hampshire Department of Cultural Resources required the completion of two levels of archeological study, which involved excavating 12-18 pits along the bank due to concern it may have been a Native American village area. The study was completed and the department was satisfied. Stantec reviewed all of the engineering drawings on behalf of the Planning Board and Town. The Public Works Department was involved in matters such as the sewer construction, rehabilitation of culverts underneath the proposed access road, restriping of traffic lanes out on D.W. Highway, and opined on some of the waivers. The Merrimack Village District was involved with regard to water matters. All entities have provided letters of approval, which are on file. Mr. Plante noted the Community Development Department has maintained a thorough and complete file, which the Applicant would like to be brought into the hearing so that the previously submitted information can be relied upon to support the current application.

The Town Engineer was involved with the Public Works Department on various matters relative to design. The Conservation Commission was involved relative to the Dredge & Fill Permit, which was issued for the proposed repair of the culverts, the Alteration of Terrain (AoT) Permit, and with regard to work being performed on a property adjacent to wetlands. The Applicant met several times with the Lower Merrimack River Local Advisory Committee (LMRLAC) due to the property's proximity to the Merrimack River. New Hampshire Fish & Game was petitioned by neighbors to become involved. NHDES was involved with regard to Shoreland protection and the Dredge & Fill Permit. The Merrimack Police Department was involved regarding traffic and the Merrimack Fire Department on life safety matters, e.g. location of hydrants, access to buildings, etc. The New Hampshire Department of Transportation was involved with restriping improvements that will be made to D.W. Highway because of the access point at Angelo Drive. The United States Environmental Protection Agency (EPA) was involved on the Wright Avenue site because the location across from the proposed ball fields is an existing Superfund site.

Mr. Plante stated, to his knowledge, 3 changes in the zoning ordinances have been adopted since the initial approval in 2007, which relate to parking, stormwater management, and Shoreland protection. In the case of parking, current regulations require 1.5 spaces per elderly housing unit. The proposal provides for just over double that amount. Current stormwater regulations require the Applicant attend a pre-construction meeting with the Community Development Department. With regard to the State's Shoreland Protection regulation, it was noted in 2007, the Town had its own Shoreland regulation, which was more stringent than the State's. The Town's regulation was satisfied. That regulation no longer applies. The project is in full compliance with the current State regulation.

Mr. Plante spoke of the requirements under Zoning Regulation 2.01.7 - Elderly Zoning District. Elderly housing must be located within a two (2) mile radius of the intersection of the D.W. Highway and Baboosic Lake Road east of the turnpike. The proposed site is a distance of 1.6 miles. Dwelling units must be connected to public sewer and water. There is a 16" sanitary sewer interceptor that runs through the site, which will be tied into. Public water is available on D.W. highway. Service will be run up to D.W. highway, the 12" line tapped into, and an interconnection made on Island Drive to the existing 6" line. Eight units to the acre are permitted. The proposed project is at approximately 6.9 units/acre. There is a limitation on the number of bedrooms. The proposal is for two style units; single level and some two-level homes in duplex, triplex, and quadraplex configurations.

With regard to service to an elderly residence, the two 16-unit buildings are elevated, sprinklered, and fire alarmed. The 3 and 4 unit buildings will also be sprinklered and fire alarmed. There is handicapped parking, ramps, etc. As required under the Ordinance, the head of household of the ownership units in the project will be 55 and older. Minimum tract area required is 3 acres. The project is 8 acres in size. The project is obligated to preserve the natural character of the land. The Applicant believes that has been adhered to principally by minimizing the amount of impact on the most mature vegetation along the Horseshoe Pond and its wetlands. In locations where vegetation is effected they have proposed a thorough and hearty landscape plan that calls for in excess of 700 plants, bushes and trees.

Mr. Plante read aloud the language for the requirement that "The development shall, where possible, make provision for on and off-site pedestrian access to the various community facilities in the town center." He noted onsite sidewalks exist around the buildings and the length of the access road that connects Angelo Drive to Island Drive. When before the Board in 2006/2007 Shaws was still in existence on D.W. Highway. The idea of extending a sidewalk from this location to the Shaws center was discounted because of ongoing discussions, at the time, regarding the potential for Shaw to change location. The agreement reached with the Town Engineer and the Planning Board was, rather than constructing a sidewalk from the site to the Shaws center, the sum of \$36,000 would be contributed, an amount determined by calculating the cost to construct the sidewalk. The monies were going to be used by the Town to construct sidewalks a little further up on D.W. Highway in the area of Wright Avenue. Mr. Plante commented in a 55 and older project there are typically not a lot of residents that are 55; most are 65 and older. It is not likely the residents would be inclined to walk the 3,000' to the new Shaws center, buy their groceries, and carry them back another 3,000'. The idea of constructing off-site sidewalks is further complicated by existing grades along the Thornton Cemetery and the fact there are no crossing signals to get you from the east side of D.W. Highway and across the highway in the area of the Common Man restaurant.

With regard to requirements associated with emergency vehicles, the concerns of the Fire Department have been satisfied. The Applicant is current on all permitting. The Applicant is prepared to take the required steps to secure a sewer extension/connection approval from the State as identified in the letter from the Town's Wastewater Collection System Manager. Mr. Plante then summarized the requested waivers.

Section 4.18(c) – Typical Roadway Cross Section

The requirement is that a 24' roadway be constructed. The proposal is for a 22' roadway and a 5' sidewalk, which results in 27-28' of construction width (including curve). The roadway would be private. All parking for the residences and multi-family units occur off the road although there is some parking on the roadway. Chairman Best commented, if the Fire Department has no objection to the 22' roadway, he did not expect the Board would either.

Section 10.01(4) – Buffers

Mr. Plante stated the Town's Regulations require a landscape buffer be constructed. In order to do so existing vegetation would be destroyed. Therefore, a waiver is being requested. Director Thompson remarked in addition to the fact there is existing vegetation, there is also location of two sewer easements behind two parcels. Staff strongly recommends against new plantings over sewer lines in the area.

Section 4.12(b) – Vertical Curves

Mr. John Heavisides, Meridian Land Services, spoke of the sag curve exiting the parcel and pointed out the area of concern where the curve comes around Island Drive. The requirement is that there is no more than a 5% grade within 200' of the intersection edge of the road. He explained the sag curve needs a K value of 40 or greater (difference of the slopes going into the curve divided by length of curve value; higher value makes a longer curve). The curve is designed for 35 mph roads but not for intersections or roads at lower speeds. Being proposed is a 25 mph private road through the development with a stop condition. Cars will not be traveling 35 mph or even 25 mph down towards the end.

A previously submitted exhibit showed if required to maintain a curve with a proper sag, in order to keep the number of units proposed, they would either end up with a 5' bump out at Island Road or, if they held the Island Road elevation and came back up they would be cutting into an area, which would cause the elimination of 9-10 units (keeping foundations above 100-year flood elevation). A K value of 13.4 is being requested.

Mr. Heavisides stated one of the recommendations previously made by the reviewing engineer and the former Director of Public Works was to add a streetlight down the rural area, put in guardrails, and remove snow storage in the area. The main reason for a large K value and a sag curve is to provide line of site. The streetlight would accomplish that.

Section 4.12(d) – Intersection Approach Grades

Being proposed is a grade steeper than 5% as a means to minimize the amount of cut and fill that would be put over the existing culverts and sewer pipe in the area. This was not seen as an issue to the Town Engineer when the previous review was performed.

Mr. Millns noted Section 4.12(d) states no more than 5%, but also states a maximum grade of -2% for at least 50' from the intersection. Mr. Heavisides stated there to be a -1.4% grade at the intersection. It was noted that should have been included in the waiver request.

Councilor Koenig questioned the subdivision regulation that a sidewalk be put in place along D.W. Highway, which is something looking to be avoided as part of the payment in lieu. Thomas J. Leonard, Esq., Welts, White, & Fontaine, stated his belief the regulation requires an effort to provide sidewalks, but gives the staff and the Board authority to accept payments in lieu. Chairman Best stated his belief the Board may revisit the dollar amount of the previous assessment for the sidewalks.

When asked what occurred with the prior appeal, Attorney Leonard stated, after a series of public meetings/input a plan was approved with conditions. One of the issues appealed first to the Zoning Board of Adjustment (ZBA) was the interpretation on impervious surfaces in addition to general review of plan. The Town and Applicant prevailed at the ZBA. That was then appealed to the Superior Court. The Town and Applicant prevailed in that appeal as well. The Court determined the decision by the Board was lawful and reasonable. The current application is the exact same application previously submitted. All of the conditions of the prior approval have been met. Additional conditions have been brought to light, and are believed to have been met as well.

Chairman Best opened the floor for public comment at 8:21 p.m.

Public Comment

John McDonald, 19 Pondview Drive

Commented it is a complicated project that sits on an ecologically sensitive site, which would require a waiver of slope and width of roadway to name a few. There is also an issue of porous pavement. When the project was last before the Board, he felt the Board needed to twist logic to accept a manmade system that would work 100% of the time. He stated, if nothing else, the present board should take the opportunity to correct this. He stated nothing designed by humans, constructed by humans, and maintained by humans works 100% one hundred percent of the time. Research shows porous pavement varies from 25-60%.

He stated the abutters are motivated by their desire for Horseshoe Pond to continue to be an asset to Merrimack. He urged the Board not to rush to judgment on the project. He noted the Applicant has had the legal right to proceed with the project since July of 2008. Two one-year extensions were received, and were allowed to lapse. The Board is being asked to accept traffic studies, environmental impact studies, and Conservation Commission recommendations from 6-7 years ago. He questioned whether the Board would allow another applicant to pull 6 and 7 year old reports, findings, and recommendations as part of a submission, and whether that is now the standard. He questioned whether the Board is confident the conditions and findings from 2006 remain valid. He noted the drawings show porous asphalt, and on page 2 of the staff memorandum dated 7-5-13 it reads in part "At this time the Applicant intends to move forward with porous asphalt; however, that may be dictated by market conditions and economy." He questioned the meaning of the statement.

Mr. McDonald requested the Board defer final approval until it has enough time to understand the full impact the project will have.

George Baird, 82 Island Drive

Stated a concern with the area of the proposed exit. The proposed road is currently a path used by many to walk their dogs. As proposed, it would become a major exit for 200 automobiles. He is fearful a terrible accident will occur in the area. He remarked traffic controls done in 2007 are nothing like today. He spoke of the configuration of the area, e.g., exiting and taking a right; drivers are faced with a four-lane highway whereas those taking a left are faced with a one-lane highway. He suggested placement of a light would just create more of a mess.

Speaking with regard to porous pavement, he noted that was tried at the Mall of New Hampshire and was unsuccessful. He stated a desire for additional time to be provided for review/consideration.

Erik Cook, 1 Willow Lane

Informed the Board he resides at one of the two homes on Willow Lane, which is off of Angelo Drive. He exits Angelo Drive on a daily basis. He spoke of the blind spot on D.W. Highway, and remarked he has difficulty getting out of the area and believes adding an additional 200 cars would be ridiculous. He noted there is also a major traffic signal in the area, which backs traffic up in both directions. He questioned why the exit could not be placed in the middle of the complex.

Hearing no further comment, Chairman Best declared the public hearing closed.

Mr. Millns commented he was quite nearly horrified to read the number of remarks made by staff. He questioned the number of notes included on the drawings. Mr. Plante responded they have reviewed and revised the drawings on not less than 3 occasions in an attempt to get back before the Board before everything expired, without success. One of the last things Jeff Morrisette did prior to leaving his position as Planner was to review the drawings after they were submitted for the 2nd or 3rd time. He provided two pages of very minor comments. His closing comment was "In general the Applicant has addressed almost all of the various precedent conditions of approval. The plans and related documents are in excellent shape, and the Applicant has done a great job satisfying the numerous comments. In many cases, outstanding conditions will likely be satisfied by simply providing a dimensional value or adding a note to the plan set. I recommend that the Applicant meet with the Planning & Zoning Administration briefly to discuss the minor buffer issue and then finalize plans for submission to

the Planning Board.” Mr. Plante stated they have gone through the drawings sheet by sheet and the comments provided by Mr. Morrisette, made the recommended changes to the drawings, and submitted them. He added how they can generate the number of conditions and comments on the plans is astonishing to him as well, but they have been at it for a great many months, sets of mylars, prints, etc. in an attempt to satisfy the regulations.

Attorney Leonard added there are a lot of technical changes to the plan that are a personal preference to see more detail. He remarked the bottom line is it is an old plan that has been approved, and the notes and requests for notes have changed over time. They are willing to go with that, but it should not be a criticism of the Applicant as along the way several requests have been met in full.

Mr. Millns echoed comments made by the abutters that the traffic situation on D.W. Highway is considerably worse than when the first traffic study was done. As an example, he noted the Merrimack school bus terminal has moved. Most of the buses travel past Island Drive and Angelo Drive. He suggested a traffic study be performed while school is in session. He stated his belief that traffic on the one-mile section between the traffic lights by the Common Man and those by the old Shaw plaza is vastly different than it was 6-7 years ago.

Mr. Redding requested comments made about the porous pavement be addressed, that they be tied into the steepened slope for the proposed drive as well as snow management techniques. He also asked that the comment regarding the maintenance of the system be addressed, its effectiveness, and what would happen if it shows signs of not performing as intended. Attorney Leonard responded the matter of porous pavement was the primary issue appealed to the ZBA and Court. Both affirmed the Board’s decision porous pavement was okay. The local regulation is no longer in place, which is the reason behind remarks the porous pavement may or may not be done; not required by regulation. However, it is being proposed in the current application. Should the Board disagree porous pavement would not be used. Mr. Heavisides noted at the time first proposed, porous pavement was a novel idea. Since that time it has been used all around the State, and is now promoted by NHDES as a way to handle stormwater. With this system, water will travel through the pavement into a storage area beneath. This project has a massive storage area of stone underneath the pavement to hold water and allow it to infiltrate back into the ground. As an emergency measure (in case porous pavement became plugged), catch basins have been designed into the road. If pavement allows water to flow over, it will travel to the catch basin and still go down into the stone and recharge into the ground.

When asked, Mr. Heavisides stated the plan continues to provide for maintenance of the porous pavement (vacuum truck). He noted this type of system typically has about 1’ of stone storage whereas the proposal calls for 4-6’.

Chairman Best stated what he was hearing was an explanation of porous pavement with stone underneath, which is one stormwater system. In addition to that there are storm drains. Sheet 5 of 29 speaks to the porous asphalt maintenance program. However, the plan includes language indicating the whole concept of porous pavement may not ever hit the ground if economic conditions point otherwise. He questioned whether the Applicant is committed to the porous pavement. He noted the calculations are based on being able to treat stormwater without porous pavement. If the request is for the Board to allow the Applicant discretion as to whether or not the porous pavement is installed it will likely result in the Board considering the application as if porous pavement were not included.

Attorney Leonard reiterated the Applicant was unsure of the Board’s position on porous pavement. The plan is being presented inclusive of porous pavement. The Applicant is committed to porous pavement unless the Board changes its position on it. “The plan is to build this with porous pavement as shown in all of the sets of plans and as previously approved.” Chairman Best remarked his concern is less about the specifics of porous pavement, catch basins, etc. and more about having robust protection of Horseshoe Pond, e.g., keeping fertilizer, runoff, stormwater, salt, etc. out of the pond. Attorney Leonard stated his belief, as presented, the plan provides that.

Mr. Redding spoke of the cross-section of porous pavement (D2) where an impervious barrier system appears to be present, and questioned the purpose. Mr. Heavisides stated barriers are put in where the road is sloped. Because the stone has voids, water will flow through it. The road is sloped in the area; therefore, without barriers, all of the water would flow to the low point, fill up, and possibly even dump out. By having barriers at intervals it keeps all of the water from going to the low point (will stop in sections).

Mr. Redding questioned where the 100-year storm falls with respect to managing peak flow and volume. Mr. Heavisides stated he was not familiar with the total extent of the drainage calculations. The AoT requires the project look at the 50-year flood.

Mr. Millns remarked since 2006, the Town has had to become more aware of the issue of sodium chloride in the water supply. The Board has become increasingly concerned about use of de-icing compounds. Page 5 of the plan states "only calcium chloride and calcium magnesium acetate shall be used for de-icing." He questioned whether language such as "No use of fertilizers within the reference line of Horseshoe Pond" is adequate protection of the watercourse today. He stated the desire to hear an opinion from an expert that nothing that will occur onsite will make the situation relative to Milfoil and other vegetation on Horseshoe Pond any worse than it already is, e.g., lawn fertilizer, etc.

Chairman Best stated the note which addresses no salt use onsite is part of the porous pavement maintenance. Because of the impact salt has on the pond he would like to see that note as a general note. He added Note 18; no fertilizer or pesticide may be used within 25' of the reference line is a rather narrow restriction, and suggested a broader restriction is appropriate. The same comment would apply when discussing the ball fields as there is a greater likelihood fertilizer and pesticide would be used on that site.

Mr. Heavisides spoke of the landscape plan and stated there would likely not be much fertilizing given the small amount of grassed area. The area that will be disturbed for construction of the building will be loamed and seeded. All disturbed areas would be seeded with athletic playground mix. He stated his belief there is a non-disturbance buffer area and disturbance will be limited to immediately around the buildings for grading. With regard to disturbances associated with building impacts on existing mature growth, Mr. Redding questioned whether there is a plan to supplement with native plantings that would be more appropriate for buffer establishment. Mr. Heavisides stated his uncertainty additional plantings beyond what is depicted on the plan would take place.

Chairman Best stated his belief the restriction of low phosphate, slow release nitrogen fertilizer beyond the 25' reference line is sufficient to protect Horseshoe Pond. Mr. Heavisides noted that regulation extends to 250'; however, the plan applies it to the entire site. Chairman Best stated some of the test results received indicate the pond is very sensitive to fertilizer. Mr. Heavisides stated most of the runoff from the developed portion of the site will flow to the drainage system, and will not flow offsite. It will be treated within the chamber system and the porous pavement storage area. The only area flowing directly down into Horseshoe Pond would be the back edge where they are trying to limit disturbance to just what is needed for the construction of the houses. The embankment would not be disturbed. Some additional trees will be put in to supplement some areas along the back.

Chairman Best reiterated a desire to see a more robust limitation on fertilizer. He questioned whether the Applicant was committed to ensure the ability to utilize fertilizer. Attorney Leonard stated the Applicant is willing to consider anything the Board recommends. He noted, as condominiums, individual unit owners would not be maintaining their own area. He stated a willingness to put in language that extends to the whole area and limits use to natural products, etc. He stated the limitations could be identified in the condominium documents as well as the Bylaws. Chairman Best questioned how those restrictions/limitations would be communicated to those maintaining the property. Chairman Best suggested the possibility of signage on the property.

Addressing the issue of increased traffic, Mr. Plante stated the Applicant's experience is that those residing in a 55+ community don't typically travel during peak traffic times. He noted the last traffic study was performed during a time school was in session. It was noted a recent traffic study performed further down D.W. Highway found the volume to have decreased.

Mr. Redding suggested one way to address the issue of fertilization is by design where you have more natural grasses that are grown and taller creating more of a screen on the back side of the condominiums that are in the wetland area and having signage as well as some of the techniques used by golf courses to attract birds and natural habitat. He suggested the possibility of creating some sort of environmental area and label it as such. A further step, as part of the plan, might be to show the areas intended for lawn, minimize the sloping of those to maximize retention, ensure soils proposed in the design are fibrous enough to absorb the fertilizers, and incorporate things such as aeration, etc. on the flat slopes.

Chairman Best remarked knowing for certain whether there would be porous pavement would be an important issue to resolve. The environment impact comes down to salt and fertilizer use and how stormwater is managed. He stated he is pleased with the proposed environmental plantings on the back of the site, which discourage lawn and encourage other types of more natural vegetation that isn't likely to be fertilized. He is in favor of language

being incorporated into the condo. documents, Bylaws, etc., and signage on the site indicating no salt/fertilizer use.

He acknowledged comments made by abutters as well as Mr. Millns regarding reliance on some of the older reports. He stated his belief Stantec would likely stand by most of their prior engineering reports; however, if they were to put that in writing it would be useful. He commented if the Planning Board is charged with giving the application a fresh review that sort of implies all of the other reviews would be fresh as well. They may not change and may be very brief such as a statement that the changes between 2007 and 2013 have been considered and previous recommendations stand without modifications, etc. Attorney Leonard stated the Applicant does not believe a new application is needed; it has already been approved, none of the rules have changed, and everything could go forward very quickly. He requested, if there is going to be a requirement for update(s), he would like to go through each with the Board to consider which are of importance to the Board. He noted the cost involved.

Chairman Best remarked, with the environmental issues involved, the application should go before the Conservation Commission, which is a step without a great cost. The traffic report should be updated. Director Thompson noted the Nashua Regional Planning Commission has historic traffic count data throughout this section of D.W. Highway. Counts have gone from approx. 21,000 vehicle trips/day in 2008 to approx. 17,000 in 2011. Ms. Christensen commented that does not mean that is a trend that will continue over the next 5-10 years. Those figures are based upon what has occurred over the past 5 years with the current economy.

Attorney Leonard stated the Applicant is in a position where the plan has been approved has been reviewed many times, and at this point in the economy it is good to have an approved plan as it is time to build. The Applicant does not wish to miss this construction season. It is not believed there would be any different impact to the pond than existed previously. He stated his belief a letter could be obtained from the NRPC stating traffic has decreased and likely a letter that states the environmental impacts are no greater than initially estimated.

Ms. Christensen remarked it is not that it is believed something different is being proposed now than was the case 7 years ago; what is different is the status of the pond. Chairman Best stated his belief the pond is much closer to being in a threatened state. The pond is nearly completely surrounded by undeveloped land yet it is still struggling and worsening. He commented he is unsure what BMPs may have come about over the period of time since the application was first approved, which may be incorporated into the plan after further review.

Mr. Redding remarked what is challenging is the interaction in the subsurface. When we can trade off the impacts of runoff and gain in the sense of groundwater recharge that is an initiative that has merit. In this case, it is proximity. There is always a relationship between ground water and surface water, and this is something that in this case he does not believe has been fully developed. A high use of fertilizer and a large lawn area would certainly be a major red flag with regard to potential impacts with the threatened condition the pond is in. The planting schemes, the low impact development scenarios being looked at, and providing infiltration areas with more of an area to absorb nutrients is really the driver being used nowadays. It is a combination of the right type of soil amendments and plantings that dictate changes in the design that may be more current today.

Mr. Millns stated the other difference between 2006 and today is the state of the water in the Town, which has deteriorated. Any development where salt of any sort would be used is known to be a problem for water quality. He stated his concern for the drinking water. He spoke of applicators being Green SnowPro certified, which has been discussed at length, and he would like to see incorporated into the plan.

Chairman Best remarked if porous pavement were utilized neither sand nor salt would be. There would be no physical or chemical deicers; nothing but plows and shovels. He spoke of a group previously before the Board relative to an over 55 community that made a compelling case that having no salt raised a safety concern for them to be able to keep the walkways clear and safe. He questioned how the Applicant could ensure a safe environment if committing to no use of salt or sand, and suggested consideration has to be given to the practicality of requirements put upon the project to ensure they will be enforceable.

Mr. Redding commented he believes the use of porous pavement to be a great idea to limit the use of de-icing material. Some sort of low-use or more of the modern techniques as well as a lesser chloride or sodium based de-icing solution may be a nice mix. Studies have shown after effective plowing and with the right sunlight, you can achieve greater black pavement surfaces on porous pavement than you can with de-icing methods.

Ms. Christensen questioned whether the \$36,000 spoken of as a payment in lieu of sidewalk construction is considered reasonable by today's standards. Director Thompson suggested the Public Works Department be asked to update that number based on current construction costs.

MOTION BY MEMBER CHRISTENSEN TO ACCEPT PAYMENT IN LIEU OF PROVIDING SIDEWALKS IN AN AMOUNT TO BE DETERMINED BY THE PUBLIC WORKS DEPARTMENT AND NOT TO EXCEED FIFTY THOUSAND DOLLARS (\$50,000)
MOTION SECONDED BY MEMBER REDDING

ON THE QUESTION

Chairman Best remarked, in the past, the Board has dealt with this type of issue by allowing the Public Works Department the latitude to set a number, and if the applicant is unsatisfied with the figure it could be brought before the Board for consideration rather than setting a cap.

MOTION CARRIED
6-0-0

MOTION BY MEMBER MILLNS TO WAIVE THE REQUIREMENTS OF SECTION 4.18(c) – TYPICAL ROADWAY CROSS SECTION, SECTION 4.12(b) – VERTICAL CURVES, SECTION 4.12(d) – INTERSECTION APPROACH GRADES, AND SECTION 10.01(4) – BUFFERS NOTING STRICT CONFORMITY WOULD POSE AN UNNECESSARY HARDSHIP TO THE APPLICANT AND WAIVER WOULD NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE REGULATIONS
MOTION SECONDED BY MEMBER CHRISTENSEN

ON THE QUESTION

Chairman Best stated a desire to conduct a site walk.

MOTION CARRIED
6-0-0

MOTION BY MEMBER MILLNS TO SCHEDULE A FORMAL SITE WALK FOR WHICH THE APPLICANT AND STAFF WILL SET A TIME AND DATE
MOTION SECONDED BY MEMBER REDDING
MOTION CARRIED

5-0-1

Councilor Koenig Abstained

When asked if the Applicant had received the feedback needed with respect to fertilizer and salt use, Attorney Leonard stated they had. Councilor Koenig stated a concern with the MS4 Permit the Town is trying to acquire. There is a big push to require the Town to lower the phosphorous level in Horseshoe Pond by about 75%, which is an approximate \$2 million project. That requirement amplifies the concerns about any fertilizer getting into the pond. This requirement was not faced by the Town back in 2006. The Town is joining other towns to push back on that requirement, but at present it is the recommendation that has come forward.

Chairman Best stated a letter from the NRPC or whoever did the other site reviews saying impacts are expected to be no more than 2007 would satisfy his review. Mr. Millns stated agreement. He questioned the will of the Board with regard to what would be asked of Stantec with regard to peer review. Director Thompson noted a proposed condition requiring satisfactory resolution of remaining comments from the Stantec review. It was anticipated that would require going back to Stantec so they would have the opportunity to update their review. The Board was in agreement with that requirement. The Conservation Commission should be asked to consider the project along with the current state of Horseshoe Pond. Whether they are willing to do that in the form of an update is their call. The Lower Merrimack River Local Advisory Committee should be notified and allowed the opportunity to offer comment(s).

Councilor Koenig remarked the discussion of porous pavement has come up several times and the Applicant has testified it will be done. He suggested it be a requirement along with the BMPs for maintenance.

Mr. Plante noted improvements have been made to the porous pavement system since its design in 2006. The Applicant is willing to commit to porous pavement; however, would like to go back and look at the design to see if

it can be improved or if it is oversized. There is a 4' well of stone being proposed whereas most recent practice calls for 1'. The Board was acceptable to the review. Chairman Best commented the well of stone underneath the porous pavement is a particularly attractive feature to the stormwater management system. Unless a drastic change in cost, he encouraged the Applicant to be as robust as possible when designing the system.

MOTION BY COUNCILOR KOENIG TO REQUIRE THE USE OF POROUS PAVEMENT AS WELL AS BEST MANAGEMENT PRACTICES WITH REGARD TO MAINTENANCE
MOTION SECONDED BY MEMBER REDDING
MOTION CARRIED
6-0-0

It was noted the technical review for that change would be performed by Stantec because of their history with the project.

MOTION BY MEMBER MILLNS TO TABLE THE APPLICATION UNTIL AUGUST 20, 2013 AT 7:30 P.M. IN THE MATTHEW THORNTON ROOM NOTING NO FURTHER ABUTTER NOTIFICATION WOULD BE MADE
MOTION SECONDED BY MEMBER FALT
MOTION CARRIED
6-0-0

The board recessed at 9:46 p.m.

The board reconvened at 9:57 p.m.

4. **YMCA/Melton Associates** – Review for acceptance and consideration of final approval of a site plan application proposing the development of athletic fields, bathrooms & maintenance structure, related to parking & appurtenant improvements in the R (Residential) district, located off Wright Avenue at 381 D.W. Highway. Parcel is located within the Aquifer Conservation District, the Flood Hazard Conservation District, and the Shoreland Protection District. Tax Map Parcel 4D-3/092.

Director Thompson remarked as with the previous application, this plan was previously approved and extensions granted have expired. In terms of changes to regulations, recently adopted into the subdivision regulations was use of outdoor recreation center, which requires the amount of parking to be determined by the Planning Board. The Board will need to consider whether the proposed 155 parking spaces are sufficient to the application. With regard to the two waiver requests; boundary survey and property line bearings and distance, the section numbers for the regulations have since changed as a result of the new parking requirements. Those sections will need to be updated in the plans accordingly.

Mr. Plante restated the contractual obligation to bring the application for the design of the fields forward on behalf of the YMCA, the owner of the property. The property is 28 acres in size, has 918' of frontage along D.W. Highway, and is improved to the left of Field #1 with the brick, historic home of Reverend Wright. Being proposed is the construction of 5 athletic fields; three soccer/lacrosse fields (#s 2, 3, and 4), a 90' baseball diamond, and 6 v 6 soccer field. In addition, there are 6 open air pavilions to shelter children in instances of foul weather. In addition to fields and bleachers, located to the right of fields 2 and 3, is a single 24 x 24 equipment and bathroom facility building. That facility will be served by municipal water and sanitary sewer. The fields will be irrigated by public water.

Two curb cuts are proposed along Wright Avenue to provide access to the 155 parking spaces (gravel parking area). There is no pavement within the project. There is also an emergency access and additional bus parking. All storm drainage is handled onsite. A 6' chain link fence is proposed along the Boston & Maine Railroad. A large number of the existing pines will be located along Wright Avenue to provide a buffer from the parking. A site specific permit was issued by NHDES and remains valid. The YMCA will continue to own the property. When asked, Mr. Plante stated the YMCA would be constructing the project. Mr. Plante then summarized the requested waivers.

Section 7.05.D(4) / Section 7.05.D(5)

Mr. Plante remarked, given the YMCA is and will remain the owner of the property and its status as non-profit, waivers are sought for the requirement to survey the 28 acres. It was noted a survey would be rather extensive given the particulars of the property, e.g., Horseshoe Pond, the railroad, etc.

MOTION BY MEMBER MILLNS TO ACCEPT THE APPLICATION FOR REVIEW
MOTION SECONDED BY MEMBER FALT
MOTION CARRIED
6-0-0

Chairman Best stated the majority of concerns expressed with the first application apply to this as well with respect to fertilizer and salt use and protecting Horseshoe Pond. Ms. Christensen emphatically stated the issue is greater on this parcel as its intended purpose is ball fields, which would have a high demand for fertilizer. Chairman Best noted the property also abuts the pond rather than the wetland next to the pond. He commented with a gravel driveway, he does not see a great deal of salt being used on the property; however, fertilizer use could be great if not addressed. Director Thompson commented the fields would likely not be used or require parking lot maintenance during the winter months.

Director Thompson spoke of the EPA draft MS4 Permit and stated his request a note be added to the plans that meets the approval of Public Works and indicates the property owner would allow the Town of Merrimack to utilize portions of the property as necessary to address the phosphorous mitigation issues that may arise through the MS4 process.

Mr. Millns questioned whether recent approval has been received from the Merrimack Village District to provide water for irrigation. Mr. Plante stated nothing has occurred post 2007. Chairman Best suggested the Applicant may wish to revisit the issue as there are limitations on water. When asked, Mr. Plante stated water would be needed for the 24 x 24 building as well as field irrigation. He commented it could be that water could be drawn from Horseshoe Pond.

Mr. Millns noted the fields identified as #2 and #3 would be the initial fields constructed. Fields 1, 4, and 5 would not be constructed prior to the fair share payment for the traffic signals at the D.W. Highway/Wright Avenue connection. Both Chairman Best and Mr. Millns stated their desire not to see a traffic light constructed in the area. Mr. Plante noted the signal would have limited use; during times camp lets out.

Mr. Redding questioned whether there is a potential scenario where the number of fields would be drawn back to allow for more of a buffer that would make the use less of an impact on Horseshoe Pond. Mr. Plante stated that to be a question for the YMCA.

Mr. Millns remarked there was discussion in 2006 of the rights or ability of the Town MYA to utilize the fields under certain conditions. Director Thompson stated the discussions continue. Chairman Best commented the MYA's study on the need for ball fields in town shows an enormous need for a great many fields.

Chairman Best opened the floor for public comment at 10:13 p.m.

Public Comment

George Day, 47 Island Drive

Remarked it was originally stated there would be 5 fields and then it came down to only 1. Merrimack was going to be allowed access to the fields only after the Manchester YMCA followed by the Nashua YMCA. He stated the question of who is responsible for the cleanup of the fields was never addressed. He stated his opposition to the project, and questioned why the Board would even consider the project.

Chairman Best stated the property is owned by the YMCA, and the ball fields would be theirs to decide what to do with. Mr. Day stated there to also be a matter of a member of the Planning Board sitting on the YMCA board. Mr. Millns stated the board member referred to has recused himself from every single meeting. Chairman Best ruled the comments Out of Order as they were not relevant to the matter before the Board.

Ms. Christensen stated the board member is a member of the Nashua YMCA, which has no bearing on the ownership of the property. The Manchester YMCA is the owner of the property. The Board member recused himself to avoid the appearance of any conflict of interest.

Chairman Best ruled the discussion Out of Order and brought it to a close.

Hearing no further comment, Chairman Best declared the public hearing closed.

MOTION BY MEMBER MILLNS TO WAIVE THE REQUIREMENTS OF SECTION 7.05.D(4) AND SECTION 7.05.D(5) OF THE SUBDIVISION REGULATIONS NOTING STRICT CONFORMITY WOULD POSE AN UNNECESSARY HARDSHIP TO THE APPLICANT AND WAIVER WOULD NOT BE CONTRARY TO THE SPIRIT AND INTENT OF THE REGULATIONS
MOTION SECONDED BY MEMBER REDDING
MOTION CARRIED
6-0-0

Chairman Best stated his opinion the amount of parking is greater than available in other field locations and is more than sufficient. Ms. Christensen stated although a greater amount than is available at other fields, she remains concerned with whether or not it is sufficient. Councilor Koenig commented 7 years ago the number of spaces was believed sufficient, and he has not seen anything to suggest it is no longer sufficient.

MOTION BY COUNCILOR KOENIG TO ACCEPT THE PROPOSED 155 PARKING SPACES
MOTION SECONDED BY MEMBER MILLNS
MOTION CARRIED
6-0-0

MOTION BY MEMBER MILLNS TO TABLE THE APPLICATION UNTIL AUGUST 20, 2013 AT 7:30 P.M. IN THE MATTHEW THORNTON ROOM NOTING NO FURTHER ABUTTER NOTIFICATION WOULD BE MADE
MOTION SECONDED BY MEMBER REDDING
MOTION CARRIED
6-0-0

It was noted discussions are ongoing between the Town and the YMCA regarding maintenance of the field(s).

5. Discussion/possible action regarding other items of concern

None

6. Approval of Minutes – June 18, 2013

Merrimack Planning Board June 18, 2013

MOTION BY MEMBER CHRISTENSEN TO APPROVE AS WRITTEN
MOTION SECONDED BY MEMBER MILLNS
MOTION CARRIED
6-0-0

7. Adjourn

MOTION BY MEMBER MILLNS TO ADJOURN
MOTION SECONDED BY MEMBER CHRISTENSEN
MOTION CARRIED
6-0-0

The July 9, 2013 meeting of the Merrimack Planning Board was adjourned at 10:23 p.m.