



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, FEBRUARY 19, 2013

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig (arrived 7:38 p.m.), Michael Redding, Lynn Christensen, Stanley Bonislowski, Desirea Falt, and Alternates Nelson Disco, Pete Gagnon and Matthew Passalacqua.

Community Development staff: Assistant Planner Jeff Morrissette and Recording Secretary Zina Jordan.

1. Call to Order

Robert Best called the meeting to order at 7:30 p.m.

2. Planning & Zoning Administrator's Report

None.

3. John J. Flatley Company (applicant/owner) – Consideration of Final Approval of a subdivision application proposing to subdivide one lot into a total of three industrial lots located at Daniel Webster Highway (to the rear of Saint-Gobain) in the I-1 (Industrial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 6E, Lot 003-4. **This agenda item is continued from the February 5, 2013, meeting.**

James Petropulos, Vice President/Principal Engineer, Hayner-Swanson, Inc., said the applicant wants to subdivide the approximately 71-acre uniquely-shaped parcel that is bounded by property of New England Power Company to the north, the Boston and Maine Corporation railroad tracks to the east, other Flatley properties to the south, and D.W. Highway to the west. The parcel has municipal sewer and water and a shared access driveway by easement between the Saint-Gobain parcel and the Flatley Company to serve the north piece of the parcel. Lot 003-4 will be 45 acres and Lot 003-6 will be 13 acres. The applicant wants private access and utilities for the two lots. An easement between lots for utilities and access would be put on record before future sale of the property.

Tom Koenig arrived at 7:38 p.m.

Nelson Disco asked why the south lot swings behind Lot 003-5 but not the other lot and why Flatley left such an odd configuration. James Petropulos explained it is to go around the remnants of the railroad spur line. Surplus land behind the building would be better as part of Lot 003-4 rather than of Lot 003-5. Dick Cane, Vice President, John J. Flatley Company, said the east line of Lot 003-5 runs on

top of an embankment; the rest is on a slope. Flatley wants a mixed-use plan for the entire 150 acres. There is a lot of river frontage, where there may eventually be a trail system. The land on the slope would have easements for that. That way there is no need for a mortgage release for that piece. It gives flexibility for what to do with the property later. Nelson Disco suggested continuing the east property line of Lot 003-5 to the north. Dick Cane replied that Flatley is interested only in Lot 003-5 now and will decide about Lot 003-6 later. James Petropulos added that there is no advantage for the property to include the small storm water cell. Michael Redding noted that the Planning Board should not limit property rights and asked how Flatley would address the cut-off before the slope, later. Dick Cane said Flatley owns its properties and does not sell them. It has already refused to sell this one. It will develop and own all 150 acres. If it sells a piece later, it will prepare easements at that time. Flatley cannot give an easement to itself.

Michael Redding asked about utilities and a note stating an easement may be needed. Robert Best said Lot 003-5 would need a slope easement if the lots were separated for different ownership. Dick Cane said it would depend on how Flatley develops the rest of the lot. It might be able just to maintain it without needing a slope easement. Robert Best agreed that Flatley cannot give an easement to itself now, but if there were separate ownership in the future or the building might be undercut by the embankment, an easement might be necessary. James Petropulos offered to write “future slope easement” on the site plan.

Nelson Disco asked why the railroad track that was removed is still shown going across Lot 003-5. James Petropulos replied that there is still one piece of unused track left, which is noted on the site plan. He said it would be secured. Nelson Disco asked whether Saint-Gobain has the rail rights. Dick Cane said they agreed to remove the rail system because they have no use for the track. James Petropulos clarified that they relinquished railroad rights in 1987.

Nelson Disco noted that Lots 003-4 and 003-6 have limited access to Route 3 by using the signalized entrance. Dick Cane said he will not know about any lots until their overall plan is made. Lot 003-6 will have access off the signalized intersection. There may be a right turn in and out. All left turns would be at the signal. He does not know about Lot 003-4. There will likely be other possibilities. Nelson Disco said the Planning Board wants a limited number of access points onto Route 3. He wants legal review to be sure it is being done. Dick Cane called that premature. At this meeting, Flatley seeks only subdivision and site plan approval for one lot. Other issues will be discussed later when the overall plan is decided. There will be a limit of three access points onto D.W. Highway. The Board should not put constraints on the rest of the plan until the applicant knows what makes sense. Nelson Disco explained that, in the past, there was concern that new owners blocked access held by previous owners. Dick Cane repeated that Flatley would not sell the lots. The plan can say, “Lot 003-6 has the right to cross the property to get to the signal”. Nelson Disco wanted the

same done for Lot 003-4. Dick Cane said the existing easement runs along the entire driveway and benefits all the properties. Lot 003-3 has a gated curb cut. Alastair Millns stated it could be enlarged for access to Route 3. Dick Cane said there are 4,000 lineal feet of frontage along D.W. Highway. There will eventually be three cuts, but he cannot say at present where they will be. Robert Best said the Board must plan for what happens in the future. Flatley might sell; plans change. What if the owner of one lot wants an easement? Dick Cane said he would still have to seek Planning Board permission if Flatley sells and subdivides further. Robert Best noted that Lot 003-6 could have a curb cut near the intersection. Dick Cane said Flatley would grant a cross-easement. It is a private drive rather than a private street, but it could extend to D.W. Highway to be safe. Nelson Disco wanted legal review of cross-easements to protect the Town's interest. Robert Best said there would be no easement until a sale to other parties. James Petropulos read the note on the drawings about recording easements before any sale. Jeff Morrissette explained that typically there is review by Legal Counsel only if the Town is party to the conveyance; otherwise the Community Development Department performs a cursory review of the documents.

Nelson Disco asked why the note does not include Lot 003-4 in addition to Lots 003-5 and 003-6. James Petropulos said that would encumber the sale. Dick Cane said that Lot 003-4 already has access rights to frontage on the driveway, which automatically leads to the signal. Stanley Bonislowski said it is not practical to discuss Lot 003-4, since it is not before the Board for approval.

There was no public comment.

Staff recommends that the Board vote to grant conditional approval to the application, with conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

The Board voted 6-0-1 to grant final approval with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig abstained.

1. Any waiver(s) granted by the Board to be described on the final recordable plan sheet;
2. The owner(s) shall sign and date all applicable plan sheets. The Licensed Land Surveyor and Certified Wetland Scientist shall sign and seal all applicable plan sheets;
3. The applicant is responsible for recording the plan (including \$25.00 LCHIP fee, check payable to the Hillsborough County Treasurer) and any related documents at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
4. The applicant shall satisfactorily address forthcoming comments from the Merrimack Fire Department;

5. The applicant shall satisfactorily address peer review comments from the Town's review consultant, CLD;
6. The applicant shall modify Note 9 on Sheet 1 of 5 so as to include the possibility of any slope easements;
7. Address the Planning Staff Technical Comments (see below).

Planning Staff Technical Comments

1. Planning Board and owner endorsement blocks to be added to sheets 2 and 3 of 5;
2. The applicant shall revise note 2 on the plan sheet 1 of 5 so as to indicate that the setbacks listed are for an Industrial Building, and that different setbacks and dimensional criteria apply if the development is commercial in nature;
3. Revise plans to incorporate street addresses on recordable plan sheets as provided by the Merrimack Fire Department for proposed Lots 003-4, 003-5, and 003-6.

- 4. John J. Flatley Company (applicant/owner) – Consideration of Final Approval for a request of a Non-Residential Site Plan application proposing to construct a 120,000 s.f. warehouse/distribution facility located at Daniel Webster Highway in the I-1 (Industrial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 6E, Lot 003-5. **This agenda item is continued from the February 5, 2013, meeting.****

James Petropulos said Lot 003-5 has prime access/private drive to the signalized intersection at D.W. Highway. There is parking on two sides and potential for 20 more parking spaces on the south if necessary. The back of the building would face the Saint-Gobain building; the front would face the river. The lot is serviced by municipal sewer and water. The building will be fully sprinklered. The lot slopes down to the north and east. A culvert at the northeast goes to the Merrimack River. Roof runoff will be recharged on the parking lot on the east of the building in pre-cast polyethylene chambers into a leach bed under the lot. The loading dock will drain to the north at a new storm water management area. The storm water management system will control and lessen the peak rate of runoff leaving the site. The State granted an Alteration of Terrain permit on February 19, 2013. A traffic study showed that, because the building is a warehouse, there would be minor traffic impact: only 15 trips at peak hours. Flatley will improve the intersection. The one-story building will have entrances on the east and north, a flat roof, exterior metal panels, a finished concrete base, accent strips at the roof eaves, and fixed flat entrances.

A façade length waiver is sought because the regulation would give the client fewer options about where to put jogs in the building and how to access and lease it. No one will see the building from D.W. Highway. Lynn Christensen asked whether an external vestibule on the side entries would create the required

breaks. Jeff Morrissette opined that an observer at D.W. Highway would have difficulty distinguishing between a visual break and an actual jog in the building. Alastair Millns said a lobby would not meet the 10% of width requirement and would detract from the parking area. James Petropulos said the entry points would be vertical pieces that would enhance the look of the building. Robert Best said the bay doors would face the road, but they would be more than 600' from D.W. Highway where no one would see them.

Michael Redding asked for a description of the groundwater and elevations. James Petropulos said this is a relatively flat site, but it is complicated below the surface by various groundwater depths and steep drops to the River and the railroad. There is probably a ledge barrier holding the groundwater from breaking through. The recharge component would be in a high spot. The excavation would be on higher ground. There may be 2' of water below in the basin. The lower side would be protected by impermeable fill. A geo-technical report was part of the Alteration of Terrain submission.

Desirea Falt wanted to ensure a visual contrast between the vertical pieces. Dick Cane does not know how many entrances there will be; he hopes only one. He prefers lighter rather than darker contrast tones because he does not want them to stand out too much. Glass entrances will break up the visual. He will be sure to create enough contrast. If there is one tenant, he might make additional breaks with colored panels. Alastair Millns prefers several break panels even if there is only one tenant, 3-5 even if there is no glass. Dick Cane agreed to three breaks centered approximately 150' apart.

Stanley Bonislowski asked if Merrimack Conservation Commission (MCC) reviewed the application. Jeff Morrissette said they did. The MCC recommended that the Planning Board pay specific attention to minimizing the use of ice melting compounds and of non-organic fertilizers. Stanley Bonislowski wanted Note 19 to spell out how much would be used. Dick Cane noted that Saint-Gobain has no salt restrictions. He would limit treatment to sand on parking lots, except in an ice storm, for safety reasons. Robert Best said that there are other ways to avoid using salt. Dick Cane noted that the Town puts salt on roads in certain conditions for public safety.

Robert Best asked why so much parking is needed for a warehouse. Dick Cane said it is easier to build more now than return to the Planning Board to ask for it later. When he knows who the tenant(s) will be, he will know better how many spaces are needed.

James Petropulos said a sidewalk waiver is being sought because of reduced frontage. 22' of sidewalk makes little sense. Sidewalks may be planned when more is known about the other lots. Nelson Disco suggested a sidewalk along the driveway to connect Lot 003-5 and Route 3. Dick Cane said that would mean 500' of sidewalk. He would agree if it were necessary to build a sidewalk on the portion of the property not being discussed at this meeting. Robert Best agreed that a 22' sidewalk makes no sense now, but an internal sidewalk could be required later. Dick Cane noted that there would not be much pedestrian traffic.

There is nowhere to go on D.W. Highway. Lynn Christensen said there must be a way to ensure that, if a sidewalk were built on either of the other two parcels, the sidewalk on this parcel would be built at the same time. Dick Cane said that, if a sidewalk were required, he would add a 22' one on Lot 003-5 onto D.W. Highway. Lynn Christensen said, in that case, there is no reason for a sidewalk along the driveway.

James Petropulos agrees with all of staff's proposed conditions.

Nelson Disco questioned construction stockpiling on Lot 003-6. James Petropulos explained that a temporary stockpile area is required as part of erosion control according to the Alteration of Terrain Permit. Dick Cane said it is on the drawing but not on the site.

There was no public comment.

Lynn Christensen said the sidewalk waiver is appropriate because the specific circumstances relative to the site plan, or conditions of the land in such site plan, indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 7.04(4)r – Sidewalks – of the Subdivision Regulations, on condition that a sidewalk will be built later, on a motion made by Lynn Christensen and seconded by Desirea Falt.

Alastair Millns said the façade waiver is appropriate because strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 12.04(2)b – Design Standards: Façade – of the Subdivision Regulations, on condition that there be a minimum of three visual breaks, on a motion made by Alastair Millns and seconded by Lynn Christensen.

Staff recommends that the Board vote to grant Final Approval to the application, with precedent conditions to be fulfilled within six months and prior to plan signing, unless otherwise specified.

A motion by Alastair Millns to grant final approval with two additional conditions (to use MCC-approved fertilizers and no de-icing compounds), failed for lack of a second.

Michael Redding wanted the applicant to submit a final de-icing plan. Dick Cane suggested adding, "no use of de-icing compounds except for extreme icing conditions". Lynn Christensen agreed, since it is already included in oral testimony. Stanley Bonislowski asked who would decide what conditions are extreme. Dick Cane said the field people would. Robert Best suggested requiring Green SnowPro certification. Tom Koenig agreed, but he did not want to leave open to anyone's judgment when to use de-icers. He suggested restricting sodium and chloride. Lynn Christensen asked whether there are any

compounds without sodium or chloride. Dick Cane does not know, but his facilities manager might. Flatley subcontracts snow removal and includes appropriate specs in the contract. Stanley Bonislowski said materials are available, but they cannot be used because the packages say “ice-melting material”.

Stanley Bonislowski asked whether MVD gave an opinion. Jeff Morrissette said MVD wants water demand information when tenants are specified, but is otherwise satisfied.

Pete Gagnon said that calcium chloride is still a salt. Magic Salt works at very low temperatures, but percolates very quickly. Substances should not contaminate groundwater. A note should be added that the facilities manager be certified in Green SnowPro and that no de-icers be used except in extreme icing conditions. Dick Cane agreed to have the facilities manager certified and to put the de-icer *caveat* in specs to contractors. Although Alastair Millns would agree only if the manager supervises every application, Robert Best stated that it is all right just to put it in the contract. He added that not using sodium or chloride products might not be financially viable for a parcel this size. Stanley Bonislowski said the cost is prohibitive. Dick Cane noted that only the corner of the lot, not the parking lot, is in the Wellhead Protection Area and that drainage goes the other way.

The Board voted 6-1-0 to grant final approval with the following conditions on a motion made by Desirea Falt and seconded by Lynn Christensen. Tom Koenig voted in the negative.

1. The applicant is responsible for recording the plan (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) and any related documents at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall provide the requisite copies of the paper plans and mylars with all appropriate professional endorsements for the Planning Board’s final signature;
3. The applicant shall verify that review comments that have been received to date from the following departments or boards have been addressed: Fire, Public Works, Wastewater, MVD, and Conservation Commission;
4. The applicant shall address any remaining comments from CLD’s latest set of review comments dated February 14, 2013;
5. The applicant shall obtain all necessary state permits associated with the construction of the project. In addition, the applicant shall add to the list of permits the amended NHDOT driveway permit as is required by NHDOT;
6. The site plan indicates a “future parking area” to the south of the proposed building. The applicant shall revise all applicable plan sheets and update the storm water management report as applicable, to show the engineered

- design of this parking area and account for appropriate storm water management satisfying the requirements of the regulations;
7. The applicant shall not use de-icing compounds except during severe icing conditions and shall add an appropriate note to a recordable plan sheet;
 8. The Facilities Manager shall receive and maintain New Hampshire Green SnowPro certification as required by the New Hampshire Technology Transfer Center at the University of New Hampshire, Durham NH.

General and Subsequent Condition

1. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor) detailing site improvements (structural improvement, utilities, edge of pavement, and net increase of impervious area from pre-development) to the Community Development Department prior to the issuance of a Certificate of Occupancy
- 5. JBD Realty Group, LLC. (applicant/owner) – Review for Acceptance and consideration of Final Approval of an application proposing to construct a 20,000 s.f. warehouse building located at 35 Railroad Avenue in the I-1 (Industrial) & Aquifer Conservation Districts. Portions of the parcel are also subject to the Flood Hazard Conservation District. Tax Map 5D-1, Lot 007.**

Tony Basso, Vice President, Keach-Nordstrom Associates, Inc., said there are 292' of frontage on Railroad Avenue. The building on the property will be demolished. The property is bounded by residentially used properties to the north, Railroad Avenue to the east, property of Jones Chemical to the south, and Cota Industrial Park generally to the west. A series of bays and 31 parking spaces are proposed. There will be tenant space. 2,000 square feet of office space will be divided as necessary when there are tenants. Roof runoff at the back will go to a stone drip trench down to the Jones site detention area. Parking lot water will go to a pre-treatment basin in the southeast corner for infiltration with overflow going to the Jones site. Grade runoff will be reduced. Municipal water and sewer services are available. Propane will supply heat. Lighting, drainage and landscape plans have been submitted.

Staff recommends that the Board vote to accept the application, as it is substantially complete and contains sufficient information to invoke the Board's jurisdiction and to allow it to make an informed decision.

The Board voted 7-0-0 to accept the application for review, on a motion made by Lynn Christensen and seconded by Michael Redding.

Tony Basso reported that an October 2012 environmental study found that the site is clean. Stanley Bonislowski asked whether gas was stored on site. Tony Basso replied that the aboveground diesel tank was removed.

Nelson Disco asked about a fence across the Railroad Avenue entry, which Tony Basso said is gated.

Alastair Millns warned that old buses leaked and urged the applicant to examine the drain in the floor of the existing building when it is demolished. Tony Basso said the drain is capped with concrete, but he will bring the issue to the environmental consultant's attention.

Alastair Millns asked about 100-year flood protection and where the site flooded badly in the past. Tony Basso said that would be a landscaped area only. Alastair Millns was concerned about water from the parking lot and said that drainage is critical. Tony Basso said he is aware of that, which is why the storm water plan was broken into three areas. Michael Redding asked for a description of the proposed storm water system, which Tony Basso reiterated. (See above) Michael Redding asked about floatables, oils, and whether there would be a hooded catch basin for discharge over the slope. Tony Basso said he could install a hood, but already has designed a pre-treatment area.

Stanley Bonislowski wanted "minimum use of ice-melting compounds in the parking area" to be more specific.

Pete Gagnon noted that Test Pit #2 is in the middle of the entrance driveway and asked if the soil is good for drainage. Tony Basso said there is no silty layer in Test Pit #2; it is granular with fine, sandy loam. The silty layer is in the back corner at Test Pit #5. Test Pits #1, 2, and 3 have better soil. Field tests were done. Pete Gagnon stated that, if the soil profile changes, a soil scientist's opinion about leakage would be needed. He asked whether most retention basins would be relined based on the test, which Tony Basso does not know. He will check if it is necessary when there is pre-treatment.

Robert Best and Alastair Millns reminded the applicant that the warehouse would be in the industrial area, where commercial uses are not allowed. Tony Basso said a warehouse tenant would occupy part of the building; the rest would be rented.

Tony Basso said an industrial building design waiver is sought because no doors would face Railroad Avenue. Desirea Falt suggested either putting an overhang or changing the material at the doorway so people would know where to enter. She asked if an overhang or entry feature can be required on the side of the building that faces the parking lot. Robert Best said that is not part of the waiver. Lynn Christensen saw no need to add that to the waiver, since the applicant must return to the Planning Board.

Alastair Millns said that specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 7-0-0 to waive the requirements of Section 12.04(2)(e) – Industrial Design District – Doorways – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Desirea Falt.

Tony Basso said a sidewalk waiver is sought because there are no sidewalks in the area, it would finish in a dead end at the gate, there is no pedestrian traffic from the building, and it would impose an unnecessary financial hardship to build a sidewalk for 292' of frontage. Stanley Bonislowski suggested donating to a fund in lieu of building a sidewalk, but Chairman Best said that usually is done for commercial not for industrial sites. Jeff Morrissette said that the previous occurrence was a rather unique situation. Chairman Best explained that the purpose of sidewalks is safety for pedestrians, but there would be none because of the configuration and intended use of this site.

Jeff Morrissette asked the applicant to indicate street status, where it would change, and where Railroad Avenue ends. Tony Basso said it ends after this site. Alastair Millns reiterated that the sidewalk would finish at a dead end going nowhere. He read the relevant Ordinance about financial contribution. Chairman Best said the Town could accept payment in lieu of a sidewalk, but the applicant has not offered one. Jeff Morrissette said the Planning Board could delay acting on the waiver request if the applicant wanted additional time to consider the options.

Alastair Millns said the specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations.

The Board voted 6-1-0 to waive the requirements of Section 7.04(4)(r) – Sidewalks – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig voted in the negative.

The Board voted 5-1-1 to reconsider the previous vote, on a motion made by Lynn Christensen and seconded by Alastair Millns. Michael Redding voted in the negative; Robert Best abstained.

The Board voted 6-1-0 to waive the requirements of Section 7.04(4)(r) – Sidewalks – of the Subdivision Regulations, on a motion made by Alastair Millns and seconded by Lynn Christensen. Stanley Bonislowski voted in the negative.

Public comment

Dave Cota, 29 & 31 Railroad Avenue, said his only concern is that the applicant keep the front yard on the north and west of the building neat.

Staff recommends that the Board vote to continue the application to a date certain to allow time for receipt of review comments from the Board's peer review consultant, the Merrimack Conservation Commission, and various town departments. The applicant's engineer, Steven Keach of Keach-Nordstrom Associates, indicated agreement with this approach.

At the request of the applicant, the Board voted 7-0-0 to postpone this item to March 19, 2013, in the Matthew Thornton Room, at Town Hall, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Desirea Falt.

Matthew Passalacqua left at 10:30 p.m.

6. Brighter Horizons Environmental Corp. (applicant) and James Longa & Son, Inc. and James E. Longa Revocable Trust (owners) – Review for Acceptance and consideration of Final Approval of an application proposing partial reclamation of a sand and gravel pit located at 17 Twin Bridge Road in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 5D-1, Lot 010 and Tax Map 5D-2, Lot 010.

Attorney Greg Michael, Bernstein Shur, said the site is bordered by the Boston & Maine Railroad, land uses to the north and the Souhegan River to the south. It has been excavated for sand and gravel operations for over 70 years and is “grandfathered” by the State. The applicant wants to begin reclamation of the site. He has an opportunity to get good fill to be compacted and put on for future development. He wants to return the site to its former level with grass and plants. It would be lower than the railroad right-of-way to prevent drainage problems. Test pits show the former dump to be very stable.

A waiver of site review is sought because site plan issues do not apply. The engineers did more due diligence since Nancy Larson’s February 14, 2013, memo. In order to get a State permit, no alteration of terrain is necessary, but a “Notice of Intent to Restore” must be filed because the property is close to the Shoreland Protection Area. The 1987 survey plan will be submitted and the word “conceptual” removed and changed to “Restoration Site Plan”. (See Staff Comment #7)

Rich Niles, AMEC Environmental and Infrastructure, Inc., said he supplemented the level of detail in his February 5, 2013, letter. Surveying all boundaries is not relevant. He will bring the elevation to 118’ to avoid storm water runoff leaving the site. The future use of the site has not been determined. The 1987 survey plan was provided with the letter. There will be a 2% slope to the north to avoid ponding. Infiltration will go to the gravel pit. The 1987 survey plan shows the existing boundaries. The 1997 plan was for the MVD at the time of the subdivision for Wellhead Protection purposes. That does not affect the reclamation, which is outside the project area. Rich Niles’s letter describes activities that will occur on the parcel. Attorney Michael added that it includes examples and a diagram.

Rich Niles has not calculated the volume of fill to be brought to the site. The grades changed since the 2009-2010 aerial photo was taken. Nelson Disco suggested a Planning Board site walk.

Michael Redding asked about material for the fill operation. Rich Niles said that Brighter Horizons manages soil. It brings excess soil from one site to another suitable site. Fill material will be tested to meet residential standards. The applicant told the MCC how material would be tracked, which is in Brighter Horizons’ contract.

Attorney Michael repeated that, according to the “soil acceptance criteria”, no State permit would be required. Rich Niles said the State does not regulate this activity.

Robert Best suggested that the applicant submit a sequence, time frame, details of vegetation/planting, and the finished look. Rich Niles advised against planting shrubbery/trees until the final use is determined.

Pete Gagon asked if soil brought from other sites would be tested. Rich Niles said it would be tested so there would be no free liquids, solid waste, chemicals, metals, or anything that would impede grading activities. The operations plan lists the testing parameters. Pete Gagnon said the plan is a substantial improvement to the site.

Nelson Disco asked for the locations of the 100- and 500-year flood lines and elevations, which Rich Niles showed. The reclamation area is close to the 500-year limit. The 100-year elevation would be 118’ and the 500-year elevation would be 120’. The site is surrounded by three rivers. The interior of the site is outside the flood plain. Rich Niles provided a FEMA map to show the flood areas. The railroad spur track acts as a barrier, but the site would fill in a 500-year flood. The 2006 flood breached the spur track to the south and damaged the Town sewer conduit. Nelson Disco agreed that the FEMA map shows the land is not in the flood plain.

Robert Best asked what would happen to the stumps and organic material now on site. Rich Niles said the stumps are there for storage and will be shipped out or made into chips; they will not remain.

Staff does not believe that the application can be deemed as complete by the Board, as it does not provide sufficient information for the Board to make an informed decision. Staff believes the following reasons indicate that the application is not complete at this time:

1. The plan submitted for final approval is a Conceptual Site Plan and, as such, lacks specificity required for final approval;
2. As noted on the plan, the locations of the former disposal area, current gravel operations and proposed reclamation area are estimated based on historical reports and information provided by the property owner and all boundaries should be considered approximate. As the reclamation plan illustrates, the proposed activity borders the railroad tracks to the east. It is important to know if any proposed reclamation activities will be necessary on adjacent properties not owned by the Longa family;
3. The reclamation plan does not show proposed grading in order to demonstrate that the adjacent railroad tracks will not be impacted by the reclamation activities;
4. It is unclear if the wet areas within the proposed reclamation area have been investigated by a NH certified wetland scientist and whether or not

- filling is proposed within these areas (only significant if designated wetland);
5. It is not known what, if any, additional permits or reviews from other agencies will be necessary in order to carry out the reclamation proposal;
 6. The Merrimack Conservation Commission (MCC) was under the impression that the plan presented to them during their February 4, 2013, meeting was “in its beginning stages. Attorney Michael spoke in general terms about the goals of the project. . .” Conservation Commission Chairman Tim Tenhave concluded the MCC comments to Planning Board Chairman Robert Best by adding, “If after the plan becomes better defined, your (Planning) Board would like the Commission to make another review and provide an updated recommendation, we would be very happy to assist in that manner.”;
 7. Staff recommends that the applicant incorporate the line work for the property lines for the two reclamation parcels from the record 1987 boundary plan (HCRD Plan #25334) into the reclamation plan. The record plan to be added by reference to the reclamation plan.

Attorney Michael will submit an operation plan and more grading information, and will remove the word “conceptual” from the plan. He asked what else the Planning Board wants in the plan. Robert Best wants the finished topography. Attorney Michael said that Rich Niles’s letter verbally describes the plan, but it is hard to draw a plan. Chairman Best agreed that what applies to a site plan review does not apply in this instance. Nelson Disco said this discussion clarified a lot and that the letter and operations plan would satisfy him. Chairman Best suggested traffic impact.

Rich Niles said their contract would be finished in two years. Excavation is determined by the market. The site is still active.

Alastair Millns asked if the Wastewater Division had commented. Jeff Morrissette said preliminary comments were received from them and from the Public Works Department (PWD) saying that the area along the tracks on the east near the sewer pipe should be stabilized. Rich Niles said the reclamation would stabilize it and fill in the slope. He will discuss it further with them.

Chairman Best complimented the applicant on improving the site. Attorney Michael said that this is Phase 1. The property would be developed later.

The applicant withdrew the application.

7. Discussion/possible action regarding other items of concern

Lorraine O. Cox Revocable Trust, James Cox & Roark Cox, Trustees
Voluntary Lot Merger for Tax Map 3C, Lots 112 and 113, also known as #17 & #11 Cedar Lane, respectively.

Chairman Best informed the Board that he and Secretary Millns signed off on the Cox lot merger.

Jeff Morrissette said that, at the request of their clients, Super Dog Day Care wants to offer overnight kennel service with no exterior modifications to the current business. One or two staff members would remain overnight with no facilities for sleeping there. It would not affect operating hours to the public. All dogs would still be inside all night after 8:00 p.m. He asked for Planning Board guidance with respect to whether the proposed change in use would require additional review by the Board.

The consensus of the Planning Board is to let staff make an administrative decision.

8. Approval of Minutes

None.

9. Adjourn

The meeting adjourned at 10:42 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Tom Koenig.