



# Town of Merrimack, New Hampshire

Community Development Department  
6 Baboosic Lake Road  
Town Hall - Lower level - East Wing

603 424-3531  
Fax 603 424-1408  
[www.merrimacknh.gov](http://www.merrimacknh.gov)

Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

TUESDAY, APRIL 2, 2013

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Stanley Bonislowski, Desirea Falt, and Alternates Nelson Disco (arrived 7:47 p.m.) and Matthew Passalacqua.

Planning Board member absent: Pete Gagnon.

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. Old Blood Properties, LLC. (applicant/owner)** – Review for Acceptance and consideration of Final Approval of an application proposing a re-subdivision of land resulting in the creation of one additional lot, located at Old Blood Road, in the R-1 (Residential) District. Tax Map 5B, Lots 003 & 003-1.

This item was taken up before agenda item 3.

**At the request of the applicant, the Board voted 7-0-0 to postpone this item to May 7, 2013, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Lynn Christensen and seconded by Stanley Bonislowski.**

#### 3. Planning & Zoning Administrator's Report

Jeff Morrissette reminded the Board of the Office of Energy and Planning's 19<sup>th</sup> Annual Spring Planning and Zoning Conference scheduled for May 11, 2013, at the Radisson Hotel in Manchester.

#### 3. Presentation, Discussion and Recommendation by the Planning Board of the Merrimack Village District Capital Improvement Program

Nelson Disco arrived at 7:47 p.m.

MVD Superintendent Ron Miner and Keith Pratt, President, Underwood Engineers, Inc., summarized the projects for Fiscal Year 2013-2014 and future projects. Next year's projects will increase water capacity from 5.2 to 7 million gallons a day. Chairman Best asked whether that would eliminate the need for summer water bans. Ron Miner replied that DES encourages conservation, so there may still be water bans, which the Town does not enforce. Ken Pratt stated that there is a current shortfall in the summer on maximum peak days. Wells #2 and #6 help to fill that gap. There are no requests to expand water lines. Ron Miner stated that MVD supplies 80-85% of the Town's water and Pennichuck provides a small portion from Anheuser-Busch south. Stanley Bonislowski and Lynn Christensen stated that the ban should either be enforced or removed if more water is available. Ron Miner explained that the ability of the crew

to enforce the ban is limited and that the ban is not related to rainfall or water table. People use more water than MVD can produce. Tom Koenig said MVD gives a mixed message: applicants tell the Planning Board that MVD can supply water for them, yet MVD is saying there is not enough water in Town. Chairman Best and Lynn Christensen said that residents do not know whether to take the ban seriously if it is not always enforced. Keith Pratt said he would discuss with his board whether MVD is putting a ban on water when it is not necessary. Chairman Best said one Master Plan objective is to get enough water to make a ban unnecessary.

Keith Pratt distributed charts showing pipe ages, change in materials, types and locations, how much piping is at the end of its life by decade, and replacement costs. This information is the basis of future cost projections. It is recommended that \$550,000 more be raised annually to meet these goals. A good planning tool is to use half the money from capital reserves and half from bonds. Some money will always be kept in the reserve fund. Lynn Christensen noted that all MVD money comes from user fees rather than from taxpayer dollars.

Ron Miner said the CIP does not address the issue of salt use, but action items for a salt study are in the 2013-2014 budget. Chairman Best noted that the Planning Board does not know what criteria to use concerning monitoring wells, data loggers, etc., and needs help to develop regulations. He suggested that working with a consultant be a capital project. Sometimes the regulations do not support decisions the MVD wants the Board to make.

**The Board voted 7-0-0 to classify New MVD Office as “Desirable” and all other projects as “Necessary”, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

- 4. College Bound Movers (applicant) and DW Development & Land Services, LLC (owner)**  
– Review for Acceptance and consideration of Final Approval of a site plan application proposing the establishment of a commercial moving facility. The parcels are located at 723 & 725 Daniel Webster Highway and lie within the C-2 (General Commercial), Aquifer Conservation and Planned Unit Development Overlay Districts. Tax Map 7E, Lots 048-1 & 048-2.

Jeff Morrissette stated that staff has minor disagreements with the applicant’s engineers over zoning issues. It recommends acceptance of the application for review but postponement to a date certain to resolve any zoning issues them before the Board considers final approval of the application.

Steven Keach, Principal, Keach-Nordstrom Associates, Inc., said this is the commercial component of the Society Hill Planned Unit Development (PUD). The approximately 1.38 acres that were subdivided into two lots in 1994 were recently merged. The existing building was originally a single-family dwelling that was converted to a sales office for the Society Hill Development while it was under construction. College Bound Movers wants a location near the airport access road. It is proposing no additional buildings; it will just remodel the existing building for office space.

Ed Smith, Owner, College Bound Movers, said he wants to be in the Manchester market to be more competitive. The exterior of the building is in good shape. He will fix up the inside. Crews are dispatched on a regular basis. All trucks are three years old maximum. He is the first in New England to use MI-BOX storage containers. A MI-BOX is a mobile unit container placed at a customer’s home, moved to a College Bound Movers site or to an end destination. 60-70 units would be available with 1/4-1/2 on site or at a secure MI-BOX site. It is the least expensive way for a customer to move. They would house no chemicals or firearms and would not be stacked.

Steve Keach said the applicant appeared before the Merrimack Conservation Commission (MCC) on April 1, 2013. The property is bounded by Brunswick Road to the north, Society Hill Condominiums to the east, Bernards Road and Bilden Properties to the south, and D.W. Highway

to the west. The Maple Ridge Condominium Association and other residential properties lie cross D.W. Highway to the west. The site has public water, sewer and utilities. The existing building will be converted to retail. There is parking to the north and east for employees and visitors. The new construction would be on the open paved area on the south for lay-down of MI-BOX units and moving vehicles. There are 15 moving trucks. 3-5 are dispatched periodically. The numbers vary. There will be landscaping around the perimeter and the building will be made Americans with Disabilities Act (ADA) accessible. The house will remain. The sub-pavement will be removed. There is a driveway. The east of the building will be modified. The wooded areas at the southeast and southwest corners will remain, but some trees will be removed. On the east, there will be plantings and a stockade fence. Steve Keach described the plantings, which will be more than required. Trees will be planted on D.W. Highway. There will be a single ground sign in front of the building that will conform to setback requirements. A series of four catch basins will drain the parking lot to a subsurface infiltration system and retention mechanism. There will be no runoff from paved areas. Lighting will consist of very low-level LED fixtures that are exclusively for security purposes to which motion sensors will be attached. Security cameras will also be on site. The gate will be shut when the business is closed. It is not yet decided whether there will be an on-site manager at night.

Staff questions were recently received and must be discussed with the Planning and Zoning Administrator, who has determined that portions of the proposed use are not permitted by right within the C-2 and PUD Overlay Districts and will require relief from the Zoning Board of Adjustment (ZBA). Steve Keach is of the opinion that this is a permitted use as a matter of right in this district. He understands that, depending on the decision, he may have to appear before the ZBA, then return to the Planning Board.

Nelson Disco said the Board should not accept a plan at this meeting that does not conform to zoning. Jeff Morrisette stated that, while it is true that staff encourages applicants to resolve any perceived zoning issues prior to filing with the Planning Board, the applicant is well within their right to make application to this Board and to file a concurrent application with the ZBA as required. It is still possible that the Planning and Zoning Administrator may determine that there is no zoning issue. Steve Keach said the Community Development Director told him that, in his opinion, the application likely complies with zoning. Chairman Best said it is difficult to imagine what the site would look like when it is only on paper. He suggested that the Board allow the Planning and Zoning Administrator to use her authority and to make a decision. Nelson Disco wanted the limited uses allowed in a PUD to be considered as well. Jeff Morrisette noted that is one of the Planning and Zoning Administrator's issues. Steve Keach wanted the Board to accept the application for review so that consultant and departmental reviews can begin. Stanley Bonislowski said the Board would rely on its consultants, namely staff. Tom Koenig noted that staff recommends acceptance. Chairman Best warned against putting procedural barriers in the applicant's way.

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

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

Stanley Bonislowski asked how a MI-BOX is moved. Ed Smith said a special piece of equipment backs up to the unit and keeps it level. It is less than 26,000 pounds and looks like a U-HAUL with arms in back and no wheels. Stanley Bonislowski was concerned whether there is enough capacity to store 3-5 trucks and 35 MI-BOXes on the site. Steve Keach said they are different sizes. The circumstances of the site preclude all 15 trucks and 60 MI-BOXes being on site at once. Landscaping will keep the property looking nice. The private road will not be used; it is a

fire lane for Society Hill and has no connection to another road. Ed Smith added that there would be no vehicle maintenance on site.

Michael Redding asked about pretreatment for hydraulic equipment and oil infiltration. Ben Debello, Project Engineer, Keach-Nordstrom Associates, Inc., explained the drainage system. He foresees no problems, since all vehicles are three years old maximum. Ed Smith said he has never had a hydraulic issue. Ben Debello said there is no problem with parking over the drainage system.

Alastair Mills asked how to ensure that a MI-BOX is clean for a subsequent user. Ed Smith repeated that there would be no chemicals in the units. The unit is inspected when it is closed and before re-use.

Jeff Morrissette asked about potential sources of noise generation, especially near the pool. Ed Smith said that trucks pull in. Vans have back-up alarms; MI-BOXes do not. Vans and MI-BOXes are parked in separate areas.

Nelson Disco asked whether abutters were notified. Jeff Morrissette said that staff debated this at length. The applicant sent notifications to the most recent contact information on file with the Town, but it may not be accurate. Staff reviewed the RSAs, but found no specifics. The applicant must make some effort to verify accuracy and the condominium association must update its information with the Town. The Assessing Department does not keep the information, so Community Development does. Staff found no legal reason to delay the applicant. It is the applicant who certifies the lists. Steve Keach added that, according to the RSA, the applicant is obligated to notify in accordance with information on record at the Assessing Department, but the condominium association must record the officers at the Registry of Deeds. Neither abutting condominium association did so. He gave his abutter list to Community Development. Lynn Christensen stated that the management company at Society Hill has not changed. Chairman Best said he asked staff to make this a future agenda item for the Planning Board, since following the statute is unsatisfactory. More people should be notified than condominium officers and the management company.

Tom Koenig asked whether there is sufficient parking for all uses and needs. Steve Keach repeated that employees would park on the east and at spaces adjacent to the building on the north. Ed Smith said he dispatches 6-10 people daily. Chairman Best said adding two people in the building would be very close to the 15 spaces available. Ed Smith said they are oversized spaces and fit more vehicles. Stanley Bonislawski added that two spaces open up when a truck leaves. There are 30' of space for a 26' truck with no overlap onto the roadway. Chairman Best said parking would be discussed when the applicant comes back for review. Steve Keach said the MI-BOX area to the south would never be full.

Tom Koenig does not want to see a warehouse of MI-BOXes or parking them there long-term. The MI-BOX is 8' high, but the fence is 6' high. How would a business rather than a warehouse appearance be maintained? Steve Keach explained that there would be 6'-8' tall arborvitae and landscaping. Society Hill will not see the fence after two seasons of growth. He repeated that there would be additional fast-growing plantings beyond what is required. There is a 60'-80' tree canopy to the south. More may be needed near the pool area. There will be trees in front. He can ask the landscape architect to make a prospective view and lower the profile of the units further. The building is the focal point. Chairman Best stated that visibility and screening are sensitive issues because of the abutting condominiums and homes. He does not want trucks and MI-BOXes used as advertising signs. A fence should be as tall or taller than the MI-BOXes, even if the plants will grow higher. The site must be harmonious and visually appealing with the rest of the neighborhood. Steve Keach said he could either install an 8'-high fence or lift a fence 2' off the ground. Jeff Morrissette said the zoning decision could affect the buffer requirements. If the

parcel is zoned industrial, a small earthen berm may be needed. Steve Keach prefers landscaping to a fence or berm.

Stanley Bonislowski is impressed with the lighting, but wants to know what the consultants say. He suggested installing a fence where trucks are parked on the north. Steve Keach said that would create a security risk. People would break into the trucks because they could not be seen. Trucks can be parked elsewhere if there is a problem. A fence on a street is hideous. The area can accommodate all the stock, but it will not be there all at once. There is plenty of space on a normal business day. Chairman Best asked to control pedestrians from coming in and being destructive. Ed Smith is considering having an on-site manager. Chairman Best agreed that motion sensors triggering lights to come on help. Steve Keach said the adjacent resident population to the east is the most important. There is a contractor's yard to the south and a significant separation (woods) on the west. He will discuss the appearance with Society Hill. Ed Smith said all his facilities are well landscaped, maintained and lit. His is a first-class operation. He buys new trucks every three years. It is in his best interest to partner with Society Hill and with the Town.

### **Public comment**

Attorney John Bisson, Cronin, Bisson & Zelinsky, represents Society Hill, which is one of the best-maintained condominiums in the State. They did receive notification. Society Hill shares the Planning Board's concerns about odor, noise, visuals, buffers, chemicals, washing, drainage, and proximity to the pool, and has invited Ed Smith to meet with them. They agree with the Planning and Zoning Administrator that warehouse/industrial use requires a variance. The applicant's parking calculation is based on industrial use. Attorney Bisson submitted a letter concerning the variance.

David Verano, 13 Middlesex Road, a Society Hill officer, does not want trucks to emit fumes and beep near the pool. He asked if trucks would leave the property before 9:00 a.m. and for the real hours of operation. Trucks would cause wear and tear on the road. Trucks would leave in the morning where there are cars and a school bus stop. It is a safety issue. He prefers that the trucks face D.W. Highway rather than his road. He can see a dump truck and excavation equipment there now. It makes a poor impression rather than a professional look. Ed Smith stated that most of the trucks are diesel. There are new Department of Transportation (DOT) emission rules. There are no large sand piles or old equipment on site. He could institute a policy that there be no engine idling on the property. All trucks have a chip that automatically sends the driver a text message and e-mail if they idle longer than five minutes and automatically turns them off. Public access hours are 9:00 a.m.-5:00 p.m. A manager might live there 24 hours a day. The first employees arrive at 7:00 a.m. He will discuss the matter with Society Hill and will work with the neighbors for good curb appeal. Trucks leave at 7:15-7:20 a.m. Alastair Millns said no school buses are there at that time. Ed Smith can disable a truck's back-up alarms, but they are heard for only a short period of time because of the short distance. He stresses safety. A second person gets out to back up a truck, gives hand signals and locks it. David Verano wants a fence around the entire property to keep children from getting hurt. Chairman Best noted there would be a vehicle gate.

The applicant seeks a sidewalk waiver along D.W. Highway and Brunswick Road. Chairman Best said a sidewalk on D.W. Highway is his priority. Steve Keach said there is nowhere to connect between the site and Bedford Road; it would be a dead sidewalk segment. Chairman Best disagreed. Steve Keach said State approval is necessary because it is in the DOT jurisdiction/right-of-way. DOT does not generally grant a sidewalk on an open road. He probably would have to put a sidewalk beyond the DOT right-of-way on Ed Smith's property with an easement, but to whom would it be granted? There is no benefit. Few people would walk to this business. Chairman Best said there are many residents in the two condominiums. Steve Keach

said maintenance is another issue. The Town does not maintain that segment, unless it is part of the Urban Compact, which it is not. Nelson Disco supports sidewalks. Many people live here now and there will be more when the Flatley property to the south is developed. The pieces will connect in the future. People will use them if they are built. We must start somewhere. David Verano said there is no sidewalk in Society Hill. Alastair Millns suggested postponing discussion about a sidewalk waiver so the Society Hill Condominium can discuss it with Ed Smith. Stanley Bonislowski suggested there be no sidewalk on Brunswick Road, which leads to nowhere.

Staff recommends that the Board vote to continue the application to a date certain to allow time for receipt of forthcoming peer review comments and to resolve zoning issues associated with the proposed use.

**The Board voted 7-0-0 to postpone this item to May 7, 2013, in the Matthew Thornton Meeting Room, at 7:30 p.m., on a motion made by Desirea Falt and seconded by Alastair Millns.**

- 6. XTL, Inc. (applicant) and Sam A. Tamposi, Harold Watson, Benjamin M. Bosowski, Jeffrey & Jessica Clegg (owners) – Review for Acceptance and consideration of Final Approval of a site plan application proposing to construct a 182,950 SF warehouse facility located on Mast Road in the I-1 (Industrial) & Aquifer Conservation Districts. Tax Map 2D, Lot 021.**

Chairman Best recused himself from discussing and voting on this item and passed the gavel to secretary Alastair Millns to chair the Board for this item. Secretary Millns designated Nelson Disco to sit for Robert Best.

Katie Weiss, Bedford Design Consultants, said the site would be serviced by an on-site septic system. There is a 40' sewer easement in front and a 20' water easement next to the railroad. The vegetation is low. The proposed warehouse would be accessed by easement with a cul-de-sac at the end. There would be a fire protection system inside. The building would be 30' tall where trucks dock in front and 70' tall in the automated area. There will be parking for 22 employees and 25 cabs, storage for truck trailers, snow storage in front and back, a septic system, and a dumpster. A proposed rail spur off the Boston & Maine railroad line adjacent to the site is proposed. A 6' chain link fence will go around the building with a motorized gate at the entrance. Employees will have an electronic key and guests must be buzzed in. There will be security cameras all around the building. The State Liquor Commission requires hours of operation to be 24 hours five days a week. An Alteration of Terrain Permit is expected on April 8, 2013. Town comments are awaited. There will be a bio-retention system, infiltration system and treatment swales. A 4'x8' sign will be 4' above ground. It is not yet known how it will be lit, but solar power is preferred.

Robert Baskerville, President, Bedford Design Consultants, said that the sewer lines feed along the river. They cannot go south because of the ravine/brook at the outlet on the south or north because of Anheuser-Busch. If there are more employees or a change of use, he must return to the Planning Board. Because he did not catch every Pennichuck supply inlet, he added the bio-retention system. The Fish and Game Department said there would be no direct impact on endangered species. He submitted a short traffic report based on trip generation guidelines to the Town. It does not include computer technology to be used. Since there will be many fewer employees and inbound trucks than in a typical warehouse, he expects traffic to be 1/3 lower than the average, which is 600 trips daily, most from 7:00 a.m.-3:00 p.m., with 67 trips out at peak hour or one per minute. Because of the five-lane highway and center turn lane, he does not foresee a problem. Robert Baskerville awaits consultant comments. He has no problem complying with staff comments.

The developer of this land is currently taking legal action to demonstrate that he was the most qualified bidder at the lowest price to the State on the day of the bid submittal for the State Liquor Distribution Center. He is asking for conditional approval followed by a compliance hearing to demonstrate the Board's support that the project has substantially met Town regulations.

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 Stanley Bonislawski and seconded by Michael Redding.**

Alastair Millns said that trucks going up the incline onto D.W. Highway on the west of the property will take 1½ minutes to get up to speed and cross traffic during peak hours. Robert Baskerville said the owner insists that all inbound traffic be scheduled. Trailers are 53' maximum. During the 5:00-6:00 p.m. peak hour, there would be only six inbound and 67 outbound. Most trips would be drivers leaving in their own cars. There would not be more than 1-2 heavy trucks and no delivery trucks then. There are only 15 employees, much less than at other warehouses. Most traffic would be from 9:00 a.m.-5:00 p.m., but the state requires a liquor warehouse to be open 24 hours a day. There may be some special heavy delivery days (e.g., on holidays). If there is no liquor contract, it will not be open 24 hours. If the Planning Board postpones consideration, the applicant will not return to the Board until he knows the size of the building, the use and who the tenant will be. Modifying the plan would mean returning to the Board. A condition of approval can be that there will be a compliance hearing only if the tenant is the NH Liquor Commission. If there is no liquor contract, the applicant will start over. Jeff Morrissette said a condition of approval requiring a compliance hearing would be for this plan that is before the Board tonight. If the plan were significantly different, the applicant would be out of compliance and there must be a new public hearing. It would be treated either as a modification or an entirely new application.

Nelson Disco asked for a height comparison with Anheuser-Busch, which Robert Baskerville could not supply. Alastair Millns said the 70' is the same warehouse height as at St. Gobain.

Nelson Disco was reluctant to grant final approval without traffic information. He is concerned about counts, getting out of the intersection and peak hour traffic. Alastair Millns wants D.W. Highway widened and a Mast Road acceleration lane. Tom Koenig wants more traffic information because the numbers sound large. Robert Baskerville agreed, but the federal research data on warehouses are the only good data. However they are based on every type of warehouse, with more employees and all products shipped in and out. This is not a "typical" warehouse. Tom Koenig wants more information about daily truck traffic, since most products will come on the railroad spur. Robert Baskerville doubts that there will be daily delivery to every one of the 79 State liquor stores. Ten box trucks could do that. Liquor comes in cases rather than on pallets. Tom Koenig noted significant parking on the site. He asked where the trucks would come from. Robert Baskerville said there are 20 docks and 25 cabs maximum with guardrails and extra space for trailers. Trucks are loaded in the morning and sent out. He guesses 20 trucks would go out and in per day. They are not box trucks, but he does not know their size. Stanley Bonislawski said some trucks that make short trips may come back during the day. Loading may be at night. Nelson Disco wants a written traffic plan. Robert Baskerville said he pulled the average numbers from the traffic generation book to give the Planning Board an idea about traffic. Numbers could be huge during peak hours because of the five-lane highway. One vehicle per minute seems small compared with what is on D.W. Highway. Staff felt that this type of traffic study is enough, but he can get a consultant to do a traffic study. The business will generate a small percentage of D.W. Highway's capability. His study was submitted but not yet reviewed by the consultant. Jeff Morrissette said that staff does not usually copy the entire file for distribution to the Board. The more technical data are generally sent to the technical consultants. Staff

would be happy to have a future discussion about which materials should be included in the Board packets. Robert Baskerville asked the Board how much of a study it wants. Jeff Morrisette said the Captain Manuele of the Fire Department told him its comments would likely be about the need for a sprinkler system, an alarm and one or more hydrants, but it is not yet in writing. Robert Baskerville can get a fire engine all around the building except on the spur. He did a hydrant flow test and sent it to the consultant.

Michael Redding wanted a summary of peak hours data, which Robert Baskerville reported. It is his opinion that, because there will be fewer employees and inbound traffic, the site would be 1/3 below the federal numbers, or 400 trips @ day/25 @ hour, one every two minutes. Employees will leave at the evening peak hour. Tom Koenig noted 12 office employees, plus drivers, plus 25 cabs and asked if there is enough parking for them plus trucks. Would it add to the number of trips? Robert Baskerville replied that there is an excess of cab parking spaces and enough room to maneuver. Experts give different numbers depending on the type of warehouse and what the owner tells them.

Lynn Christensen asked why the applicant wants approval tonight. Robert Baskerville explained that one main criterion in the bidding process is to tell the State the applicant has a site that will be ready by a certain date. The State wants proof that XTL is ready and can get a permit. It is better to say he has conditional approval than none. Alastair Millns suggested that a Town board or official write a letter to XTL's attorney stating that the Town received the plan, identified the site, is having final technical discussions, has 1-2 issues that will not be an impediment to the design and is enthusiastic about awarding a contract, but it cannot give final approval at this meeting.

Staff recommends that the Board vote to table the request for Final Approval to a date certain to allow time for receipt of peer review and other design review comments.

Lynn Christensen asked if there is any difference between conditional review followed by a compliance hearing rather than tabling the item to a date certain. Jeff Morrisette conceded that none of the comments received to date are not deal breakers, but staff has not yet seen the consultant's report. Staff does not usually recommend conditional approval of a site plan application prior to receiving the first round of review comments. If CLD makes no significant comments, there may be very little difference. If there were a major issue, it would have to be examined to see if the change is a significant enough to be considered a modification of the plan or if it is still in compliance with and meets the general intent of the conditionally approved plan. There would be a public hearing either way. Both are legal. It is the Planning Board's choice. The danger is if CLD review causes significant change, which might be something like not realizing there is a flood plain and there must be a complete redesign/relocation, so the plan would not meet the conditions at a compliance hearing. If there were a major change, the approved plan would not comply. Tom Koenig said it is in the Board's purview to decide that at a compliance hearing. Lynn Christensen said the Town wants to encourage business. If the result may be the same, the Board should give XTL a leg up to get the contract and provide a facility in Merrimack. She is inclined to approve at this meeting. Questions can be answered at a compliance hearing.

There was no public comment.

The applicant seeks a sidewalk waiver because the site is remote and the number of employees will be minimal. The only other development along Mast Road is the sewer treatment plant. A waiver will help decrease the amount of maintenance needed along Mast Road. Tom Koenig cited the criterion that strict conformity would pose an unnecessary hardship to the applicant and a waiver would not be contrary to the spirit and intent of the regulations.

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

**The Board voted 6-1-0 to grant conditional approval on a motion made by Lynn Christensen and seconded by Desirea Falt. Nelson Disco voted in the negative.**

The following precedent conditions to be fulfilled within 6 months and prior to plan signing, unless otherwise specified:

1. The applicant shall provide a recordable sheet of the site plan meeting the requirements of the Hillsborough County Registry of Deeds, in accordance with the Regulations;
2. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, checks 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;
3. 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;
4. The applicant shall verify that review comments (including those forthcoming) from the following departments or boards have been satisfactorily addressed: Fire, Public Works, Building, Police, & Conservation Commission;
5. The applicant shall obtain all necessary state permits associated with the construction of the project, and note the approvals on the plans;
6. The applicant shall satisfactorily address forthcoming peer review comments received from CLD;
7. Draft copy of all proposed easements to be submitted to Community Development for review. Upon approval of the easement language, final executed document(s) shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
8. A compliance hearing will be held to demonstrate that the project has substantially met Town regulations;
9. The applicant shall satisfactorily address planning staff technical comments. (Attached.)

Planning Staff Technical Comments

1. The applicant may be required to address any forthcoming comments from the Lower Merrimack River Local Advisory Committee (LMRLAC) if required by NHDES as part of the Alteration of Terrain Permit;
2. Add the following notes to the cover sheet, sheet 1 of 14, (and recordable sheet):
  - a. Add a Plan Reference note referencing the recently conditionally approved subdivision plan;
  - b. "This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 412 of the Town's Code of Ordinances)";
  - c. "A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of disturbance in accordance with Chapter 412, Article IV of the

- Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011.";
- d. "A complete set of plans is on file with the Town of Merrimack Community Development Department." Please also note which sheet is to be recorded at the Registry of Deeds;
  - e. "Prior to the issuance of a Certificate of Occupancy, an As-Built Plan stamped by the appropriate professional(s) shall be submitted to the Community Development Department.";
3. Revise Note #4 on the cover sheet and existing conditions plan, sheets 1 & 2 of 14, adding the 40 foot building setback from wetlands and the 25 foot no-disturb buffer from wetlands. Additionally, please add the following to the note after the building setback table: "The setbacks above reflect the setbacks for an industrial use in the I-1 District. Should the use change to a non-industrial use in the future, other setback requirements may apply.";
  4. The applicant shall provide building elevations for all building façades, per the requirements of the Regulations;
  5. Address the following relative to the Existing Conditions Plan, sheet 2 of 14:
    - a. The plan indicates the conditionally approved subdivision of the lots, and is not reflective of actual "existing conditions." The plan should be revised so as to remove any indications of "proposed" lots or conditions;
    - b. The plan shall indicate the street status and width of Mast Road;
    - c. The applicant shall clarify and "clean-up" any conflicting/overlapping or illegible text on the plan;
  6. Please address the following relative to the Site Plan, sheet 3 of 14:
    - a. The plan indicates only one area of snow storage, which appears insufficient given the size of the parking and loading area. The applicant shall add additional snow storage areas as appropriate, and/or add a note indicating that excess snow will be removed from the site in accordance with NHDES requirements;
    - b. Please clarify/verify if there are any conflicts between the proposed free-standing sign and the nearby proposed utility pole;
    - c. This sheet, and several others in the plan set, show "###" in the titleblock under the heading "Checked" whereas others appear to have initials of the reviewer. Please clarify/revise for all applicable sheets;
    - d. Label the height and type of fence and gate proposed along the perimeter of the site;
  7. The Grading Plan, sheet 6 of 14, indicates a dumpster enclosure situated adjacent to the building and parking spaces. Please verify that the proposed design can accommodate the anticipated trash removal vehicle without encroaching on any of the parking spaces or revise the design as necessary;
  8. Replace any references to "hay bales" and replace with "straw bales" (on all applicable sheets);
  9. Add additional information (illumination level on the ground surrounding the sign, and the U-Ratio of the sign illumination on the sign face) to the sign detail on sheet 13 of 14,

in order to verify compliance with Section 11.10(1) of the Regulations. Please also indicate the location/source of the external illumination for the sign in the detail;

10. Add details for the vinyl stockade fence for the dumpster enclosure and for the fence & gate surrounding the site;
11. Address the following relative to the Landscaping & Lighting Plan, sheet 14 of 14:
  - a. Note #5 indicates that illumination levels will not exceed 0.2 footcandles at property lines, however there are several locations where this level is exceeded. Please revise and clarify as necessary;
  - b. Clarify the “pictures”/details of the light fixture and pole (Typical SA) which are illegible;
  - c. Add the CRI and U-Ratio information to the plan in accordance with the requirements of Section 11 of the Regulations;
12. The applicant shall modify the final plan to include a note stating that a Right-of-Way (R.O.W.) Permit shall be obtained from the Public Works Department prior to commencement of any work within the public R.O.W. of Mast Road;
13. Confirm, and revise as necessary for consistency, all references to proposed easements on all applicable sheets (noted as slope & drainage on the Existing Conditions Plan, noted as grading and slope on other sheets).

#### General and Subsequent Conditions

1. The applicant shall obtain final approval of the associated subdivision plan for the parcel prior to, or concurrent with, the final approval of this site plan;
2. The Applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor) detailing site improvements (structural improvements, drainage and utilities, edge of pavement, total as-built impervious area, and net increase of impervious area from pre-development conditions) to the Community Development Department prior to the issuance of a Certificate of Occupancy.

Chairman Best returned to the Board.

#### **7. Discussion/possible action regarding other items of concern**

Chairman Best announced a Master Plan Steering Committee meeting on April 23, 2013.

#### **8. Approval of Minutes**

None.

#### **9. Adjourn**

**The meeting adjourned at 11:13 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.**