



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

APPROVED MINUTES

TUESDAY, JANUARY 3, 2012

Planning Board members present: Robert Best, Alastair Millns, John Segedy, Nelson Disco, Tom Koenig, Lynn Christensen (arrived 7:35 p.m.), Michael Redding, and Alternate Stanley Bonislawski.

Community Development staff: Planning and Zoning Administrator Nancy Larson, Assistant Planner Jeff Morrisette, 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. Interstate All Battery Center – John Cyr (Applicant), Bob E. Lambert, c/o Rick Lambert (Owner) – Review for consideration of Final Approval of a request to construct a single-story 14,093 s.f. building with mezzanine to be used as warehouse distribution, counter sales and storage space for batteries. Parcel is located at 52 Daniel Webster Highway in the I-1, Industrial, Planned Residential Overlay and Aquifer Conservation Districts. Tax Map 2E, Lot 004. This item is continued from the December 6, 2011 meeting.**

Lynn Christensen arrived at 7:35 p.m.

Patrick Colburn, Keach-Nordstrom Associates, Inc., said all existing buildings would be razed and replaced with a single structure for storage and distribution of batteries. Large shipments would be received, then loaded onto smaller trucks for local delivery. There would be a small counter sales business and office space in the north part of the building. There would be two at-grade overhead access doors and spaces to park four company vehicles in the south part of the building. A loading dock for larger vehicles would be out of the way of passenger vehicles at the far north of the building. Deliveries would be received two times a week. Patrick Colburn distributed renderings of the front façade facing D.W. Highway. There would be 20 spaces for employees and customers with access from Route 3 via one new curb cut opposite the Nashua Corporation driveway across the street. The roof would pitch front to back and runoff would infiltrate into the subsoil. Parking lot water would go to a bio-retention area between the parking lot and D.W. Highway and infiltrated. There would be significant landscaping. There would be two pole-mounted lights and four wall pack fixtures. The property is serviced by Pennichuck water, municipal sewer and underground electricity. There

would be a sidewalk along D.W. Highway. At its December 6, 2011, meeting, the Planning Board approved two buffer waivers along the south and west property lines.

Patrick Colburn summarized changes since the December 6, 2011, meeting. At its December 15, 2011, meeting, the Zoning Board of Adjustment (ZBA) granted a Special Exception for an accessory retail use in the Industrial Zone and a Variance to permit the installation of parking within 35 feet of D.W. Highway and signage within 20 feet of D.W. Highway, whereas 50 feet is required. At its December 12, 2011, meeting, the Merrimack Conservation Commission (MCC) agreed to write a letter of support with the condition that there be minimal salt use.

A NH Department of Transportation (DOT) Curb Cut Permit will be issued for two-way access into and out of the property. Lynn Christensen asked the reason for the permit, since two curb cuts already exist. Patrick Colburn explained that both would be removed and replaced with a new one.

Nelson Disco asked about Fire Department comment. Jeff Morrisette replied that, as of today, the Department has no comments. A minor sprinkler issue will be addressed as part of the building permit process.

Patrick Colburn has no problem with staff's proposed conditions.

Alastair Millns asked why there is not a more severe roof slope than 3-4% to prevent snow from collapsing the roof. Patrick Colburn said that, although a general contractor rather than his firm designed the building, he is sure it was taken into account.

Stanley Bonislowski asked about 18-wheelers coming to the loading dock. Patrick Colburn said there is enough room to accommodate larger vehicles. There would be a 30'-wide travel aisle. Trucks could pull in and go around without interfering with parked vehicles. Chairman Best asked how often large trucks would be on the property, which Patrick Colburn said would be 1-2 times weekly.

Tom Koenig said that the houses at Bowers Landing can be seen when there are no leaves and asked how to guarantee the buffer would be retained. Patrick Colburn said the existing buffer would be enhanced along the west with significant evergreen plantings. A waiver was granted on the south because of the Bowers Landing and Dunkin' Donuts access. The proposed façade would be in keeping with the one at Dunkin' Donuts. There is little opportunity to increase the plantings because Bowers Landing is higher than this site and he cannot plant around shallow swales that would be created. Very little clearing is proposed. Chairman Best noted that most of the trees are on Bowers Landing property. Patrick Colburn said the 4'-high fence at Bowers Landing is higher than the proposed rooftop.

There was no public comment.

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

The Board voted 7-0-0 to **grant** final approval, with the following conditions, on a motion made by Nelson Disco and seconded by Alastair Millns.

1. Final plans and mylars to be signed by all property owners. The Licensed Land Surveyor and Professional Engineer (as appropriate) shall also sign and seal final plans and mylars;
2. The applicant is responsible for all fees (including \$25.00 LCIHP fee, check made payable to the Hillsborough County Treasurer) associated with recording the plan and any related documents at the Hillsborough County Registry of Deeds;
3. Any waivers granted shall be listed and fully described on the Final Plan set on a recordable sheet;
4. The applicant to receive a Driveway Permit from the NHDOT. The Driveway Permit Number and expiration date shall be added to a recordable plan sheet;
5. As the parcel lies within the Aquifer Conservation District, the applicant shall satisfactorily address the one comment received from the Conservation Commission;
6. The applicant shall satisfactorily address any forthcoming comments (none are anticipated) from the Merrimack Fire Department;
7. The applicant shall satisfactorily address peer review comments from the town's review consultant, CLD.

General Condition of Approval

1. The applicant to submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed Land Surveyor) detailing site improvements to the Community Development Department prior to the issuance of a Certificate of Occupancy.

4. **Christopher Ross, LLC.** – Review for Final Approval of an application proposing to construct a 5-story, 144,000 s.f. self-storage facility for the property located at 401 Daniel Webster Highway. The parcel is located in the C-1-Limited Commercial, and I-1-Industrial and Aquifer Conservation Districts. Tax Map 4D-3, Lot 083. **This item is continued from the December 13, 2011 Planning Board Meeting.**

Doug MacGuire, Project Manager, Woodland Design Group, said CLD and staff have reviewed the plan. He asked for a waiver from the Driveway Radii requirement because the new driveway would be in the same location as the existing driveway. After widening it 14' and adding separate right and left turn lanes, the radius had to be reduced in order to keep everything on the Ross property. A waiver is proposed for both sides of the driveway. The existing radius would be increased from 15' to 20' for the northerly radius, and reduced from 25' to 20' for the southerly radius. Nancy Larson said the Department of Public Works (DPW) and the Fire Department had no comment about radii. The Fire Department's concern is circulation around the building. The applicant and the Fire Department are scheduled to meet on January 4, 2012.

Waiver criteria are:

- 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; or

- 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.

Alastair Millns said the applicant met the criteria of unnecessary hardship and the circumstance of the proximity to neighboring properties.

The Board voted 7-0-0 to **waive** the requirements of Sect 7.04.4(s)(3) - Driveway Radii - of the Subdivision Regulations, on a motion made by Nelson Disco and seconded by Alastair Millns.

Stanley Bonislowski noted that this is the second application tonight to come to the Board without Fire Department review, which Nancy Larson attributed to a very busy time of year and Jeff Morrisette to waiting for the scheduled next day's meeting. Owner Chris Ross said he has been in contact with the Fire Department during the entire process. The plan is far better than the one that the Fire Department previously approved. Chairman Best stated that the Fire Department is not delaying the process.

Patrick Colburn asked for a Minimum Driveway Separation Waiver. He said the existing driveway is non-conforming because the next door neighbor's open curb cut is so close. The new driveway is proposed for the same location as the existing one.

Nelson Disco said the applicant met the criteria because of the circumstance of the configuration of the access on adjacent property and the existing driveway.

The Board voted 7-0-0 to **waive** the requirements of Section 7.04.4(s)(2) - Minimum Driveway Separation - of the Subdivision Regulations, on a motion made by Nelson Disco and seconded by Lynn Christensen.

Doug MacGuire asked for a waiver from the buffer requirement. A stockade fence and evergreen trees meet the residential and commercial requirements, but now the business is an industrial use with a residence partly in the Industrial Zone. The topography is unique: There is an access road to the bottom level and a 30' grade separation at the existing residence. A buffer would give no benefit to the abutter and would not shield the residence from the lower area. No buffer is necessary with like uses next to each other. The grade difference creates a better buffer. 20' for a Category D buffer is not available. The applicant could not maintain a buffer and have access to the lower part of the property. He could extend the fence to the Commercial/Industrial Zone line.

Chris Ross clarified that the house directly to the north is a vacant office building with a half bath and no kitchen.

Doug MacGuire said the existing driveway is steeper than the proposed driveway. The slope would be reduced from 16% to 10%, so some fill is necessary. In order not to cross the property line with grading and necessitate an easement, a 4'-6' tall retaining wall is proposed. Chris Ross stated that his abutters are junkyards and a dumpsite. Doug MacGuire said the grade change is substantial. Nancy Larson said this is the first she has heard that the building next door is vacant; there is no record of converting the house to an office building. Alastair Millns said a new entrance with an awning was recently added. He does not know whether the

building is empty. Tom Koenig said it is office space and not a legal residence. Chris Ross added that it has neither a kitchen nor full bath. Nancy Larson said the property requires a Category C Buffer that can be a stockade fence and trees and can be no less than 10' rather than 20' wide. Chairman Best noted that no neighbor appeared at this meeting to object. Stanley Bonislowski asked whether the small billboard on the building is legal. He noted that it is not a billboard for anyone in the building, which is now empty. Alastair Millns agreed. Nancy Larson stated that this is not a billboard, but rather an off-premise sign which is permitted by the Ordinance.

Nelson Disco said the circumstance of the site is peculiar and accomplishes the purpose of a buffer. Lynn Christensen said that the applicant met the waiver criterion because of the circumstance of the site.

The Board voted 7-0-0 to **waive** the requirements of Section 10.01(4) - Landscape Buffer - 405 D.W. Highway along the north property boundary, adjacent to the I-1 Industrial District - of the Subdivision Regulations, with the condition that the current buffer be retained, on a motion made by Lynn Christensen and seconded by Michael Redding.

Doug MacGuire asked for a waiver from the requirement of a buffer along Lot 84 and Lot 85 because of the grade difference between abutters and the ground. Because the Commercial Zone abuts the Industrial Zone, a 10' buffer of fencing and trees is required. No fence is necessary at the bottom of the slope. Screening/sound buffer would not benefit the abutters. The majority of the buffer is on the abutter's property and will remain unless the abutter builds a very high retaining wall. There is not enough room for a buffer and there is a lot of growth in that area. The ditches on Lot 84 are part of the abutter's drainage problem that caused erosion on the Ross property. Chris Ross said he would take care of the erosion as part of the application/project.

Alastair Millns said that the applicant met the criteria because of the circumstance of the different property heights, which make a buffer useless, and because the proposal carries out the intent of the Ordinance.

The Board voted 7-0-0 to **waive** the requirements of Section 10.01.4 - Landscape Buffer - along Lots 84 and Lot 85 - on a motion made by Alastair Millns and seconded by Nelson Disco.

Doug MacGuire said a ladder fire truck could turn into the property from the north to the lower level and make a right turn and back out with a single manoeuver. This is a typical design for an indoor self-storage facility. Stanley Bonislowski asked the distance between the end of the building and the road in back. Doug MacGuire said the 8' wide aisle and 24' wide driveway would total 32'. A 30'-long box truck could perform the maneuver and be passed safely by a second vehicle. The driveway could accommodate several vehicles. Truck turning radii have improved over time. A 19' passenger vehicle could pull into the second handicap space. Chris Ross prefers to have the second handicap space even though it is not necessary. A truck could manoeuver around the building. 60' provides a lot of room. Three vehicles could back and maneuver simultaneously. Michael Redding said that, even without a stripe, cars could park and manoeuver in the handicap

spaces. John Segedy asked about small trailers. Doug MacGuire said as much space would be provided as practical. Vehicles do not use all 30' of turnaround; there would still be room to turn around. Alastair Millns noted that 60' is as good as at the Town dump. John Segedy said it is difficult to back up a vehicle with a very short wheelbase. Stanley Bonislowski asked about Fire Department comment. Chairman Best said they would make a formal review later. See Staff's proposed Condition #9.

Public comment

Mike Malzone, 8 East Chamberlain Road, whose home overlooks the existing building, asked whether the new five-story building would be higher than the existing building and about hours of construction and operation. Chairman Best said two floors would be below grade. Mike Malzone did not want construction work to take place early on Sunday mornings. Chairman Best said very few cars are expected. Chris Ross said the top three stories would not be higher than the barn. The hours of operation would be seven days weekly from 9:00 a.m. All trucks that beep while backing up would be way at the bottom. Mike Malzone noted that there were noise complaints during the 2003 renovation. It is not fair to begin at 7:00 a.m. Chris Ross concurred.

Michael Redding asked about the on-site septic system. Doug MacGuire said the existing service connection would not conform to the additional services. He does not want it to be on the newly surfaced D.W. Highway. There would be only two public bathrooms and one in the office, a small use below the minimum. The septic system would use 300 gallons daily. It is proposed to put in a pipe/infiltration system to CLD's satisfaction and submit it for Department of Environmental Services (DES) approval. Fill septic systems are fairly common.

Nelson Disco asked about a north side easement should the sidewalk be connected to the parcel to the north. Doug MacGuire agreed to DPW and staff's suggestion to secure a sidewalk easement for future sidewalk construction and extend it southerly, across the driveway, to connect to the existing driveway easement. Nelson Disco asked whether there would be a connection to Wright Avenue for emergency access. Doug MacGuire cannot get the grade low enough and still accommodate a building. He cannot fill a flood plain, so he cannot build a ramp to Wright Avenue.

Nelson Disco asked about flood plain compensation. Doug MacGuire said a plunge pool would slow down runoff and erosion. The flood plain would be modified by removing some of it in one area and adding it in another, thus increasing the total flood plain volume.

Stanley Bonislowski asked if reports had been received from DPW and consultants. Chairman Best referred to proposed Condition #7. Doug MacGuire said that DPW commented and saw no red flags. Alastair Millns referred to DPW Deputy Director Kyle Fox's recommendation that the applicant will need to comply with the new Stormwater Management Standards adopted by Town Council on July 21, 2011. Doug MacGuire reported that CLD said the same thing. A proposed water quality unit would treat water quality volume. Michael Redding asked about DES review of the septic system. Nancy Larson added that it must be

part of the final revised plans, but permits are usually received prior to a building permit/plan signature as stated in proposed General Condition # 2.

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

The Board voted 7-0-0 to **grant** final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Nelson Disco.

1. Any waiver(s) granted by the Board to be described on the final recordable plan sheet;
2. The owners and/or applicant shall sign all applicable plan sheets (the Owner Statement per Section 7.04(4)(o) of the Subdivision Regulations to be added to the plans for the owner's signature. The Licensed Land Surveyor, Certified Wetland Scientist, and Professional Engineer shall also sign and seal all applicable plan sheets;
3. The applicant is responsible for all fees (including \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) associated with recording the plan and easement document at the Hillsborough County Registry of Deeds;
4. Draft Slope and Landscaping Easement document for benefit of Map 4D-3 Lot 083 to be submitted to Community Development for review and consistency with proposed plan. Upon completion of said staff review, the executed document is to be submitted to Community Development for recording at the Registry of Deeds;
5. The plan to be revised to show a proposed sidewalk easement, uninterrupted, connecting the existing easement to the applicant's northern property boundary along D.W. Highway. Easement to be clearly shown on the plan and described by metes and bounds. A draft copy of the language to be submitted to Community Development for review by legal counsel. Alternatively, if the applicant can produce the language for the existing sidewalk easement which is recorded at the Hillsborough County Registry of Deeds and that language satisfies DPW, staff suggests that legal review be deemed unnecessary, in which case the applicant would submit a new final executed easement document for the proposed sidewalk easement to Community Development for recording at the Registry of Deeds;
6. The plan to be revised to show the intent to install an on-site septic system for the proposed self-storage building rather than a sewer force main as currently proposed;
7. Building elevations are to be incorporated into the final plan set and sheet numbering sequence and be noted on the Sheet Index. Building elevations to show/note all proposed building materials, building dimensions, wall pack lighting, and any roof-top mechanical equipment and be drawn to scale in the final plan sets. Elevations also to note North, South, East and West elevations;
8. Satisfactory resolution of review comments contained in CLD's letter dated December 14, 2011;

9. Satisfactory resolution of review comments from the Fire Department (forthcoming), DPW, including the Wastewater Division (contained in a memorandum from Don Hamel dated December 7, 2011, and in an e-mail from Kyle Fox dated December 22, 2011) and the Building Department (forthcoming);
10. Demolition plans to clearly note proposed disposition of existing curbing. Staff recommends that Monitoring Wells noted as “To be Removed” be noted instead of “Former Locations”, since the applicant has explained to staff that those wells were removed many years ago. The applicant wishes to show their former locations to enhance safety during site excavation, in the event that piping associated with the wells is still in place;
11. Approximate locations of all proposed mechanical equipment to be shown and noted on the site plan;
12. Lighting plan to include details of all proposed light fixtures (including wall mounted fixtures) and light poles. Light fixture details to demonstrate/note compliance with Outdoor Lighting Standards of Section 11, Subdivision Regulations, including, but not limited to, full cut-off requirements. The Lighting Plan to note the maximum uniformity ratio and note the lumens for the proposed security lighting at building entry ways and/or emergency exits as per Section 11 of the Subdivision Regulations;
13. The Book/Page number for the existing sidewalk easement to be noted on all applicable plan sheets;
14. Applicant to receive and submit a copy of the water availability letter from Merrimack Village District;
15. To aid in construction of all proposed walkways and ramps and demonstrate compliance with ADA requirement, plans to be revised to provide either additional spot grade information or details for the three proposed concrete walkways and the new ADA access ramp leading to the existing building. A detail for an Integral Curb & Walk with a six-inch reveal has been provided, but it is unclear where this detail is intended to be applied;
16. Add the following note to all applicable plan sheets: “Prior to issuance of the building permit and/or permit for construction of the retaining wall and any other improvements subject to flooding, documentation from a licensed Professional Engineer shall be submitted to the Building Department certifying that the design and methods of construction for the retaining wall and any other improvements subject to the 100-year Flood Hazard Conservation District will comply with Section 2.02.8 of the Town of Merrimack Zoning Ordinance & Building Code;
17. Address the Planning Staff Technical Comments (see below).

Planning Staff Technical Comments

1. Site Plan (and additional sheets if applicable and as appropriate) to add the following notations:
 - Label the front yard setback along the subject property;
 - Label the street width for D.W. Highway along the subject property;

- Show/note the 25 ft. No-Disturb Wetland Buffer and label the inner set of triple dot dashed line adjacent to the wetland;
 - The 40 ft. wetland building setback and the 25. ft. No-Disturb wetland Buffer to be added to the dimensional requirements;
 - Add the following note: “A complete set of plans is on file with the Town of Merrimack, Community Development Department.”;
 - Add a note to the recordable plan stating that a Right-of-Way Permit from the Town of Merrimack, Department of Public Works, is required prior to commencing any work within the right-of-way of D.W. Highway. (Please replace all references to a requirement for a “driveway permit” with this note.);
 - Add to the General Notes all State/Local Permit numbers granted on all applicable plan sheets;
 - Add the proposed curbing to the Legend;
 - Add a note next to the NPDES Note regarding necessary compliance with chapter 412 Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011;
 - Drainage Certification to be revised in accordance with language in Section 4.16(c) of the Subdivision Regulations;
 - Note type of all proposed curbing on the plan and show’/note location of existing ground sign;
 - Note the proposed disposition of the existing Cape Cod berm along the northerly property boundary.
2. Staff suggests expanding the diagonal striping adjacent to the north side entry doorways to include the 5 ft. wide lane;
 3. Floor elevations should be noted on the grading and Drainage Plan for floors 4 & 5;
 4. If ADA access will be made available through the main entrance on the south side of the building, staff suggests that the applicant consider adding an ADA compliant parking space to the adjacent parking lot;
 5. Add the Book/Page number for the recently recorded voluntary lot merger to the Plan References;
 6. Revise notes regarding dimensional requirements for the C-1 and I-1 zoning districts to clarify that the rear yard setback is not applicable. Staff suggests including language such as the following: As per the definition of “Lot Line, Rear” contained in Section 1.03 of the Zoning Ordinance & Building Code, rear setbacks do not apply to double frontage lots;
 7. All parcel i.d. numbers should comply with the Assessing Department’s standards for notation (i.e. Map 4D-3 Lot 083);
 8. Note the type of fence material to be used on the “Typical Trash Enclosure Detail”;
 9. Construction Notes:

- Amend Note 11 to include "...and per Chapter 412 Stormwater Management Standards adopted by the Town of Merrimack Town Council on July 21, 2011" at the end of the sentence;
- Amend Note 15 to read as follows: "...shall be submitted to the Merrimack Building Department prior to issuance of the building permit.";
- Add a new Note 17 as follows: "A pre-construction meeting with the Community Development Department and Department of Public Works 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."

10. Construction Sequence Notes:

- Replace Note #2 with the following: "A pre-construction meeting with the Community Development Department and Department of Public Works 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.";
- A schedule for removing the existing pavement should be added to the Construction Sequence;
- "Roadway" should be revised to read "driveway" in all instances.

General Conditions

1. Completion of As-Built plans by a Licensed Land Surveyor or Professional Engineer as a condition of the release of any escrowed funds or prior to issuance of the certificate of occupancy, if escrowed funds are not necessary for on-site improvements;
2. Approval for the system by the NH Department of Environmental Services will need to be secured by the applicant prior to issuance of the Building Permit for the self-storage building.

5. Old Blood Properties, LLC (Applicant) and Earth Realty Corporation (Owner) – Pre-Submission Hearing to discuss a proposed Yield Plan for a 66-lot single-family residential subdivision plan located in the R-1, Residential District. (The Yield Plan establishes the total number of lots that may be permitted in the proposed cluster subdivision). Parcels accessed off Old Blood Road. Tax Map 5B, Lots 001-1, 002, 003, 003-1, 005, 006, 007, 008, 009 and 231. Applicant has requested postponement to the January 17th, 2012 Agenda.

At the applicant's request, the Board voted 7-0-0 to **continue** this item to January 17, 2012, in the Town Hall Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by John Segedy.

6. Congregation of Jehovah's Witnesses (Applicant) and Ronald R. Therrien (Owner) – Review for acceptance and consideration for Final Approval of a request to construct a single-story 3,960 s.f. church. Parcel is located at 59

Wire Road. Property lies within the R (Residential) and Aquifer Conservation Districts. Tax Map 6D, Lot 526-1.

Jay Heavisides, Civil Engineer, Meridian Land Services, said there would be 175 seats in the Kingdom Hall (150 seats in the main hall and another 25 in the meeting room). The Hall would be 4,000 square feet. The existing curb cut would be used for a new driveway to a 66-space parking lot. There would be a drop-off lane at the carport. A landscape buffer would run along Wire Road and next to the existing farmhouse. There is a gentle slope in back to the wetland. The grade would be maintained. Storm water would run from the lot to a treatment swale to discharge in the back, thus reducing the peak flow rate. Municipal water is provided. The Church is working with the Fire Department about connections. The State approved an on-site septic system. There is a landscaping plan.

Lights. 3'-high bollards would light the entrance. There would be four pole lights at the ends of the parking lot islands and emergency lights around the building. Lights would run from dusk-10:30 p.m. Lights under the carport would be turned on and off manually when there are evening meetings. Only emergency lights around the building and two pole lights at the entrance way will be kept on.

Traffic. Meetings would run from 7:00-9:30 or 10:00 p.m. on weekdays and on Sunday from 10:00 a.m.-4:00 p.m. Meetings would occur during off-peak of Wire Road traffic, except for one meeting on Sunday from 11:00 a.m.-2:00 p.m. Traffic would exit during a peak hour, but the Sunday peak is much less than the weekday peak. The applicant's traffic analysis and CLD confirm that there would be no impact on Wire Road capacity. 6-8 cars would arrive by 9:00 a.m. for Saturday meetings, then disperse, which is not a large use.

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

Sight Distance. Jay Heavisides said utility poles would not obscure the sight distance, which would be well over 325' both ways if minor branch trimming takes place. Trees near the corner of the property are within the public right-of-way.

Drainage. Proposed is a serpentine treatment swale in back and a headwall with a narrow slot to meter the flow out, which would drastically reduce peak flow from the site. Water would go from the treatment swale to the wetland with no impact on the wetland. The applicant is subject to Town storm water rules.

Sidewalk. A waiver is sought because a sidewalk would not provide an extension of an existing pedestrian way, given that the Mallard Point subdivision does not have a pedestrian way between the north entrance of Mallard Point Road and the common land property between the two sites, and given the presence of wetlands adjacent to Wire Road, just north of this site.

John Segedy asked if someone could walk safely in front without walking in the road. Jay Heavisides said there is room for a sidewalk in front, but asked who would maintain and be liable for it. Chairman Best said that is not in the Planning Board's purview. Stanley Bonislowski stated that most sidewalks in Merrimack would eventually be linked, but no other sidewalks would be built on Wire Road. Chairman Best said the Planning Board granted a sidewalk waiver for the two residential lots on September, 21, 2010. Upon reconsideration of the vote at their meeting of November 16, 2010, the Board granted a waiver for the construction of

a sidewalk at the northerly parcel, with justification that the residential lot to the north contains wetlands, making it impractical to install sidewalks.

Jay Heavisides agreed to install a sidewalk along their frontage. Stanley Bonislowski noted that, although the Town is responsible for all sidewalks, it plows only about 30% of them. Chairman Best stated that the Master Plan encourages sidewalks.

Nelson Disco asked what the architecture would look like. Ralph Randall, Jehovah's Witnesses NH Regional Building Committee member, said the building elevations would be ready in about 1½ weeks. The building is designed to be 11' high at the eaves. It would have eaves with dormers on the roof and a brick façade to create a New England look and to fit into the residential area. The Church is concerned about allowing emergency service access under the carport, which needs a certain amount of height. They await Fire Department comments.

Michael Redding asked for a description of controlling and maintaining water flow and the possibility of long-term ponding. Jay Heavisides said the weir would look like a regular headwall with an 8" opening. There would be an attached 1½"-wide metal plate at the bottom of the swale for drainage. The swale would be at existing grade and above seasonal level. Water would infiltrate into the ground. There are plantings and trees at the edge of the embankment. The swale would be 7'-8' wide and designed for a 50-year storm, so it could hold that much water without ponding. Submission of a yearly maintenance report is required.

Alastair Millns asked about separate foreign language meetings. Ralph Randall said the Church wants to grow. The potential is always there. Alastair Millns asked whether there would be back-to-back services and enough parking for them. Ralph Randall said there would be a "window of movement" in and out. After the parking lot is empty, the next service would enter. There would be a 45-60 minute separation between meeting times.

Ralph Randall announced that the Jehovah's Witnesses now own 59 Wire Road.

Public comment

Bob Wallace, 58 Wire Road, asked why this is a Planning Board function. Chairman Best explained that there had been an appeal of the Zoning Board of Adjustment (ZBA) denial, a settlement, and subsequent ZBA approval. The issue has been decided. Nancy Larson said that, at its last meeting, the ZBA and Town Council voted to sign a Settlement Agreement that granted a Special Exception to enable the Jehovah's Witnesses to proceed to the Planning Board for site plan approval. The Planning Board cannot comment on what the ZBA does. It just reviews the details of a site plan. Each Board has different criteria. Chairman Best said the Planning Board reviews a site plan to see whether it meets regulations.

Mike Malzone, 8 East Chamberlain Road, said that Bob Wallace applied to the ZBA for a rehearing on December 12, 2011, but he has received no response. Chairman Best explained that, after public comment, staff recommends that the Planning Board defer action this evening pending resolution of the ZBA rehearing request. A ZBA rehearing is not under Planning Board jurisdiction. Alastair Millns explained that plans for this meeting were in the pipeline before the December 12, 2011, request for a rehearing was submitted. The site plan is on the Planning Board agenda because it was announced to the abutters. When the Board

recently heard that a request for a rehearing had been submitted, all Planning Board materials had already been distributed. Chairman Best wanted to continue so the Planning Board could hear public opinion. Nancy Larson added that the ZBA is aware of the request for a rehearing, which is scheduled for January 25, 2012. Abutter notification is not required. It will not be a public hearing, so the public cannot speak.

Tom Boland, 12 Mallard Point Road, is concerned that no one mentioned that the Church would be in a residential area. It is a potentially dangerous situation to rely on the Jehovah's Witnesses' projected usage that makes it look like it would have the least impact. They want to grow and may have two services, in addition to weddings and funerals, with related traffic. If approval is granted, there would be no restriction on how the Church would use the property. It would create a mess. There would be 60 spaces for a 175-person capacity Church. Would cars park on Wire Road if the lot were full? There is no ability to provide a turn-in lane at the parking lot. Cars would try to go around those waiting to enter the lot. Children would not be able to go in that direction. What are other potential uses? There will be Sunday bottlenecks and no way to control them. The line of sight was taken today; this is the ideal scenario. It is not accurate due to lack of foliage on the trees. The line of sight will be different in winter and summer. These issues should be addressed. There would be no place for people who walk, jog, or bike to go when the facility is used. Do not take the Church at its word. He feels the Board is not considering other uses.

Chairman Best explained that 90% of what Tom Boland said is what the Planning Board considers. It can control hours as a condition of approval. If they change the hours, the Church must return to the Planning Board, which can deny the request. The Planning Board can manage a site to some extent. A Church is permitted in this zone. That is a ZBA issue. The ZBA granted a Special Exception for the use. The Planning Board does not decide whether the Church is permitted in this zone because the ZBA already allowed it by Special Exception. The Planning Board can deny the site plan application if it does not meet the standards. The Town's consulting engineer reviews all standards and verifies calculations at the applicant's expense. Nancy Larson added that CLD issued a December 23, 2011, letter that is available at the Office of Community Development.

Stanley Bonislowski said that "buyer beware" pertains for an applicant who buys a property but does not meet standards. The Jehovah's Witnesses' ownership of the property does not guarantee approval. Nelson Disco said that an applicant represents a use to the Planning Board. Any substantial expansion would require the applicant to return to the Planning Board for review. Alastair Millns noted that the Merrimack Valley Baptist Church had to reappear before the Planning Board at least four times. He added that there would opportunity for public comment.

Michael Beck, 73 Mallard Point Road, bikes with his family on Wire Road, which gets "dicey" on Saturdays (trash day) going north. A sidewalk should be required that would connect to other sidewalks. He is concerned about 60 more cars on Wire Road and related driving, parking, and congestion issues. Chairman Best said the Planning Board supports sidewalks, but is limited to a particular property. It cannot require connecting to sidewalks on someone else's property.

Rob Walker, 31 Mallard Point Road, asked what the public could do to influence the ZBA to grant the rehearing request. Chairman Best said it is not a public hearing, so no public testimony will be taken. Nancy Larson stated that there is only a 30-day appeal period and the rehearing request was submitted just in time. A letter-writing campaign could not be considered legally because it is beyond the 30-day period. Rob Walker agrees with Tom Boland's concern about additional uses, such as day care, baptisms, and weddings, and about overflow parking on the street.

Chip Underhill, 42 Mallard Point Road, is encouraged that the Board can set conditions. He suggested screening headlights with trees and/or fencing. He asked how to monitor the use. Chairman Best replied that abutters can contact the Community Development Department and staff can make an applicant return to the Planning Board for a compliance hearing. It can be complaint-driven. Nancy Larson said that notes on the site plan list hours of operation and number of seats. Staff makes a judgment call and consults the Planning Board chairman on any minor expansion. A substantial change requires returning for another public hearing. Stanley Bonislowski added that the public can call the police if cars park on the street. There is recourse.

David Brooks, 104 Bedford Road, supports the application. He moved his granite company and residence from Nashua to Merrimack and has worked with the Town. This is the first time there is an opportunity to worship in his own town.

Jim Dwyer, 55 Peaslee Road, said there are no sidewalks on Peaslee Road. He raised his family in Merrimack. Progress comes; there is give-and-take. There are now houses on the 80 acres across the street from his home and the road across from his driveway sometimes lights his house. He just changes the curtains. He can now safely bike on a paved road. There is no real negative impact when he gets used to it. Mallard Point used to be a sandpit. If the Town grows, it must change. Jehovah's Witnesses should have their own place of worship in Town. The building would have no school. It would simply be a place for worshiping, then going home. The Church is not trying to pull the wool over anyone's eyes. It just needs a simple building. The Church looked at hundreds of properties in Merrimack; this is the best location for safety reasons.

Mark Sorenson, 36 Davis Road, is a Jehovah's Witness who wants an opportunity for his daughter to complete her spiritual education in Merrimack. There would be no baptisms and no day care. There would be funerals and perhaps 1-2 weddings annually. In 1984, when Nelson Disco chaired the Planning Board, the Town made an Ordinance about where to put churches. They are allowed in residential zones with Special Exception criteria, so the Board allowed for some extra traffic. The building would maintain property values if not raise them. Most Kingdom Halls look the same. This is the first new church to come before the Planning Board. Nelson Disco said that the Ordinance was passed by Merrimack voters on the Planning Board's advice. The entire Town voted. The Baptist Church on Bedford Road was the first. Nancy Larson agreed with Mark Sorenson that the Baptist Church might have been an expansion of an existing church rather than a new one. That triggered a zoning amendment that allows churches by Special Exception. The original structure was granted a use variance. This is the first application from the ground up. Mark Sorenson said there is not much difference

between the Bedford Road church and this one on Wire Road. Three neighborhoods were built after the Bedford Road church was built, so the Town was not concerned about traffic running down a neighborhood. Bicycles are required to get off the road when a car comes the other way.

Tinique Lenderman, 5 Kendall Court, grew up at 63 Wire Road. When Mallard Point was built, she had a place to ride her bike. Change can be good. Consider what was there previously. Her family's farm stand created traffic. 50 cars a day stopped there. Teenagers drive 60 mph on Wire Road. Perhaps the Church would help alleviate that speed by installing lights. We must evolve as a community. If we want to grow, we have to change.

Paul Brigham, 9 Pine Tree Lane, is a Jehovah's Witness and a 20-year resident of Merrimack. He is happy to be involved in providing a place of worship for his family and approximately 65 Merrimack residents who are members. Jehovah's Witnesses take great pride in their houses of worship. They are keen on maintaining them and not bringing down property values.

David Brigham, 9 Pine Tree Lane, is a retired electrician, who is on the building committee. Jehovah's Witnesses take pride in their work and exceed codes wherever possible. Some Kingdom Halls in the area were recently renovated. Jehovah's Witnesses take good care of their buildings. Safety is a primary concern and addressed immediately (e.g., rewiring a building that was originally constructed with residential wiring). The Hall would be an asset to the community and not diminish values. Cars would never park on Wire Road. Alastair Millns noted that cars are not allowed to park on a road with a double yellow line in the middle.

Fran LaPoint, 29 Hannah's Way, Springfield, NH, is a civil engineer who supports the project. Meridian Land Services did a traffic impact study that CLD reviewed. He ran his own traffic numbers based on 2005-2008 Department of Transportation (DOT) information. Wire Road is Level of Service A, which means equal or less than 12 cars per lane mile. After building the Kingdom Hall, Wire Road would still be Level of Service A. Wire Road is a collector road, designed for Level of Service C, which means 21-30 cars per lane mile, but now only uses 25% of that capacity. Peak commuting hours are 7:00 a.m., with 524 cars an hour or 262 per lane or 13.7 seconds/700' between cars. Sunday noon peak is 251 cars an hour or 125 per lane or 28.8 seconds/1500' between cars. Evening peak is 300 cars an hour or 150 per lane or 24 seconds/1231' between cars. The impact would be less than 1% on average daily traffic. Stanley Bonislowski disagreed with the assumption that the same amount of traffic goes in each direction.

Deanne Lavoie, 14 Mallard Point Road, is concerned about walkers, bikers, and runners on Wire Road on weekends. 30-60 cars is a huge amount of traffic turning in on a narrow road. People and traffic from Buckmeadow and Ivy developments also cross the busy road. She worries about accidents involving cars coming out of the new site. Michael Redding asked about accidents and speeding on Wire Road turning into Mallard Point. Deanne Lavoie said the speed limit is 30 mph, but she guarantees that cars go 40-50 mph. There have been accidents coming out of Mallard Point. Sometimes there is more traffic than the statistics just mentioned, especially on Saturday, which is a day to run errands and go to the dump. She

asked if the Church and parking lot must be this big and whether its size could be reduced. Alastair Millns noted that the Board received testimony claiming that Saturday morning is not a service time. 12 cars would not worsen traffic. Sunday is different; the dump is closed. Deanne Lavoie said Sunday is when walkers, etc., are on Wire Road. Stanley Bonislowski suggested that it would be safer if the Church could tie into the sidewalk at Mallard Point.

Ron Hansen, 50 Lawrence Road, is a retired fireman who grew up at 85 Wire Road. The previous Director of Community Development said the Church could not have chosen a better site/property for what it wants to do. Traffic and property values will be explained in more detail during the review process, when the expert testimony will be presented. Staff was phenomenal in helping with the process. Tom Koenig noted that staff does the job for anyone. They do not go out of their way to help individuals; they do it for everyone.

Ruth Boland, 12 Mallard Point Road, is not much concerned with increase in average traffic on Mallard Point Road but with the large number of people. She asked if a turning lane could be installed. Her concern is that speeders will hit cars waiting to turn into the Church. Chairman Best said that, based on traffic studies, the data do not indicate that Wire Road even comes close to requiring one for this amount of traffic. He asked Ruth Boland to submit data that would contradict the study for the Planning Board to consider. Ruth Boland, noting that the Church would be on the Mallard Point side, asked whether trees would be removed. Chairman Best said there would be no tree cutting in the rear between the building and Mallard Point. There would be a proposed tree buffer from the street view, although no buffer is required. Alastair Millns said there would be no tree cutting and the existing tree line on the plan would be maintained. Lynn Christensen said many of the trees belong to Mallard Point. Ruth Boland said many teenagers walk on Wire Road. She asked whether plantings would remove the shoulder for walkers. A sidewalk should be required between Wire Road and where the landscaping would begin.

Tom Bomberg, 1 Brant Drive, said Wire Road is deteriorating and asked whether that would be addressed when traffic increases. Alastair Millns said that is DPW's purview. Chairman Best said the Planning Board could require a bond for road impact if necessary.

Tom Boland said he respects comments from members of the Congregation, but they are not abutters. The Church is a nice convenience. This is not an appropriate use for the land. He does not want to lose sight of the fact that the ZBA initially denied the Special Exception. That puts an extra responsibility on the Planning Board to consider the abutters.

Jim Dwyer said the Church would not pose a safety problem by parking along Wire Road, since no one is allowed to park on Wire Road. The Church needs enough parking spaces for on-site cars. It would not pose a safety or traffic problem because cars would park in the lot. No one cared about farm stand traffic. Church traffic will not be an issue.

The public hearing was closed.

Jay Heavisides responded to the public's concerns. He noted that the plan states that services would take place from 7:00-9:00 p.m. on a weekday night, but the

Church is not sure which night. The only potential back-to-back services would be on Sunday from 10:00 a.m.-4:00 p.m. There would be plenty of time between services for traffic to come and go. If everyone attends now, there are 46 cars or one per minute. There would be 60 cars over 45 minutes rather than over five minutes. The impact would be a very short window that is spread out. It would take place after Wire Road's peak hour, except for noon on Sunday, but that is less than the weekday peak. The Town requires 44 spaces, but the Church based their 66 spaces on other Kingdom Halls (one space per three seats). 66 is more realistic. If the Church grows to parking capacity, the congregation would split. The line of sight is safe at all seasons. It meets or exceeds Town requirements. There would be low turning volume, so a turning lane is not required. More cars turn into Mallard Point. The driveway would be aligned so that headlights would not shine on abutters across the street. The existing driveway curb cut would be used. The Church is trying to minimize impacts on abutters. There would be landscaping between the lot and Wire Road. The property is 3'-4' lower than the road, so there is an 8'-10' differential. There would be minimal headlight impact. Only 8-10 cars would arrive at 9:00 a.m. on Saturday, then disperse. There would be no Saturday services. There may be services at 10:00 a.m. and 2:00 p.m. on Sunday. The Church is willing to install a sidewalk between the Church property and Mallard Point Road to address concerns about pedestrian traffic. The Church would work with staff to determine the best location. There would be no landscaping that would obscure sight distance between the driveway, sidewalk and Wire Road. It would be between the trees and the road.

Ralph Randall said they do have attendance records. 150 is the maximum congregation size before they split. Providing only 44 spaces might create overcrowding in the parking lot. It is wiser to build more spaces to handle the impact. The plan states that the main auditorium would seat 155 people. More than that would not crowd in on a regular basis. The Church would return to the Planning Board if it wants to do anything different.

Michael Redding asked how the Church gets compliance. Ralph Randall replied that the organization is designed to divide when it reaches a certain number of congregants, so that people can be cared for by those who shepherd the flock and not lose contact with them. Fewer numbers mean more help. This is done worldwide. People follow directions about which service to attend if there is a split. Mike Redding asked how to ensure that and whether there is a written policy to that effect. Ralph Randall said that each congregation has a certain number of people who work with one another. There is a very organized arrangement for preaching and canvassing. The organization works out how people join a certain congregation by territory. A "family" sticks together. There are letters about it, but they are not available to the Planning Board. The elders are responsible for ensuring that all is orderly and legal. The Church will be sure to stay within the realm of what the Planning Board requires. There are attendance records that can be shared. 150 people is the maximum. Michael Redding asked what is the largest congregation in the area, which Ralph Randall said is Goffstown at over 150 members. It split because it was too large. Lynn Christensen summarized that the Church is a congregation now, but it is in another location. It has split off and is relocating to another building. Ralph Randall agreed. The Church builds to

exceed codes and is very sensitive to what would work in a community without overburdening services.

Michael Redding supports a sidewalk. It would afford relief for pedestrians from cars turning into the Church.

Nancy Larson said the applicant should withdraw the sidewalk waiver request, since they now intend to construct a sidewalk. The Department of Public Works (DPW) and staff suggest not constructing a sidewalk within the Town right-of-way, but acquiring a pedestrian access easement instead. She suggested added wording to Condition #8 that there should be a pedestrian access easement where a sidewalk would be constructed. Ralph Randall agreed to withdraw the waiver request. He asked what responsibility the Town has about what the Church does on the easement. Chairman Best suggested that would be in the language Nancy Larson suggests and worked out with Legal Counsel. Nancy Larson said the property deed should refer to the book and page number of the easement and should be modified and recorded to refer to it.

Chairman Best asked how many homes are in Mallard Point. The response was 84.

Michael Redding wanted the Police Department to report on the number of accidents on Wire Road. Alastair Millns asked for the number of speeding tickets over a 12-month period.

Nancy Larson said the Planning Board has a traffic study. CLD agrees with the assumptions in the study and that peak Church times would be off-peak on Wire Road. She read CLD's December 23, 2011, letter. Church traffic would not impact intersections on Wire Road. CLD wants more information about sight distance at the driveway.

Staff recommends tabling the site plan application to allow resolution of the Rehearing Request.

The Board voted 7-0-0 to **continue** this item to February 7, 2012, in the Town Hall Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Nelson Disco.

7. **Thurloe Kensington Corporation (Applicant) and Merrimack Premium Outlets, LLC. (Owner)** – Review for Acceptance and consideration for Final Approval of an application proposing a Lot Line Adjustment between the Merrimack Premium Outlets and a vacant parcel. Parcels are located at the intersection of Industrial Drive and Premium Outlets Boulevard. Subject Properties are located in the I-2 (Industrial), R (Residential) and Aquifer Conservation Districts and Wellhead Protection Area. Tax Map 3C, Lots 191-1 & 191-3.

Gordon Leedy, Managing Director of Land Development, Vanasse Hangen Brustlin, Inc., said the purpose of the plan is to adjust the lot lines between the two lots so as to situate the drainage facilities at the intersection of Premium Outlets Boulevard and Industrial Drive within the main parcel. It also proposes to extend the smaller lot approximately 70' to the east to facilitate site development. Lot 191-3 would consist of 2.7 acres and the other lot would be 2+ acres. No retail use is allowed on the out parcel except for restaurants and a bank. A hotel would be on

the larger out parcel. There would be no impact on potential use. There are no setback requirements except for minimal Residential Zone lines. Most of the lot is unbuildable because of the wetland. There is a power line easement on the side of the small lot only to locate poles. There are no other utilities on the parcel. A drainage basin will accommodate drainage from the site. The existing retaining wall may be raised and fill added without ripping it apart. There is a drainage easement from one property to the other. Premium Outlets has an agreement with Fidelity to discharge water on Fidelity's property. Thurloe Kensington purchased the land from Premium Outlets and will develop the property.

There was no public comment.

The Board voted 7-0-0 to **accept** the application for review, on a motion made by Alastair Millns and seconded by Nelson Disco.

The applicant accepts staff's conditions.

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

The Board voted 7-0-0 to **grant** final approval, with the following conditions, on a motion made by Alastair Millns and seconded by Lynn Christensen.

1. Final plans and mylars to be signed by the property owner. The Licensed Land Surveyor shall also sign and seal final plans and mylars. In addition to the recordable mylar sheet, the applicant to provide 1 mylar and 4 paper copies of the final plan;
2. The applicant is responsible for all fees (including \$25.00 LCHIP fee, check made payable to the Hillsborough Country Treasurer) associated with recording the plan at the Hillsborough Country Registry of Deeds;
3. Address Planning Staff Technical Comments. (Below).

Planning Staff Technical Comments

1. Written confirmation to be provided by a Licensed Land Surveyor to the Community Development Department certifying that proposed monumentation has been set in accordance with the final approved plan;
 2. The Licensed Land Surveyor shall verify that plan text conforms to Registry standards. (Please see text associated with Board endorsement.);
 3. Plan to be revised to include residential zoning setback criteria. Plan to be revised to include information from Note 9 under Section 3.02 – Table of Lot and Yard Regulations – with respect to adjoining Residential Districts;
 4. Staff requests that the plan be revised to include a legend to provide additional clarity. (SBDH, NHHB, FND, IR, IP, etc.) The bounds to be set should be clearly described. (Please refer to Section 4.17(f) of the Subdivision Regulations.)
8. **Parker Village Condominium Association** – Review for consideration of a Final Approval of a request to modify a condition of a previous site plan

approval regarding de-icing operations at Parker Village. Parcel is located off of Front Street in the R(Residential) Zoning District and the Elderly, and Planned Residential Overlay Districts, Aquifer Conservation Districts and the Well-Head Protection Area. Tax Map 5D-2, Lot 004.

Stanley Bonislowski recused himself from discussing and voting on item #8.

The Board voted 6-0-0 to **continue** this item to February 21, 2012, in the Town Hall Meeting Room, at 7:30 p.m., on a motion made by Nelson Disco and seconded by Lynn Christensen.

Stanley Bonislowski returned to the Board.

9. Bonds – Portside Drive Road Performance Bond

The Board voted 7-0-0 to **approve** the Portside Drive Road Performance Bond at \$395,872, on a motion made by Alastair Millns and seconded by John Segedy

10. Discussion/possible action regarding other items of concern

None.

11. Approval of Minutes

None.

12. Adjourn

The meeting **adjourned** at 11:45 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by John Segedy.