



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

## MERRIMACK PLANNING BOARD

### APPROVED MINUTES

**TUESDAY, APRIL 3, 2012**

Planning Board members present: Robert Best, Alastair Millns, John Segedy, Nelson Disco, Tom Koenig, Lynn Christensen, and Alternate Stanley Bonislowski.

Planning Board members absent: Michael Redding and Alternate Pete Gagnon.

Community Development staff: Planning and Zoning Administrator Nancy Larson, Assistant Planner Jeff Morrisette, and Recording Secretary Zina Jordan.

#### **1. Call to Order.**

Chairman Best called the meeting to order at 7:30 p.m., and designated Stanley Bonislowski to sit for Michael Redding.

#### **2. Planning & Zoning Administrator's Report.**

None.

- 3. Hecht Merrimack, LLC (applicant/owner) – Review for consideration of Final Approval of an application requesting waiver of full site plan review to permit a proposed change of use to convert an office/retail building (approximately 9,700 s.f.) to a childcare facility in the C-2 (General Commercial) and Aquifer Conservation Districts. The property is located at 706 Milford Road. Tax Map 2B, Lot 004-2. This item is continued from the March 20, 2012 Planning Board Meeting.**

Attorney Greg Michael, Bernstein Shur, said that, because the Planning Board was concerned with circulation, parking, and access to the site, the parking was changed to 36 spaces.

Andrew Manning, Bohler Engineering, showed the circulation changes at the entry drive and dead end. The primary change would be at the entry, where the last three spaces would be removed and a 3' striped island and new two-way access would be created. The stop area at the main access would increase, allowing a car to back out through the access driveway. This would improve circulation around the lot and increase distance so no one would back out in the driveway area. Six spaces would be lost. Assuming maximum occupancy of 148 students and that every space is taken with one child per car, 16-18 spaces would be the maximum used in a half hour drop-off, which is extremely conservative. Occupancy is typically 80%. 100 parent drop-offs and pick-ups mean 12 parking spaces would be the maximum used in a 15-minute drop-off and 9-10 spaces with a 10-minute drop-off. Employee parking would be in the rear. 36 spaces would be more than adequate.

Minor changes have been made to address staff comments: indicate the play area surface is mulch, a 10'x20' concrete pad is for equipment for toddlers, show a sidewalk to terminate by the signal.

Attorney Michael said the parking easement between the two abutting parcels is not exclusive. People could come in and park. It is not illegal. The applicant is trying to observe the basic allocation of spaces when the easement was granted. Circulation and parking would be confined to what the property has. The circulation pattern would add to safety and the ease of utilization of spaces.

Nelson Disco recalled that the Planning Board asked the applicant to investigate asking employees to park on St. John Neumann Church property. Attorney Michael said that would pose potential issues. The applicant wants to keep everything on site. The proposed tenant can easily work with this configuration. It is not a very productive idea and would add spaces the tenant would not use. Nelson Disco also recalled that Attorney Michael said that parking spaces east of the building could be used, but there are obstructions: a fence and the end of the sidewalk. If the fence was moved and the sidewalk extended, it would be feasible. Attorney Michael said he would look at that and how people could access the site more effectively early in the morning.

Chairman Best noted that the Planning Board decided that 42 spaces would be sufficient, yet now 36 are being sought. There is no parking standard for day care.

Lynn Christensen asked whether spaces on the south side are available to DJ Square. Attorney Michael said they are not. Although it is DJ Square property, an easement allocates it to the applicant. Lynn Christensen said there are now 40 spaces, of which DJ Square occupies 15. On the east, both sides of the driveway are almost full. DJ Square is encroaching on the applicant's spaces. Attorney Michael replied that, if necessary, the applicant could post his spaces. Lynn Christensen noted that there is a sign on the far west stating, "Reserved for DJ Square", which Attorney Michael said should not be there. Lynn Christensen said that means that DJ Square is used to utilizing those spaces. They are encroaching by 15-20 cars. Attorney Michael said his client has a good relationship with DJ Square, which is entitled to spaces. They could be marked.

Stanley Bonislowski saw no problem with morning drop-off, but did see a problem in the afternoon, when shops are open. He asked for the number of employees. Andrew Manning said 21 teachers are required with full occupancy. The fewer children there are, the fewer teachers will be required. Stanley Bonislowski noted that teachers could use 21 spaces. Attorney Michael said the tenant is comfortable with the number of spaces. He has the right to deal with cars that trespass on his property rights. The applicant should not be held hostage to people illegally using his spaces.

Chairman Best asked about the scheduled number of pick-ups. Andrew Manning said that, with 148 children maximum, between 3:30-4:00 p.m., 9 children would be picked up. If a pick-up takes 10 minutes, 12 spaces would be required. 23 children would be picked up between 4:00-4:30 p.m., 35 from 4:30-5:00 p.m., and at the peak of 5:00-5:30 p.m., 23 from 5:30-6:00 p.m. and from 6:00-6:30 p.m. If a

pick-up takes 12 minutes, 14 spaces would be required. Adding 21 employees would add up to 35 spaces or 34 if the two handicap spaces are used. These are very conservative numbers. Getting to 36 would be very infrequent.

There was no public comment.

Alastair Millns said traffic at the major road junction is bad from 4:30-5:30 p.m. He predicted that cars would be blocked in the lot and unable to get out because of traffic on Amherst Street. He asked if the Planning Board could review the situation after six months and urged the applicant to talk to the Church. Attorney Michael stated that his client does not want to build in failure. To succeed, the applicant would have to deal with those issues. It is the applicant's problem. The light can handle the traffic. He reiterated that the numbers are conservative. This will work quite well. Lynn Christensen noted that, from 4:30-5:30 p.m., there is no traffic backup in or out the driveway from PC Connection. Route 101A traffic is controlled by lights. Church parking would be necessary only if there is a parking issue. Since the spaces belong to the site and the owner can eject offenders, there is enough parking without using the Church. She likes the new circulation flow. The applicant did a good job addressing Planning Board issues. Stanley Bonislowski disagreed. At 12:10 p.m., he noted cars backing up to the entrance of the parking lot of this building. Chairman Best and Lynn Christensen said that represents one light cycle.

Nelson Disco said the applicant made substantial improvements. The proposed parking and the extra lane on the west will help a lot. He still wants pedestrian access on the south to the east side of the building to add safety. Based on the applicant's experience, these numbers would work. Tom Koenig added that the circulation pattern helps make previously blocked areas on the site usable, although he prefers to see more spaces. He supports the application, although he does not think day care is the right use for this area.

Alastair Millns asked whether Town departmental comments were addressed. Jeff Morrisette replied that Merrimack Conservation Commission (MCC) and Pennichuck Water comments were addressed. The Fire Department will comment in writing. Their only concern is sprinklers. Although he must still review the comments, most have probably been addressed.

**The Board voted 7-0-0 that 36 parking spaces are sufficient for this use, on a motion made by Lynn Christensen and seconded by Tom Koenig.**

Staff recommends that the Board grant final approval, subject to 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 noted and fully described on the final plan;
2. The owners and/or applicant shall sign all applicable plan sheets. The Licensed Land Surveyor and Professional Engineer (as appropriate) shall also sign and seal all applicable plan sheets;

3. Address any forthcoming comments to be received (if any) from applicable town departments (Fire, Building, Health, and Public Works Departments), Pennichuck Water, and the Merrimack Conservation Commission.
4. Add pedestrian access to connect the south parking spaces on the east side of the building to the entrance;
5. Address the Planning Staff Comments (see below).

Planning Staff Technical Comments

1. The plan to be revised to include the drainage certification (by a Professional Engineer) note found in Section 4.16(c) of the Subdivision Regulations;
  2. Provide additional information (i.e. color, material, etc.) with respect to the proposed 4' tall chain link fence;
  3. Provide a detail for the proposed 6'-tall PVC stockade fence;
  4. The final plan shall be revised to indicate the purpose of the proposed concrete slab to be located within the proposed play area;
  5. The final plan shall be revised to indicate the surface material (i.e. lawn or some other material) of the proposed play area;
  6. The final plan shall indicate graphically the location of the existing parking and access easements and provide corresponding HCRD references;
  7. The final plan shall provide additional clarification with respect to existing and proposed trench drains. At a minimum, the plan shall provide proposed lengths, slopes, and invert information for drainpipes and structures to verify feasibility for connection to existing system. The final plan shall also offer additional clarity with respect to the "in-kind" replacement of the trench drain;
  8. The final plan shall be revised to provide critical elevation information (spot grades) in the Grading Plan so that ADA compliance can be confirmed;
  9. Unless securing a waiver from Section 10.02(1)(f) of the Subdivision Regulations, the final plan shall be revised to provide for 6 inches of loam (as opposed to 4 inches) on disturbed areas intended for lawn use;
  10. The final plan shall be revised to include a note describing the existing and/or proposed irrigation system.
- 4. JPM Real Estate, LLC (applicant/owner) –** Review for Acceptance and consideration of Final Approval to construct a 3,456 s.f. building consisting of a 23-seat 1,956 s.f. Dunkin Donuts restaurant with drive-thru and 1,500 s.f. of retail space. Parcel is located at 80 Continental Boulevard in the R (Residential) and Aquifer Conservation Districts. Tax Map 3C, Lot 040-1.

James Petropulos, Vice President/Principal Engineer, Hayner-Swanson, said the 1.37 acres near the intersection of Continental Boulevard and Industrial Drive was formerly the site of Home Health and Hospice Care with access off Continental Boulevard and dedicated access to the signal. The applicant proposes to construct a one-story building for a Dunkin Donuts restaurant with a drive-thru, and

a retail space, which is a low intensity use. There would be 1,500 square feet of unspecified retail space on the north with 23 parking spaces. Access would still be at the intersection. The driveway would lead to the front of the building, where there would be 17 spaces. There would be a two-lane driveway around the north side: a pickup lane and a by-pass lane. There would be a dumpster and six spaces in the rear for employees. Drainage would be broken into smaller bio-retention areas and a recharge basin. There would be a sewer and new landscaping. A traffic study was submitted. Dunkin Donuts would be the peak user in the morning. Hours of operation would be 5:00 a.m.-11:00 p.m., with most use before 9:00 a.m. Based on a morning peak, there is adequate capacity.

Stanley Bonislowski said it is a unique location with a lot of traffic. The use would do extremely well and create even more traffic. James Petropulos agreed that there could be a steadier stream of traffic throughout the day, but it would not exceed the morning peak.

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 Stanley Bonislowski.**

James Petropulos read a letter requesting a parking waiver to allow 23 rather than 57 parking spaces for the following reasons:

- 1) The current parking code is confusing, since it presents five different ways to determine the required number of parking spaces for a restaurant use.
- 2) A "combination" restaurant requires considerably more parking spaces than a small site such as this would need.
- 3) It is the opinion of the client, who owns and operates a number of similar types of establishments, that 23 spaces is more than adequate to accommodate this proposed development.
- 4) Research indicates that 65% of the customers will use the drive-through lane, thus reducing dependence for on-site parking.

Nancy Larson explained that a combination restaurant is the standard used for fast-food restaurants with indoor seats plus take-out and has consistently been used in Merrimack to apply to Dunkin Donuts. There is another standard for sit-down restaurants; for 1,300 square feet or less combination restaurants; and for carry-out-only restaurants. A combination restaurant requires one space per 40 gross square feet. The regulation is confusing and stringent. If a restaurant is over 1,300 square feet, one space per 40 square feet or one space for every two seats is required; whichever is larger. Chairman Best noted that the 1,956 square foot restaurant requires 49 spaces and the 1,500 square foot retail use requires 8 spaces.

James Petropulos said that the owner would provide figures about the use of spaces at other Dunkin Donuts. There would be 4-6 employees during peak

hours. Stanley Bonislowski noted that the Board reduced the required number of spaces for McDonald's and Burger King. He questioned the need for 1,956 square feet for 23 seats. James Petropulos said the space is for display cases, several tables, and a back room for storage. Stanley Bonislowski agreed that 23 seats are sufficient for a mostly drive-through restaurant. John Segedy disagreed that there should be one space for every two seats. James Petropulos stated that other municipalities use that standard. John Segedy said that every car has only one person, requiring twice the number of spaces. Chairman Best objected that each car still occupies two seats. James Petropulos cited the square footage and number of spaces at other Dunkin Donuts in Merrimack.

Applicant John Motta said that the Dunkin Donuts on Amherst Street in Nashua has only 10 spaces for 1,500 square feet. Alastair Millns opined that should not have been allowed with the current road access. John Motta said 75% of Dunkin Donuts business is from 6:00-10:00 a.m. All 23 spaces would not be used after 10:00 a.m. and would be available for retail use.

Lynn Christensen saw only one car at the dry cleaner when she went to Dunkin Donuts, so the parking can be accommodated. The retail use, such as a dry cleaner, would be low intensity. Tom Koenig disagreed; there is potential for much heavier use. Stanley Bonislowski saw only one full Dunkin Donuts parking lot - overflow from a casino in Connecticut. Alastair Millns said that is close to what would happen here because it would be close to Merrimack Premium Outlets. Customers in trucks would park on Continental Boulevard because they could not fit into a small site. He urged rethinking the plan. James Petropulos said the traffic study did include Outlet traffic. Alastair Millns predicted it would be busy all day. James Petropulos said there is no provision for trucks turning into the site. Chairman Best said the applicant could not answer for people who break the law. Nelson Disco suggested posting a "No Parking" sign. It is an enforcement issue, not the applicant's problem. Alastair Millns disagreed, saying that the Planning Board must be sure it does not impinge on health, safety or citizens. He suggested building a lay-by on Continental Boulevard. Chairman Best said the Board could not force an applicant to accommodate tractor-trailers because it would be too burdensome. James Petropulos said he would look into the shoulder width.

Chairman Best asked about a hammerhead off-site. James Petropulos replied that it exists now. A uniquely shaped right-of-way for Merrimack Village District (MVD) access to wells is paved only to the hammerhead. Lynn Christensen said the Bedford Dunkin Donuts is the same size and has 22 spaces with a long run to the drive-through. It is always full in the morning. A long run is an advantage to keep cars out of traffic. John Motta said that Bowers Landing has a line at 6:30 a.m. and no one in the spaces or inside. Most customers prefer the drive-through. Nancy Larson agreed. Tom Koenig said there is no basis for a waiver because this is not a low-intensity use. There is not an adequate number of spaces.

James Petropulos offered to return after the tenant and its use are known. Lynn Christensen asked if the Board could approve a waiver based only on Dunkin Donuts. Nancy Larson said the site plan would have to be revised and noted that

the Board can do nothing to prevent a more intensive use later. James Petropulos stated that a certain number of spaces is necessary for a business to be successful. Nelson Disco said the site is self-limiting. At the drive-thru, there is no place to park, so cars leave. It is the applicant's risk to find a tenant that would not overload the parking area. He is not very concerned. Stanley Bonislowski said parking requirements for drive-thru restaurants should be revised. Cars go in and out quickly. John Segedy asked how big a backup is anticipated for the drive-thru. James Petropulos replied there would be a maximum of eight spaces in the drive-thru lane and a by-pass lane beyond that. If there are more cars, they can go in back of the drive aisle. John Segedy opined that the backup might be more than eight in this high intensity area. John Motta said that six employees would be dedicated to the morning drive-thru and two in the afternoon. There may be more back up in the afternoon when there will be only two employees. If it were busy all day, there would be six employees. Chairman Best said that traffic flow for the drive-thru window will be part of the site plan review; this meeting is only to discuss parking. Lynn Christensen said there is room to extend the line during peak times without backing up onto Continental Boulevard. Chairman Best allowed that 57 is a "crazy high" number for a 23-seat restaurant and that a waiver is justified. He is comfortable with 23 spaces, but the retail use is unknown. Eight spaces for retail would leave 15 for Dunkin Donuts. If there are six employees, that would leave only nine for Dunkin Donuts, which is low. Stanley Bonislowski noted that this is an early business and that the Outlets would not open until 10:00 a.m. Lynn Christensen said the Outlets would produce a lot of business during the day.

James Petropulos said there would be a 25' green buffer at the north where five more angled spaces could be added if a buffer waiver were approved. The site plan could note, "Future parking if needed". Chairman Best said there is also open space at the north and south ends of the lot and that the MVD parking area could be used. He suggested waiting for CLD comments. Nancy Larson said it is not CLD's job to determine appropriate parking. It reviews ordinances and regulations against plans. It is not fair to ask them about 23 spaces. Nelson Disco added that CLD is not privy to information the Board received at this meeting.

James Petropulos said the unique shape does not leave many options. Stanley Bonislowski disagreed. The day care facility set a precedent about a landlord allocating tenant parking. The same could be done here. Chairman Best said he did not base his decision on Attorney Michael's statement that it is the applicant's burden to take care of his customers. Rather he was convinced it was the right number of spaces. Nelson Disco would vote tonight with a provision to show there is room for additional future parking if needed. Lynn Christensen preferred to give the applicant more time to work on additional parking. Jeff Morrisette said he and Nancy Larson reviewed buffer requirements and found that none is required on the north and the MVD lot line. James Petropulos said he provided a buffer to be a good neighbor, but that would be the best place for added parking. He could add 1-2 employee spaces beside the drive-through and add seven future spaces. Chairman Best said that would make him much more comfortable. Paving could go right up to the tree line.

James Petropulos sought a sidewalk waiver for the following reasons:

- 1) The site fronts on a section of Continental Boulevard that is within both the NH Bureau of Turnpikes and Town of Merrimack jurisdiction. The western edge of the roadway does not contain any curbing or sidewalk. Stormwater runoff from this section of Continental Boulevard sheet drains onto the site. Construction of a paved sidewalk would require new curbing to protect pedestrians using this route and new drainage construction in order to handle the runoff being controlled by the curbing;
- 2) The site fronts a section of Continental Boulevard with five lanes and is adjacent to a major signalized intersection with Industrial Drive that does not contain any pedestrian crosswalks or signals. Adding a sidewalk with no other connection along or across such a busy intersection would present a pedestrian safety issue;
- 3) There are no sidewalks along Continental Boulevard in the vicinity of the site. Merrimack Premium Outlets is not proposing any sidewalks along their frontage on Industrial Drive or Continental Boulevard.

Lynn Christensen and Nelson Disco said the MVD property would not be developed. Nelson Disco and Alastair Millns agree there is no need for a sidewalk in this area and support the waiver. John Segedy discounted whether the sidewalk would connect to another one. The issue is safety. Tom Koenig agreed. There will be development in that area along Continental Boulevard (Norden industrial buildings) as ancillary uses to the Outlets. A hotel across the street will create foot traffic to Dunkin Donuts at the intersection. The Board should get whatever walkway it can. Chairman Best said it could be a 5'-wide paved pedestrian way. Stanley Bonislowski said sidewalks were slowly connected on the other side of Continental Boulevard over a 10-year period. The area will be developed and current businesses will change use. Chairman Best said a sidewalk would not connect to Continental Boulevard because stormwater runoff flows to a grassed strip between the two sites.

Nancy Larson said the Public Works Department (PWD) would meet with the administration of NH Department of Transportation (DOT) to determine who controls that section of Continental Boulevard. A sidewalk within the right-of-way of Continental Boulevard may require additional DOT approval. It is still unknown who would review a sidewalk design. Chairman Best said that, if the State owns it, they must give permission. The Board cannot compel an applicant to build on someone else's property. Nancy Larson said that, because a bio-retention basin is near the sidewalk area, the front must be redesigned. James Petropulos said it is very dangerous if there is no curbing on a major road with pedestrians. John Segedy, Tom Koenig, and Robert Best said pedestrians would be there anyway. Robert Best said a crosswalk may be needed from the hotel. A lot can happen in the future. (e.g., MVD might move its office building.) There could be a need for pedestrian traffic there.

Lynn Christensen asked whether denial of a waiver could be revisited later. Nancy Larson suggested that the Board await additional information. It is not good



practice to vote again on a waiver that was denied at the previous meeting. Chairman Best agreed. The Board is not granting final approval. Nelson Disco asked if it would be a problem for the applicant if there were a pedestrian way without a curb. He would approve a waiver only if there were no salt use. Chairman Best agreed. James Petropulos said part of the stormwater system is in the front parking lot. He repeated it this is a dangerous precedent to build a sidewalk parallel to a major road without any curbing.

There was no public comment.

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

**The Board voted 7-0-0 to continue this item to May 5, 2012, in the Town Hall Meeting Room, at 7:30 p.m., on a motion made by Alastair Millns and seconded by Nelson Disco.**

**5. XL Strength & Conditioning, LLC (applicant) and Columbia Realty, LLC (owner)** – Review for Acceptance and consideration of Final Approval of a waiver of full site plan review for a change of use to convert an industrial/manufacturing use to a commercial gym. Parcel is located at 26 Columbia Circle, Unit B, within the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 4D-3, Lot 024.

Attorney Greg Michael, Bernstein Shur, said there would be no exterior changes. The paving in the rear is a good area to expand parking. On March 27, 2012, the Zoning Board of Adjustment (ZBA) voted to give a pair of variances, with conditions, to permit the commercial gym use within the I-1 Industrial and Aquifer Conservation Districts. 22 new spaces are proposed in the rear. The total number of spaces would be expanded. There would be 10 people maximum plus two employees. There would be six classes daily. Proposed hours of operation are 5:30 a.m.-6:30 p.m., Monday through Friday and 5:30 a.m.-noon on Saturday. 22 spaces would allow 10 people to be in the gym while 10 are arriving plus two for employees. Customers are scheduled. They would enter the building in the rear directly from the spaces. Handicap spaces would be marked and striped. A sign in the rear would dedicate parking to the gym, according to the General Condition and Staff Technical Comment #2. The ZBA made a condition that, if the use changes, the applicant would return for further review. (See Condition #3)

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.

Staff also recommends that the Board grant the waiver of full site plan review.

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

**The Board voted 7-0-0 to waive full site plan review, on a motion made by Alastair Millns and seconded by Nelson Disco.**

Attorney Michael said that classes would be staggered. He planned the worst case scenario for parking: both classes are still there at the same time. The project will conform to sign regulations. The gym is a regulated/scheduled activity. There would be no drop-ins. Customers would be told where to park. Nancy Larson said a decal sign could be put on the door window directing people to the rear. Attorney Michael said the door in back would be appropriately marked and would provide direct access. Nancy Larson said the ZBA was told that Unit B's 22 spaces would be marked and signed. The Planning Board should require signs rather than pavement markings. (See Technical Comment #3) Attorney Michael suggested posting signs stating, "No parking between signs" or "Parking between signs only for Unit B" would be posted. Nancy Larson agreed. The ZBA approved the use and knew that 22 spaces would be striped for this use. It did not discuss individual signs.

There was no public comment.

Staff recommends that the Board vote to grant Final Approval to the change-of-use 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 plan sheet;
2. The owner(s) and applicant shall sign the plan;
3. Add a note to the plan stating that, should the level of intensity of the gym use exceed current representations made to the Planning Board (# of clients/hour, days/hour of operation, number of classes held per day, etc.), the applicant shall return to the Board to request a new approval or seek modification of the change-of-use site plan approval currently requested, whichever method is deemed appropriate by Staff;
4. Address planning staff technical comments (See below).

General Condition

- Prior to issuance of the certificate of occupancy (or commencing operation of the business if a certificate of occupancy is not applicable), the 22 parking spaces to the rear of the building to be designated for XL Strength & Conditioning to be clearly marked on-site with signage. Staff *recommends* that all ADA parking spaces and adjacent passenger loading zones also be designated with ADA compliant signage and striping prior to issuance of the certificate of occupancy (or commencing operation of the business if applicable).

Planning Staff Technical Comments

1. Revise General Note #1 to include language regarding the request for a change of use to convert and industrial/manufacturing use to a commercial gym for Unit 'B';

2. Revise General Note #3 to include the number of parking spaces required/provided for the proposed commercial gym use in Unit 'B';
3. Appropriate signs will designate 22 spaces for Unit 'B';
4. Add a detail of the sign to be installed at the front of each of the 22 parking spaces designated for Unit 'B'. A sign detail for the ADA parking spaces should also be included on the plan;
5. Include a note indicating the current zoning.

**6. Discussion and possible action regarding other items of concern.**

Nelson Disco attended an April 3, 2012, Nashua Regional Planning Commission (NRPC) meeting about form-based codes, which is a new form of zoning that specifies form/shape/type/functionality rather than uses. A developer can mix uses as long as no form is specified. High-density type developments mix uses in close proximity. Tim Thompson agreed with his and Nancy Larson's suggestion that Alan Manoian make a presentation to the Master Plan Committee.

Tim Thompson forwarded e-mail from a citizen asking the Board to look at certain areas of the Merrimack Premium Outlets. Alastair Millns and Nelson Disco went and did not see any violations of the approved site plan. The Board knew that the embankment for the parking lot is visible under the trees because of the power lines. Alastair Millns added that the crash barrier stopping cars from coming down the embankment is visible but the parking area is not. He could see through in only one place. The Outlets planted some trees that will grow over time. Lynn Christensen said the issue is cutting into the buffer. Alastair Millns replied that is so at the sewer cut, but it will be rectified prior to issuance of a certificate of occupancy. Chairman Best disagreed with the citizen. There is no particular issue before the Board. It is inappropriate to take action. Lynn Christensen said it is out of the Board's hands. It is a compliance issue for the Community Development Department. Stanley Bonislowski agreed. It is not the Board's job to investigate complaints. The citizen should follow procedure. Alastair Millns and Chairman Best disagreed with the citizen that the Planning Board spent more time reviewing the Wire Road church than the Outlets. Lynn Christensen said it is appropriate for the Board to listen to concerns even if it has no jurisdiction. She forwarded the same issues to Community Development. Tom Koenig clarified that it is not a complaint but asks the Board to be aware of the results of its work, what is on the ground vs. what is on paper.

Stanley Bonislowski suggested that the Planning Board review procedures for restaurant parking. It has made many exceptions. It could make drive-thrus or a mall restaurant a category. Chairman Best said that is two processes: perhaps the Master Plan is the place to begin. Nancy Larson said it is within the Planning Board's jurisdiction. It would require public hearings and draft language. Staff is working with PWD to revise the Subdivision Regulations. Parking requirements need a lot of work. Timing can be discussed with Tim Thompson. The Master Plan is a perfect opportunity to introduce the broad concept. Stanley Bonislowski wanted to incorporate it; Nancy Larson noted it would not be enforceable

otherwise. Nelson Disco said it is separate from the Master Plan. A technical detail is not appropriate for that. Lynn Christensen added that a Master Plan is global; parking is a detail. Chairman Best requested a review of parking examples from other towns for the Board's information. John Segedy predicted it would not mean fewer hassles from applicants who want to reduce required parking. Chairman Best said clarification is needed, especially for large sites that leave paved unused areas. Tom Koenig said a lot would be full enough times annually to require sufficient parking. Stanley Bonislowski said a stand-alone restaurant requires parking, but a strip mall is a different situation. That is when the Planning Board makes exceptions. Making a new food category does not necessitate a major overhaul.

**7. Approval of Minutes.**

**The minutes of March 20, 2010, were approved, with changes, by a vote of 7-0-0, on a motion made by John Segedy and seconded by Alastair Millns.**

**8. Adjourn.**

**The meeting adjourned at 10:07 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by John Segedy.**