



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD

APPROVED MINUTES

TUESDAY, JUNE 26, 2012

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

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

Community Development staff: Community Development Director Tim Thompson and Recording Secretary Zina Jordan.

1. Call to Order

Robert 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. Atrium Medical Corporation (applicant) and APCA Merrimack, LLC c/o Paradigm Properties, LLC (owner)** – Review for Acceptance and consideration of Final Approval for a request of a Non-Residential Site Plan application proposing a change of use and construction of a 90,000 s.f. addition for Research & Design/Manufacturing/Warehousing located at 40 Continental Boulevard in the I-3 (Industrial) & Aquifer Conservation Districts, and Wellhead Protection Area. Tax Map 3C, Lot 040.

James Petropulos, Vice President/Principal Engineer, Hayner-Swanson, said that Atrium would build a 90,000 square foot addition behind the 114,000 square foot vacant office building on Continental Boulevard where Norden Systems would have built a warehouse in 1983. There are 530 paved parking spaces.

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 the Board to make an informed decision.

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

James Petropulos said the 54-acre parcel is the only one in Merrimack that is zoned I-3. In 1983, Greens Pond Road was discontinued to make a singular developed lot. Phase 2 of Norden Systems was not built. James Petropulos recapped the history of uses on the site. The main entrance is on Continental Boulevard with parking spaces in front. There was a 100' parking setback plus a 200' building setback when it was rezoned. There are several wetlands on the property and a natural bog on Greens Pond Road. The parking area is very flat. The parcel has good soils, Merrimack Village District (MVD) water and municipal sewer. Naticook Brook runs in back. Atrium employs 500 people and plans to grow.

Proposed is a one-story 90,000 square foot addition: 40,000 square feet for a warehouse and 50,000 square feet for engineering, design space and light manufacturing, with room for growth. There would be a small lobby entrance. A loading dock on the east side of the building will be removed in order to create a "front door" and main entrance. A new 20' paved driveway will be built behind the building. 48 parking spaces would replace the spaces that would be removed and a new loading dock would be built on the west side. Product deliveries and pick-ups occur 8-10 times daily with a combination of panel box trucks and semi-trailers. Atrium will have three shifts.

The roof drains would be connected to a lined man-made pond. Runoff from the new drop-off, parking and sidewalk areas would be captured using two rain gardens, which would provide both a qualitative treatment practice and an infiltration component to the system. Stormwater would be cleaned before it enters the system at a detention/treatment basin in the rear. The building and parking would create 0.7 acres of new impervious cover. New sewer lines would connect to the existing sewer system.

The new entry and the addition would be made of a combination of metal panels and fixed glass.

Atrium seeks a sidewalk waiver along Greens Pond Road and Continental Boulevard frontage for the following reasons: 1) The section of those roads on which Atrium fronts contains no sidewalks, pedestrian crosswalks or signals. 2) The building has been used for almost 30 years without needing sidewalks. 3) The roads are not curbed. Stormwater runoff from these sections of roadways sheet drains off the pavement and onto the adjacent shoulders. Construction of a curbed sidewalk along Continental Boulevard frontage would interfere with the existing drainage system and would require a significant expense to accommodate runoff from the street. 4) It is not safe to cross Continental Boulevard because there is no signal. Atrium proposes to build an on-site paved sidewalk in the southeast corner from the developed portion of the site through a wooded area to the intersection of Greens Pond Road. This would connect to the proposed Dunkin Donuts to be located at 80 Continental Boulevard and would also provide an option for pedestrians to walk to Continental Boulevard in the future if a signalized

crosswalk were to be constructed in this location, enabling pedestrians to cross Continental Boulevard to get to the Merrimack Premium Outlets. 5) Atrium proposes to pay, in lieu of construction, the amount that a proposed sidewalk along the remaining portion of its frontage along Continental Boulevard would cost. The money would be used by the Town either to build a sidewalk in this area or to conduct a pedestrian/sidewalk study of the project area. Any funds not expended by the Town within two years shall be returned to Atrium. 6) The original site plan approved in 1983 for an 85,000 square foot addition is still vested and could be constructed without any further approvals. That plan does not show any sidewalks along either Continental Boulevard or Greens Pond Road.

The work will not impact the Little League field, which has a license with the owner until 2013. Atrium and Merrimack Youth Association (MYA) will discuss the license beyond that time.

The original plan states that there shall be no sodium chloride use. MVD commented and discussed the matter. Atrium is aware that this is a sensitive site because of the wells, but some entry sidewalks may need to be treated for safe passage of employees. Atrium would send facilities people to be certified by Green SnowPro and would prepare a snow management program for MVD review. Staff's conditions are reasonable.

Traffic Consultant Rebecca Brown, TEC, reported on her study. She compared traffic impact and access study at intersections with February and May traffic volumes to 2013 and 2023 design conditions. She included traffic from Merrimack Premium Outlets and Dunkin Donuts/retail facility. Analysis shows that a signal is not warranted exiting the driveway. All movements at all intersections are at an acceptable level of service. There is more than adequate capacity for traffic volume. There would be an increase in delay of no more than three seconds per vehicle or adding more than two vehicles per lane in the queue. On average there are fewer than two collisions annually. Site distances would exceed ASHTO recommendations for stopping at an intersection. Low-hanging trees on Greens Pond Road would be cleared. CLD reviewed and concurred with Rebecca Brown's methodology and results. Using a different methodology, however, they commented on a need for turning lanes on the Continental Boulevard driveway by converting an inside through lane to a left turn lane into the site and allowing the other lane to remain a through lane. TEC disagrees with CLD's method and with the need for a left turn lane. TEC used the NH Department of Transportation (DOT's) acceptable method/standard to evaluate a left turn lane and found that a new lane would create more delay and more accidents at the merge. A flashing warning device, signage and pavement markings can be installed instead. TEC based its conclusion that there is no need for a left turn lane on weekday morning peak hours. There is heavy northbound volume in the evening. To merge two lanes into one lane for one hour in the morning

does not make safety sense. CLD suggested examining the warrants for a right turn lane for cars entering southbound, but utility poles and a drainage swale prevent widening the roadway. The same is true for right turns on weekday mornings. The intersection can be monitored for one year after occupancy to assess real delays and accidents and to see if a turn lane is needed. It is TEC's opinion that traffic can be accommodated with no additional improvements. Rebecca Brown explained her methodology.

Nelson Disco noted that the February and May 2012 background analysis shows that traffic on Continental Boulevard is $\frac{3}{4}$ of what it used to be because of fewer users on that road. He asked Rebecca Brown to compare these numbers with historic growth patterns. Rebecca Brown said traffic volumes decreased less than 1% per year for the last 10 years. She included Merrimack Premium Outlets, Dunkin Donuts and potential future growth to arrive at an 11% growth volume on Continental Boulevard to bring it to 1990s levels. Nelson Disco requested a copy of her letter.

Tim Thompson read CLD's five comments. The Community Development Department did not receive CLD's updated analysis since the applicant's response. Nelson Disco and Stanley Bonislowski want to see CLD's comments/response and to do monitoring at a minimum. Chairman Best noted that CLD said it is not the only way to solve the problem. Rebecca Brown said 85% of cars on Continental Boulevard go 49 miles per hour or less; therefore 15% of traffic goes faster. Alastair Millns agreed with Rebecca Brown. He said a single lane plus three other lanes on Continental Boulevard and turns on Camp Sargent Road and Greens Pond Road is not a good idea; it is a recipe for sideswipes. Chairman Best and Lynn Christensen could not understand why CLD made the suggestion. They prefer to reduce a lane rather than widen the road. Chairman Best said previous uses were busy, yet they never created such issues. The monitoring idea is appealing.

Tim Thompson said staff supports one year of monitoring after opening, posting an escrow/bond while CLD reviews the situation, and determining at that time if mitigation is required.

Public comment

Salt use. MVD Superintendent Ron Miner opposes putting any additional salt in the system, but is open to a snow management plan as a condition of approval. Lifting the salt restriction would change all MVD's reviews. Other snow removal systems could be reviewed without comment now; MVD would make a recommendation later. A condition of approval could be that MVD, the Community Development Department and the applicant discuss a snow removal system. Jeff Marts, MVD Consultant, Emery & Garrett Groundwater, Inc., said the salt concentrations in and near the wells are increasing. They are not attributable to this site but to activities throughout the Wellhead Protection District. Chairman Best and Alastair Millns noted that no salt has been used since 1983. Only sand is used and the snow is

pushed into a ditch. The building has been vacant for four years, so the salt is not from this site. Jeff Marts said that lifting the ban would add salt in this area. Nelson Disco said the site was rezoned for industrial use as a special industrial zone so that salt use near the wells could be controlled. “No salt” commitments were made. He is opposed to allowing any salt on this site. Lynn Christensen asked about installing heated walkways, which Alastair Millns said Merrimack Premium Outlets and Dunkin Donuts would install. James Petropulos will consider them. He agreed to the proposed condition of approval.

Sidewalks. Lynn Christensen noted that MVD may move its office and asked whether one could walk across Atrium’s site on its internal walkways to connect to MVD’s new site without a sidewalk. Alastair Millns showed where people cross now from the ball field. James Petropulos said people could do so, but there is a shoulder for runoff from Continental Boulevard.

John Segedy asked whether tractor-trailers would come at night. James Petropulos answered in the negative. The first shift is during normal business hours from 7:30 a.m.-4:00 p.m.

Alastair Millns noted two points of access on Greens Pond Road. James Petropulos said one would be paved for trucks. Alastair Millns asked whether sidewalks were discussed with the Public Works Department (PWD). It is his opinion that tractor-trailers might quickly wreck paving between the two entrances. That section of road should be improved. Tim Thompson said PWD did not comment on that in its review.

Stanley Bonislowski asked whether a \$35,000 payment in lieu of sidewalk construction would be for sidewalks on both sides of the property. James Petropulos replied that no one would walk on Greens Pond Road. There is plenty of room to walk Atrium’s 55-acre campus. A sidewalk waiver is sought for frontage on Greens Pond Road. The applicant would build some sidewalk for \$35,000. Chairman Best said that the Planning Board and Town Council must decide where to put the money. If it is not used, it will be returned to the applicant. If the Town decides on a plan, it can use the money for a sidewalk. He asked if \$35,000 is the real cost for building a sidewalk on this property. James Petropulos answered in the affirmative. Inflation and future costs are included. He showed where a 5’-wide sidewalk could be built in front of the property. Chairman Best said it must be the actual cost rather than derived from a formula. James Petropulos said he could either get a price from an acceptable contractor or use the Town’s form. He did the latter for the waiver request. Tim Thompson said the Planning Board must decide whether the amount should be based on a sidewalk on the property or in the right-of-way. Chairman Best read the Ordinance stating that the money must be used for “related needs created by the project” and that the Town hold [the money] as restricted revenue to be used only for a sidewalk with Planning Board approval.

Lynn Christensen asked why Atrium seeks a waiver if it is willing to make an “in lieu of” payment. James Petropulos replied that waiving a long piece of frontage on Greens Pond Road is not a complete waiver. The cost to build a sidewalk all around the property is astronomical. Significant improvements could be made by adding Atrium money to the Dunkin Donuts money. Chairman Best said there is a sidewalk on the opposite side of Continental Boulevard coming toward this property. Combining Atrium’s and Dunkin Donuts’ money could pay to connect to that. Lynn Christensen agreed that building on the opposite side would make a contiguous sidewalk. John Segedy said a sidewalk is needed on both sides. Pedestrians use that side of the road without a sidewalk now. Alastair Millns said a walk north on this side of the road against traffic at the bend leaves no space for a sidewalk. There is a walk on the other side of the road, but not on this one. Chairman Best said an “in lieu of” payment allows for planning and coherence. Stanley Bonislowski noted that, if Atrium is willing to build an internal sidewalk from the parking lot to Continental Boulevard mainly for its employees, it can do so on Continental Boulevard mainly for Town residents.

Nelson Disco repeated Lynn Christensen’s question: why is a waiver needed if an “in lieu of” payment is made? Lynn Christensen explained that there would be an entire waiver on two streets in exchange for payment. Nelson Disco asked if Atrium would be willing to build a sidewalk instead of paying the money. Lynn Christensen replied that the money would be for not building a sidewalk on the Greens Pond property and for giving the Town the funds to build sidewalks on Continental Boulevard. James Petropulos said it is possible to construct a sidewalk on Continental Boulevard. There is no comprehensive Town sidewalk plan. It is dangerous to build a sidewalk with a dead end. Professionals should determine the best use of the money. It is better to use the money for a crossing than to build a sidewalk high on ledge in the woods. There is no need to build a retaining wall.

John Segedy said money in place of a sidewalk puts the Town in the sidewalk business, which is not a good idea. Chairman Best noted that the Planning Board did it for Dunkin Donuts. A little money is almost useless, but building a pool of money is reasonable. The Board already crossed that bridge. Tom Koenig said waiving a sidewalk on Greens Pond Road would not make it a thoroughfare. Continental Boulevard will continue to grow and will become one. A sidewalk must be built before making a decision about where to put a crossing, but there is no guarantee it could be done in two years. More time is needed. James Petropulos said the Outlet’s lower 18 acres have much frontage on Continental Boulevard. Combining Atrium’s money with money from the Outlets and Dunkin Donuts would give the Town some horsepower. Chairman Best agreed with Tom Koenig about Greens Pond Road, but there would be little traffic even with eight trucks daily, so it is safe to walk there. Lynn Christensen said that any traffic on

the unpaved section of Greens Pond Road would put vehicles in jeopardy. It will not get any amount of traffic. To walk on it is safe.

She likes having the money while studying an entire area, then deciding what makes the most sense. The Town should be given options about where to put a sidewalk. It should not force one where it will not make sense in a few years. Alastair Millns repeated that the Ordinance says money for a sidewalk would be expended only “with the approval of the Board”. Stanley Bonislowski noted that the Board already approved a payment from Dunkin Donuts with the provision that the Town makes a decision in two years or the money must be given back. He urged doing the same tonight. Chairman Best said that the Dunkin Donuts money is available for a sidewalk where the Planning Board determines in the general vicinity of Continental Boulevard.

Since the Board set a precedent, Stanley Bonislowski said he would have to approve. Chairman Best explained that it is not a precedent; it is following the Ordinance rather than granting a waiver. It is not about saving money, but about having enough money to build a sidewalk in a sensible way. Tom Koenig said Dunkin Donuts is not a precedent because there is confusion about who owns the right-of-way. It was a special situation. There was no reasonable alternative.

James Petropulos said that, if a sidewalk were built, the Town would want a public easement over it. Atrium is proposing a sidewalk on its own property. It is five times more expensive to build on the right-of-way because of the curbing, drainage and power poles at that location. \$35,000 is the price of building a sidewalk on Atrium’s property. Chairman Best added that there is no right for a public easement on internal sidewalks. James Petropulos suggested a blanket public easement over the sidewalks.

Salt. Alastair Millns said no de-icing compounds should be used so close to wells. Heated sidewalks are the solution. Chairman Best likes the idea that the applicant has the flexibility to submit a management plan that uses something other than sodium chloride that MVD would approve. Tom Koenig agreed that the parking lot and road salt ban continue, but that Atrium be allowed to review other ice control options on sidewalks. A total ban is very restrictive. Tim Thompson said the site plan states that “limited de-icing” is allowed. His staff will discuss it with MVD and Atrium. Chairman Best stated that a no-salt ban and working out a salt management plan can be a condition of approval. Tim Thompson suggested wording to be added to Condition #5 and maintaining Technical Comment #4b about sodium chloride.

Traffic. Chairman Best agreed with Nelson Disco to monitor traffic for one year rather than block off the northbound lane to make a left turn lane. Lynn Christensen suggested CLD’s response be included in the monitoring. Tim Thompson suggested monitoring wording that would be General Condition #2. James Petropulos said that is a reasonable solution if there is

agreement on the amount. He wants a decision one year after Certificate of Occupancy or 18 months from now.

Lynn Christensen said a sidewalk waiver is warranted because of the specific circumstances of the site.

The Board voted 7-0-0 to waive the requirements of Section 7.04(4)(r) - Sidewalks - along Greens Pond Road because specific circumstances relative to the conditions of the land indicate the waiver will properly carry out the spirit and intent of the regulations, on a motion made by Lynn Christensen and seconded by Stanley Bonislawski.

Nelson Disco and John Segedy prefer to build a sidewalk now and are uncomfortable with the Town managing the fund. Tom Koenig explained that the Town has no problem doing so; the Finance Department is capable of managing the account. How it is to be spent is clearly defined. A decision can be made whether to involve Town Council now or later, but the Planning Board would have veto power. Chairman Best agreed. It is difficult for the Town to develop a sidewalk plan, establish easements, hire a contractor, build sidewalks, etc. Time may lapse and the money would have to be returned to the applicant. He prefers a larger rather than a smaller pool of money. Lynn Christensen said adding money to Dunkin Donuts' money would give the Town more incentive to act. The Board can take the money and decide to build a sidewalk within two years. Nelson Disco meant that it is a big project for the Town to do within the time allotted and asked who would do it.

The Board voted 5-2-0 that the applicant deposit money into Town funds in lieu of constructing a sidewalk on the applicant's property within two years from Certificate of Occupancy and used for sidewalks in the general area or the money be returned to the applicant, on a motion made by Lynn Christensen and seconded by Alastair Millns. John Segedy and Nelson Disco voted in the negative.

Tim Thompson said that staff and the Town Manager are excited about the project. It is another economic development boost to the Continental Boulevard corridor, represents a substantial contribution to the Town's non-residential tax base, as well as creating a significant new employer in Merrimack. Chairman Best agreed that it is a great proposal.

Alastair Millns added wording about PWD comment on the condition of Greens Pond Road to Condition #3. Stanley Bonislawski said that voting against the Condition would defeat final approval. Lynn Christensen asked if the Board is requiring the applicant to rebuild the road if PWD says it is in poor condition. Alastair Millns said Atrium could tell how to get tractor-trailers on the road without rebuilding it (e.g., hammerhead). Chairman Best said PWD and Atrium could work it out. Atrium is not required to fix the roadbed. James Petropulos explained why the Town is holding the stub end of Greens Pond Road.

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

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

1. 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 at the Hillsborough Country Registry of Deeds;
2. Satisfactory resolution of site and traffic review comments contained in CLD's letter;
3. Satisfactory resolution of review comments from the Fire Department, PWD (including the Wastewater Division and comment relative to the pavement condition of Greens Pond Road between the two site driveways), and Building Department. PWD to comment on the condition of Greens Pond Road;
4. Satisfactory resolution of the comments from the Conservation Commission's letter dated June 19, 2012;
5. Satisfactory resolution of any review comments from the Merrimack Village District (including provision that no sodium chloride be used for deicing on the site), as determined by the Community Development Department;
6. Applicant to receive and submit a copy of the NHDES Alteration of Terrain Permit, the NHDES Sewer Discharge Permit and the Town of Merrimack Sewer Connection Permit from the Public Works Department, Wastewater Division. The applicant shall add the permit approval numbers to the notes on Sheet 1 of the plan set;
7. Address the Planning Staff Technical Comments (see below).

Planning Staff Technical Comments

1. Please review the recordable sheet to ensure it meets the standards of the HCRD (LLS stamp, hatching, etc.);
2. Building Elevations to note colors as required by the regulations;
3. The applicant has clarified the location of proposed ground sign on the master site plan; however, it does not appear on any other sheets in the plan set. Given the scale of the master site plan, it is difficult to determine compliance with setback requirements. Please add a small layout exhibit (at an appropriate scale) on one of the site layout sheets to clarify the design intent, and allow for determining compliance with setback requirements;
4. Please address the following on Sheet 1:

- a. Note the Classification of Greens Pond Road and Continental Boulevard [This applies to all applicable sheets. The status (“public”) is noted, but the classification is missing.]
 - b. Add Note #12 from original site plan approval: “Sodium chloride shall not be used on this site.” Please note that Note #12 from the original site plan approval refers to “project” and not “site”. The word “site” is suggested to clarify that the restriction shall continue to apply to the existing site improvements as well as to the improvements currently proposed.
5. Please address the following on Sheet 9: Please revise the retaining wall note to include: “Prior to issuance of a building permit, engineering design for each type of retaining wall proposed for construction to be stamped by the appropriate professional licensed in the State of NH and submitted to the Building Division for review and approval”;
6. Please address the following on Sheet 24: Revise “hay” to read “straw” in Note #4 under Preventive Maintenance notes;
7. Please address the following on Sheet 27: Remove Note #11, if there is to be no irrigation plan as stated in the applicant’s response letter.

General and Subsequent Conditions

1. The applicant shall 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;
2. The applicant shall coordinate with the Community Development Department on establishing an appropriate financial guarantee related to the monitoring of the traffic patterns at the site driveway relative to the peer review comments concerning the need for a left turn lane northbound on Continental Boulevard at the site driveway. The monitoring shall take place for one year following issuance of a Certificate of Occupancy, and data shall be reviewed by the Town and its peer review consultant relative to the operations of left turns at the main site driveway. Should the data result in the need for additional improvements (including, but not limited to, installation of warning signage or lights, left turn lane striping, or other alternative resolution as deemed appropriate by the Town and the applicant), the applicant shall be required to return to the Planning Board for a public hearing to determine appropriate resolution to the left turn issue.

4. Discussion and possible action regarding other items of concern

Edward and Jacqueline C. Janas – Voluntary Lot Merger for Tax Map 2C, Lots 052 & 052-1, also known as 56 Tinker Road & Tinker Road respectively.

Chairman Best explained that the lot merger is for notification only.

Tom Koenig reported flashing lights at Jia's Market on Amherst Road. Alastair Millns added the bright light near Burger King.

Chairman Best announced that there are openings on three boards. The Planning Board terms of Nelson Disco and John Segedy end tonight. Nelson Disco will continue to be an alternate and to serve on the Town Center and the Master Plan Steering Committees. Chairman Best thanked both for their many years of service and wisdom.

5. Approval of Minutes

The minutes of June 5, 2012, were approved, with changes, by a vote of 6-0-1, on a motion made by John Segedy and seconded by Alastair Millns. Nelson Disco abstained.

6. Adjourn

The meeting adjourned at 9:38 p.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by John Segedy.