



# Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

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## **MERRIMACK PLANNING BOARD**

### **APPROVED MINUTES**

**TUESDAY, AUGUST 21, 2012**

Planning Board members present: Robert Best, Alastair Millns, Tom Koenig, Michael Redding, Lynn Christensen, Desirea Falt, and Alternates Nelson Disco and Matthew Passalacqua (left at 11:15 p.m.).

Planning Board members absent: Stanley Bonislowski (attended in capacity as a applicant) and Alternate Pete Gagnon (attended in capacity as concerned citizen).

Community Development staff: Community Development Director Tim Thompson, 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. Announcements**

Chairman Best announced that Stanley Bonislowski and Pete Gagnon have recused themselves from discussing and voting at this meeting in order to testify concerning agenda item #5.

Chairman Best designated Nelson Disco to sit for Stanley Bonislowski.

The Planning Board and Master Plan Steering Committee will meet on September 11 and 18, 2012, respectively.

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

None.

#### **4. Presentation of an Eagle Scout Project – Watson Park.**

Eagle Scout Joseph Parker, 4 Linda Lane, proposes to build a pergola and two picnic tables with pressure-treated lumber on a 4" thick concrete slab 150' from the Souhegan River near the picnic tables. His project is consistent with the Master Plan for Watson Park. The pergola would be 20'x12' and 14' high. Since the soil in the area cannot be disturbed below 2' from the surface, the excavation would be limited to this depth, using concrete reinforcement and dead men to stabilize the structure. Vines would grow over the top. The pergola would be a place for visitors to enjoy the shade and the view of the Souhegan River. Joseph Parker will hold a pancake breakfast on September 1, 2012, at the Church of the Latter Day Saints at \$20 per ticket to raise funds. The project would begin in mid-

September 2012 and take three whole Saturdays to complete. Volunteers are welcome. Local businesses will make donations. Because it is in the Shoreland Protection District, Joseph Parker will discuss the project with NH Department of Environmental Services (DES). At the Planning Board's suggestion, Joseph Parker will look into rebar reinforcement and cooperation with the pavilion project.

**5. Parker Village Condominium Association (Applicant/Owner) – Review for consideration for 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) and Aquifer Conservation Districts, and the Elderly and Planned Residential Overlay Districts, and the Wellhead Protection Area. Tax Map 5D-2, Lot 004. This agenda item is continued from the June 19<sup>th</sup>, 2012, meeting.**

The applicant was represented by: Attorney Amy Manzelli, Baldwin & Callen, PLLC; Tracy Madden, Harvard Management Company; and Stanley Bonislawski, President, Parker Village Condominium Association.

Community Development Director Tim Thompson said he met twice with Merrimack Village District, the applicants, and MVD's consultants and agreed on most of the terms. Chairman Best said an August, 20, 2012, e-mail from the Merrimack Conservation Commission states it wants an opportunity to provide an updated recommendation from the one it submitted on December 11, 2011.

Attorney Manzelli said it is an appropriate balance between protecting drinking water and the safety of Parker Village residents. Parker Village should be allowed to use "some" salt. After two meetings with MVD, there is no agreement as to the exact quantity to be allowed. She submitted to the Board her August 14, 2012, letter listing all the other terms on which there is agreement; Tim Thompson's August 15, 2012, memo recommending conditions of approval; MVD's/Emery & Garrett Groundwater, Inc.'s August 14, 2012, suggested conditions; and her color-coded August 21, 2012, memo listing the various recommendations of Parker Village, MVD, and the Department of Community Development based on those documents. Attorney Manzelli read out each section and explained the differences in the recommendations.

Parker Village agrees to the Department of Community Development recommendation limiting salt to 297 pounds per acre per application at The Commons and 288 pounds per acre per application at Parker Village; the MVD recommends limiting it to 70 tons per winter at Parker Village and The Commons combined. Parker Village opposes a cap for two reasons: it may use 70 tons even if it is not necessary, simply because it is allowed to and a cap may not protect safety in a severe winter. The Department of Community Development's recommendation limiting each application is more realistic. An average of 288 pounds per acre per application at Parker Village represents a 30% average reduction in actual salt usage during the winter seasons 2010 to early 2012. Parker Village wants the maximum reduction for safety and for clearing roads. There are 6.83 acres in Parker Village and The Commons. If MVD is not satisfied, it can refer the matter to the Planning Board for a compliance hearing at any time.

Attorney Manzelli said Parker Village prefers an application maximum to an event maximum because no one knows how severe a storm will be. Parker Village applied an average of 534 pounds per acre per application two years ago. It was a bad winter and the contractor was not yet trained to reduce salt. In early 2012, it applied an average of 317 pounds per acre per application. Attorney Manzelli does not know which salt usage has a greater effect on the wells. In a heavy snow/ice winter, more salt is used between applications in one storm. There is more snow to plow and more snow melts. The Commons allows more because residents demand more. Its application rate would be 297 vs. 288 pounds per acre per application. It has no limit.

Attorney Manzelli agreed to Chairman Best's suggestion that the same average be required for both sites.

Stanley Bonislowski stated that new measuring machines could be set for how much de-icer is applied. The amount of freezing rain rather than the amount of snow determines how much is used.

Tim Thompson noted General & Subsequent Condition #2: "This approval is contingent upon the continued cooperation of "The Commons" project located at Tax Map 5D-2, Lot 002-1 (with "The Commons" to adhere to an application rate of 300 pounds per acre per application and a limit of 70 tons per season). If at any time "The Commons" withdraws from the agreed-upon program with Parker Village and MVD, a Compliance Hearing with the Planning Board (within 30 days of notification of the withdrawal of "The Commons" from the agreement) will be scheduled to determine the appropriate course of action." Attorney Manzelli said Parker Village worked hard to get The Commons to agree to participate. The Planning Board cannot impose a site plan amendment on The Commons. Parker Village would take 100% risk of The Commons' participation. Approval would cease if it pulls out. Chairman Best agreed that The Commons agreed to a lot, but since the Planning Board has no control over their site plan, it has no control over their participation in this plan. It is not an optimal situation.

Attorney Manzelli said that Parker Village feels very strongly that a 70-ton limit is not consistent with minimum safety for its 55+ residents. If the plan were approved, Parker Village would be the first property in Merrimack to implement all the recommendations in Emery & Garrett's draft mitigation plan and will protect water and promote safety.

Parker Village agrees that any contractor performing snow/ice removal operations shall be required to be certified every five years. Not every truck driver is certified; some just plow snow. Snow Management Contractor Jim Lambert and his son are the only ones who apply product and will be certified. Chairman Best and Tom Koenig prefer re-certification every two years; Alastair Millns prefers it yearly. Attorney Manzelli said yearly re-certification is not cost effective for the contractor. Both Magic Salt and re-certification are costly.

Parker Village hopes to use less than the average limit and to reduce salt use every year. The snow management plan would be based on data about how much is used each time.

Michael Redding and Nelson Disco asked for a comparison of application rates with water quality in the wells. Amy Manzelli referred to the August 8, 2012, MVD and June 20, 2012, Emery & Garrett letters appendices about Wells 4 and 5 and stated that there is no direct relationship between Parker Village's application of salt with the increase of sodium and chloride in the wells. Some of Parker Village's salt goes into the wells, but salt also comes from many other sources. It is not reasonable to limit the amount Parker Village can use because of what happens in the well. The increases began well before Parker Village could have had an impact.

Chairman Best asked whether the areas listed on the hand-written figures about Parker Village's and The Commons's parking lot square footage are treated by trucks or another way. Attorney Manzelli replied that some roads and sidewalks at Parker Village are not treated at all and are not included. She does not know about The Commons. Stanley Bonislowski said Parker Village sidewalks are just shoveled. Attorney Manzelli added that sidewalks between driveways are not treated. Walkways to homes are just shoveled. Chairman Best noted that Parker Village sidewalks should be excluded from the calculations.

MVD was represented by: Attorney Greg Michael, Bernstein Shur; Jamie Emery, President, and Jeff Marts, Project Manager/Geologist, Emery and Garrett Groundwater, Inc.

Attorney Michael explained that the wells were in place before the area was developed. Salt was restricted because of sodium infiltration. Parker Village contributed significantly because of its illegal salt use. Any impact is a very significant problem. MVD will participate in the agreement because it applauds the idea of including The Commons condominiums, although The Commons actually includes a shopping center. To treat the two wells would cost \$4-\$5 million. Salt does not make things safe, but MVD respects Parker Village's needs. Most Parker Village applications were over 280 tons; The Commons was worse. Why was salt not reduced before? Why were these uses allowed to continue so long? What is the cumulative effect? What are the hydraulic issues? What would be done differently if the plan does not work? Is there a plan? A significant salt increase will cause failure. What other sources can be found to meet Town needs? Effective sanding and plowing and minimizing or eliminating salt would bring safety. The plan must be monitored frequently and carefully.

Jamie Emery said that Emery and Garrett Groundwater set the standards for Merrimack Premium Outlets. Too much salt contaminates water. He and Jeff Marts are licensed hydro-geologists who have worked with MVD for over 15 years. Showing a graph from 1992-2011, he said that Parker Village and The Commons are very significant contributors to the well recharge area. 407 tons are applied to the Wellhead Protection Area annually. In 2011, 105 tons were applied to The Commons and 84 tons to Parker Village, for a total of 189 tons or 40% of the 407 tons. The wells pump some of it out. The solution is to set a target for the maximum number of tons that can be applied. A limit of how much salt goes in must be diligently set. MVD's recommendation is based on a Plymouth State University study, which uses 6.4 tons per acre. Doubling and rounding that up to

10 tons per acre x 7 acres = 70 tons, which is a substantial improvement over 189 tons per year. Jamie Emery and MVD recommend capping how much salt goes into the well. The Town set a standard by disallowing salt use on Front Street. Parker Village and the Commons working together is the next step. Jamie Emery and MVD are allowing twice the Plymouth State average amount and offering a chance to make an improvement. As at the Outlets, water quality must be included. A rate per application is not verifiable and has no limit. Begin with a cap and stop when the total is reached. MVD has the right and the obligation to follow its professional consultants' recommendation to protect this resource. 189 tons annually = 30.2 tons per acre per year at The Commons and 25 tons per acre per year at Parker Village, a much greater reduction than 30%.

Chairman Best noted that MVD and Jamie Emery differ from Parker Village about whether Parker Village contributed to the salt in the well. Jamie Emery said Parker Village comprises 20% of the total amount of salt going into the entire watershed. The data show a stark change in gradient before and after Parker Village's construction. In his view, there is no argument that Parker Village is the cause.

Alastair Millns noted that 70 tons and an average of 288 pounds per acre = 77.77 applications annually for Parker Village and suggested using both figures. A cap of 70 tons is generous and should not be exceeded. Jamie Emery has no issue with using both. The debate is about how much salt to add. Nelson Disco agreed with Alastair Millns about requiring both figures and that 70 tons is reasonable. There should be an analysis of water quality data as part of the annual review of ice management and snow removal operations. "Event" and "average" must be defined. Does MVD agree that Parker Village would purchase automatic conductivity dataloggers in an existing MVD monitoring well and in one of the MVD Production Wells and that MVD would install them? Chairman Best asked whether MVD would prefer installation of one additional monitoring well or the purchase of automatic conductivity dataloggers. Attorney Michael said MVD wants MCC's opinion. Tim Thompson said that is why he proposed the following condition:

"That MVD and Parker Village shall coordinate with one another and agree upon one of the following alternatives (including determination of costs and installation):

- i. The installation of one additional monitoring well to characterize groundwater down gradient from Parker Village at a location approved by MVD; or
- II. The installation of automatic conductivity dataloggers in an existing MVD monitoring well and on one of the MVD Production Wells."

Attorney Michael said The Commons must be part of the agreement or it will stop. Lynn Christensen said Parker Village wants an exception to the no-salt restriction. If the amount in the well were to go up dramatically, then Parker Village would be part of the reason and the agreement must cease. Attorney Michael said MVD would agree only to a temporary rather than a permanent agreement. Chairman Best added that is because the number must go down to zero over time.

Alastair Millns did not want the Board to grant final approval at this meeting and recommended bringing a new agreement with a maximum of six weeks. Jamie Emery said the triggers must remain in order to identify quantitatively how the plan is working and is related to the drinking water standard. Chairman Best said monitoring and reporting would help Parker Village to adjust the application rate during the season.

Michael Redding said the two condominiums comprise a minor portion of the watershed. Parker Village is the only one the Planning Board can control. The Board must put things into perspective. Jamie Emery said it must balance how much goes in and out. To reduce tonnage from 189 to 70 tons would be a very substantial improvement to groundwater quality. If the salt level goes up, MVD will investigate these two properties first, then make a decision. Michael Redding warned against victimizing Parker Village if other sources are at fault. Jamie Emery replied that the data would be self-evident.

Lynn Christensen asked whether there would be the same effect from applying 100 tons five times vs. 500 tons one time. Jamie Emery said it is complicated. Stormwater systems must be reassessed to see if they are working the way they are supposed to (moving runoff with salt to another location). There would be less of a problem applying 500 tons one time because it would leach slowly through the system. 100 tons might be enough to move it through the system. There are many factors. An average of 288 pounds is ok. He is certain Parker Village is at fault because of the large amount of salt: 84 tons out of 400. There may have been less in the last 4-5 years because no salt is allowed on Front Street. An analysis could be done. Michael Redding said safety is Parker Village's issue and must be balanced against the environment. Jamie Emery said we must move in the direction of looking at every other salt user in Town.

Tom Koenig said that Merrimack must review salt use, but the Planning Board cannot police the effort. MVD has a vested interest. Who should work on salt use in the entire area? Jamie Emery said the Planning Board could review it when an application, such as the Merrimack Premium Outlets, comes before it. Community activists must get the word out that everyone has a role. The Planning Board and Town Council have a large say by supporting MVD and making people work together. MVD cannot enforce. Tom Koenig said the Board and MVD must educate and advocate for no salt usage. Chairman Best said that Master Plan must include this concept.

### **Public comment**

Pete Gagnon, 130 Bedford Road, distributed the zoning requirements for the soils overlay on all subdivisions. He said an engineer must meet best management practices to prevent contamination of groundwater and very permeable soils. This is an aquifer and must be protected. It is dangerous to play around with this soil. Pete Gagnon supports a 70-ton annual limit for both sites. We must rely on studies. The Commons is an integral participant for this to work. In its July 20, 2012 letter, Emery & Garrett state, “. . . The sodium and chloride levels in the two MVD Production Wells have significantly increased. There is no doubt that this increased salinity at the Production Wells is a result of salt application at Parker

Village.” The residents of Parker Village were victimized by the developer, who did not tell the condominium association about the no de-icer restriction. Perhaps damages should be sought. Pete Gagnon agrees with Attorney Michael. This is the first time MVD took a positive stand on behalf of the Town and its wells in his 38 years on the Planning Board and he applauds that. The Planning Board placed the restriction because of these soils. It required MCC to review subdivision plans, although MCC cannot impose restrictions. That is the Planning Board’s duty. The soil is another culprit. MVD has a duty to educate the public. This site is a perfect example of what can go wrong when things break down and why the Town must educate the public about how to manage salt applications. Pete Gagnon cited previous problem cases. He said that landscapers and groundskeepers must be educated about fertilizers and soils. The NH Department of Agriculture through USDA would provide training in the soil survey. Landscapers and groundskeepers are not regulated or certified. Pete Gagnon volunteered to work with MVD and Tim Thompson to begin the education process. He wants to be sure the Town would not be liable/held harmless for the Parker Village agreement and not have to pay to clean up the wells. Emery & Garrett’s is the best report he has seen. He suggests using free Department of Agriculture and University of NH resources. Michael Redding added that the Town must look at how to conserve its natural resources.

Tim Tenhave, Chairman, Merrimack Conservation Commission, reported that the MCC met on August 20, 2012. It has not discussed this matter since December 11, 2011. The MCC realized it had not read all the information and asked the Planning Board for an opportunity to review it again and potentially make a new recommendation. It will try to do so at its next meeting on September 17, 2012.

Attorney Manzelli said MVD and Parker Village invested a lot of time and effort trying to resolve the issue. This is the absolute best they can do; they cannot do better. They need the Planning Board’s help to make a final decision. The Board has all the information it needs. There will not be a contract all parties would sign, but Parker Village requests an amended site plan with conditions. The approval would be valid only when all the conditions are satisfied. Attorney Manzelli requested final action at this meeting with conditional MCC review and continued support for the current complete application. Without MCC support, there would be no approval; with MCC support, the applicant would not have to return to the Planning Board. Parker Village has paid for three appearances before the Planning Board so far.

Attorney Manzelli continued: There is doubt that Parker Village is responsible for the rise of the salt level in the wells. How is the salt retained? How much comes from runoff? Where does it go? Jamie Emery said it has not been characterized. The soils are very permeable, but there is a lot of impervious cover at Parker Village. The water does not go into the ground from its roofs, decks, roads, and sidewalks. Neither Wells 4 nor 5 are at the 250-milligram standard. Parker Village should not bear a disproportionate burden for the Town’s salt problem. Salt was an existing use before the Planning Board knew about limiting salt. The Commons can use as much as it wants to forever with no controls. That is not a reason to

ask Parker Village to bear too much of the burden. This proposal would reduce the tonnage going to the wells. 84 tons in 2010-2011 at Parker Village is a guesstimate. Last year it used 8.7 tons in 21 applications. If there are 30 applications next year, that would be an average of 288 pounds per acre or 15 tons. To exceed 70 tons, Parker Village would have to make more than 77 applications. It must be able to provide safety for its 55+ community and be in compliance. Parker Village strongly opposes a cap because it would have to exceed it in a very bad winter. Plymouth State's circumstances differ from Parker Village's (private roads and parking lots vs. public roads and driveways). A college/university differs from condos/apartments and is subject to different federal regulations. There is a huge range of tonnage in the reported data. The site plan prohibits any de-icer, which is a much bigger restriction than no salt. There are no data about Parker Village salt use for the first few years. Wells 4 and 5 are already tested quarterly, so quarterly reporting would not be an increase. There are many remedies that are enforceable by the Planning Board.

Lynn Christensen asked if Parker Village would violate/ignore the cap/condition in a severe winter. Attorney Manzelli said that, if the cap were reached and there were a snow event, Parker Village would reluctantly have to violate the condition in order to provide for a minimum amount of safety. It would make a very concerted effort to comply. Lynn Christensen saw no need to de-ice the area because it has short streets, is level, and has little traffic. The road outside the development is not de-iced, so there is no public safety issue. Sand can be used. Attorney Manzelli said MVD respects that Parker Village needs to use de-icer. Parker Village wants to reduce its liability for an auto accident or fall. Chairman Best noted that Parker Village does not treat but shovels driveways and sidewalks and wants to salt roads where cars go. That is not a slip and fall situation. Attorney Manzelli said many residents walk along the streets. Chairman Best questioned how that limits liability. It is better to shovel walkways and driveways.

Attorney Manzelli prefers the option that Parker Village purchase one connectivity datalogger and give MVD an access easement to install one monitoring well at its own expense.

Chairman Best wants to know what plan was discussed and what was allowed at the two meetings on June 19 and August 21, 2012. More items must be clarified. He supports relief, but not based on this document. He wants MCC's opinion and specific Planning Board and MVD recommendations. Tim Thompson wanted the Board to give staff direction about conditions. Robert Best prefers that the Planning Board decide on an annual seasonal cap. Alastair Millns wants the Board to agree to caps and tonnage and wants a concrete commitment from The Commons. Chairman Best said the Board does not have to force The Commons if it tells Parker Village to meet conditions that include The Commons. The site plan is the only thing that is binding. Nelson Disco agreed.

Tom Koenig wanted to set an average of 300 rather than 290 pounds per acre per application per year to loosen pressure on The Commons to participate. Chairman Best said The Commons could do 77 applications per season with a 70-ton limit or an average of one ton per application per season. According to the

professionals, the difference does not matter as much as the total. Plymouth State has many walkways and is harder to manage. It has to achieve a higher standard. The Town does have several no-salt sites and can manage safety with no salt. Therefore Chairman Best is not persuaded by the safety argument. He does support the proposal because it would reduce salt use by The Commons. Desirea Falt asked why there is a no de-icer restriction and whether it is because there is salt in all de-icers. Chairman Best said many alternatives contain chloride. Only Magic was discussed. Nelson Disco said it is because of the cost of other products.

Michael Redding said that agreement on the total amount of salt and other key issues means the Board is close to approval. Community Development can handle the other items. Stanley Bonislowski appeared before the Board as early as January 2012. It is time for the Planning Board to act.

Chairman Best wanted all conditions and MCC's recommendation in one document. Nelson Disco noted that MVD and the applicant could not agree after six weeks. Chairman Best, Nelson Disco and Tom Koenig wanted the Board to impose conditions and make a decision at this meeting.

**The Board voted 6-1-0 to provide consensus of the Board that the plan to include an average seasonal limit of 290 pounds of de-icer per acre per application and a seasonal cap of 70 tons of de-icer for both Parker Village and The Commons, on a motion made by Alastair Millns and seconded by Lynn Christensen. Tom Koenig voted in the negative.**

Chairman Best said there is a very small difference between 290 and 297 pounds. Tom Koenig said 70 tons is a more important number. He wanted to keep the pressure off The Commons.

**The Board voted 7-0-0 to provide consensus of the Board to impose an average seasonal limit of 300 pounds of de-icer per acre per application for both Parker Village and The Commons, on a motion made by Tom Koenig and seconded by Desirea Falt.**

Tim Thompson wanted Planning Board direction about monitoring and measuring at wells, action levels and financial responsibility for the dataloggers and monitoring well.

Chairman Best said The Commons should not be able to opt out, but must commit to the proposal or the Planning Board would have no leverage to make the plan work. Tim Thompson said abutters would have to be notified and a public hearing held because it would modify The Commons's site plan. Chairman Best said that, if The Commons opts out, Parker Village would be out of compliance. There must be effective enforcement. Lynn Christensen said The Commons could not be held accountable because the plan is not for the entire Commons but only for a piece of it (the condominiums). Tom Koenig said it would be good if The Commons is willing, but it is Parker Village's problem. A loose situation would get The Commons to make it work. Tim Thompson said it would be a safe situation because both must report to MVD, who can make them come back to the Planning Board. He is comfortable with it as written.

**The Board voted 7-0-0 to provide consensus of the Board that Parker Village provide two automatic conductivity dataloggers to monitor two wells and provide for reasonable access for MVD to install a monitoring well on Parker Village property and that MVD be responsible for testing, on a motion made by Lynn Christensen and seconded by Alastair Millns.**

Michael Redding said other alternatives could contribute to high salt levels. He urged investigating the cause rather than ceasing operations if a certain level were sampled. It would be too sweeping an action with a large impact on Parker Village. Lynn Christensen repeated that no one could determine its cause. To cease using salt can only help, even if one does not know who is responsible. Tim Thompson suggested an alternative of building in a condition that MVD could return to the Planning Board if there is an issue. Lynn Christensen said that delay is unacceptable. Chairman Best said that, when giving Parker Village the legal right to use salt, the Planning Board could be able to allow salt loading only as long as there is capacity in the system. Tom Koenig said it would be harsh to stop operations if an individual chloride sample exceeded 240mg. in Well 4 or 250mg. in Well 5. That is only a 10mg. difference per liter. Chairman Best suggested taking two consecutive samples or an average rather than one sample. Jamie Emery said 250mg. is the EPA and State drinking water standard/goal. The applicant could take another (4) sample(s) immediately if it goes over 250mg. A running average benefits the applicant. That is the condition to maintain drinking water standards. A test sample costs \$15; MVD could pay. It just needs information in order to make the right decision. One can sample in each season. The impacts of winter are likely to show up in the spring/summer sample when the ground thaws and can be used to plan for the following year. That lessens the odds of stopping in mid-winter. Sampling should continue in order to prevent one spurious reading. Four samples could be averaged. Chairman Best said all four samples could be done in one week in order to get real information and make a decision about what to do. Jamie Emery said the connectivity dataloggers would be very helpful in seeing what is going on. He asked the Board to change “or” to “and” in the “Action Levels” section. Michael Redding said the Planning Board is doing the right thing with these criteria by providing an objective assessment before making a decision.

**The Board voted 5-2-0 to provide consensus of the Board to keep the MVD’s suggested Action Levels (section j.) with the change of “or” to “and” as part of the final agreement, on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig and Michael Redding voted in the negative.**

**The Board voted 7-0-0 to provide consensus of the Board that regular reporting following winter storm events from Parker Village’s and The Commons’ snow removal contractor/s to MVD within seven days following the requirement of product application, on a motion made by Alastair Millns and seconded by Lynn Christensen.**

Matthew Passalacqua left at 11:15 p.m.

**The Board voted 7-0-0 to provide consensus of the Board that any contractor performing snow/ice removal operations at Parker Village shall be**

**required to be certified through the “Green SnowPro” program at UNH (or mutually agreeable equivalent) and re-certified at least every two years, on a motion made by Tom Koenig and seconded by Nelson Disco.**

**The Board voted 7-0-0 to provide consensus of the Board that an annual submission of a snow management plan from Parker Village to MVD must be completed, coupled with an annual meeting between the two parties must occur to review salt/ice management, snow removal operations and water quality data at the Parker Village site, on a motion made by Tom Koenig and seconded by Desirea Falt.**

Tom Koenig favors approval because it is a compromise that allows a temporary ongoing effort. Chairman Best favors it because it allows Parker Village to move forward. He hopes it would not run over the cap and would find another solution. Alastair Millns, Lynn Christensen and Nelson Disco favor final approval only because The Commons would join, not because they favor increased salt use.

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 Tom Koenig and seconded by Michael Redding.**

1. The applicant shall provide updated sheets from the previous site plan approvals, removing the notes (#12 on the 2002 plan, #11 on the 2003 plan), replacing them with the following: “Collectively, Parker Village and “The Commons” residential development will be limited to a combined total of 70 tons of sodium chloride per winter for de-icing, with an average of 300 pounds per acre per application of sodium chloride. The Parker Village Association shall be required to renew this condition with the Planning Board at the first regular meeting of the Merrimack Planning Board in June of 2015 and every 2 years thereafter. At any such time that MVD determines that the use of de-icing compounds is detrimental to Wells 4 and/or 5, a Compliance Hearing with the Planning Board will be scheduled to determine the appropriate course of action. Alternatively (instead of modifying the previous plans), the applicant could provide a document to be recorded at the Hillsborough County Registry of Deeds indicating the above language and attach the document to the previously recorded plans at the registry (and provide a copy of the document for the Community Development Department files);
2. The applicant shall coordinate with MVD and provide documentation for the Community Development Department’s project file relative to the following:
  - a. Parker Village shall commit to utilization of alternatives to sodium chloride (such as Magic Salt, or equivalent) as much as is reasonably practical and financially feasible.
  - b. Parker Village will be limited to a “salt application rate” not to exceed an average of 300 pounds per acre per application for de-icing operations at the site, with a maximum of 70 tons per winter season divided between the Parker Village and the nearby “The Commons” residential

development. This application rate represents a 30% reduction in salt usage based on the average amount of salt per application used during the winter seasons spanning 2010 to early 2012.

- c. MVD and Parker Village shall coordinate with one another regarding the following:
  - i. Parker Village shall provide for appropriate access to their property for the installation of a monitoring well to be located on their property. The costs associated with the installation and monitoring of the well shall be the responsibility of MVD; and
  - ii. Parker Village shall purchase 2 automatic conductivity dataloggers. The installation and costs related to monitoring and testing of the dataloggers on existing MVD monitoring wells and/or production wells shall be the responsibility of MVD.
- d. If sodium or chloride concentrations in Production Wells MVD-4 or MVD-5 exceed the following action levels, salt use at Parker Village shall cease until salinity levels decrease. The applicant shall have the option of paying costs associated with resampling of the Production Wells prior to the next scheduled quarterly sampling event to determine if water quality parameters have improved.
  - i. Production Well MVD-4
    - An individual chloride sample shall not exceed 250 mg/l and the running average of four sampling events shall not exceed 150 mg/l.
    - An individual sodium sample shall not exceed 150 mg/l, or the running average of four events shall not exceed 125 mg/l.
  - ii. Production Well MVD-5
    - An individual chloride sample shall not exceed 250 mg/l and the running average of four sampling events shall not exceed 240 mg/l.
    - An individual sodium sample shall not exceed 150 mg/l, or the running average of four events shall not exceed 125 mg/l.
- e. Any contractor performing snow/ice removal operations at Parker Village shall be required to be certified through the “Green SnowPro” program at UNH (or mutually agreeable equivalent). Certification for operators must remain current, with recertification of operators at a minimum of every 2 years.
- f. An annual submission of a snow/ice management plan from Parker Village to MVD, coupled with an annual meeting between the 2 parties to review ice management and snow removal operations at the Parker Village Site, as well as a review and analysis of the water quality data.

- g. Regular reporting following any use of de-icing products from Parker Village and The Commons' snow removal contractor to MVD within 7 days following the any application of de-icing products.
  - h. A meeting to be scheduled between MVD, Parker Village, MVD's consultants, and the Community Development Department during 2015 (prior to the Planning Board meeting in June 2015) to discuss performance of the de-icing program, and the renewal of the condition noted in #1 above.
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 plans (or documents) at the Hillsborough County Registry of Deeds;

**The following general and subsequent conditions are placed on the approval:**

- 1. The applicant shall provide periodic updates to the Conservation Commission as stipulated in their December 2011 letter of support for the project. Additionally, the applicant shall meet with the Conservation Commission during September 2012 to review revisions to the plan since December 2011. Should the Commission withdraw support for the application; the applicant will not be permitted to utilize de-icers on the Parker Village Site without first returning to the Planning Board for further consideration of the application.
  - 2. This approval is contingent upon the continued cooperation of "The Commons" residential development located at Tax Map 5D-2, Lot 002-1 (with "The Commons" to adhere to an average application rate of 300 pounds per acre per application each winter season, with a maximum of 70 tons per winter season shared with Parker Village). If at any time "The Commons" withdraws from the agreed upon program with Parker Village and MVD, a Compliance Hearing with the Planning Board (within 30 days of notification of the withdrawal of "The Commons" from the agreement) will be scheduled to determine the appropriate course of action.
- 6. Student Transportation of America, Inc. (Applicant) and Merrimack RealtyTrust (Owner)** – Review for consideration for Final Approval of a waiver of full site plan review for a change of use to convert a former landscape contractor's yard to an operations, maintenance and dispatch center for the student transportation service contracted by the Merrimack School District, within the I-1 (Industrial) and Aquifer Conservation Districts, located at 14 Star Drive. Tax Map 3D-1, Lot 011.

Alastair Millns did not recuse himself from discussing and voting on this item because he is not associated with the applicant. He has related knowledge and can be impartial.

Gregg Stinson, Vice President of Operations, Student Transportation of America, has a five-year contract from 2012-2017. STA chose the location of 14 Star Drive because of its zoning and historic and neighboring uses. He uses clean,

smokeless and odorless diesel technology. The site allows for storing and maintaining vehicles in the garage. There would be three full-time employees. MCC made the following recommendations, which Chairman Best asked the applicant to distribute:

1. The use of ice-melting compounds be limited to an area in the vicinity of the building including the concrete area and other pedestrian ways adjacent to or leading out of and into the building;
2. The main gravel parking area of the parking lot not have ice-melting compounds used if at all possible and that use of sand only be encouraged;
3. The washing of buses/vehicles be done either off-site or in a manner to collect the dirty water, especially in the winter months when that water may contain salt and other de-icing compounds that have collected on the buses when they traveled on the roadways;
4. Snow storage areas marked on the map are acceptable to the Commission, but the storage of snow be kept so that any melting of the snow does not cause snow melt to drain offsite into the low area behind the applicant's lot.

Snow would be pushed to the east side of the lot. The property line would be delineated. No salt would be used. Fueling would be undertaken on site using a delivery tanker operated by a licensed and insured professional vendor service. Fueling would take place twice each week after normal work hours and would be supervised by one or more Company representatives always in attendance. Bus washing would be carried out by an insured professional service. The buses would be cleaned on a drive-on pad, which would contain the water for off-site removal. Again this work would take place after normal work hours and would be supervised by a Company representative. Alastair Millns suggested using the outdoor facility at Bon Bon's Mobil. Gregg Stinson would pursue getting a proper on-site fuel tank next year. Alastair Millns suggested using the one at Railroad Avenue. Parking would be as noted on the plan. Pre-combustion chambers would be used for cold starts. There is a 300-ton tank for waste oil, which would be picked up and removed by a recycling company. STA intends to lease the entire building for its operations. STA does not intend to pave the existing gravel surface. It would provide a spill response, do inspections daily and fix spills in the garage. Painted lines on the ground and/or a rope would delineate passenger vehicle spaces. STA would pour concrete over the manhole covers/dry wells. It would fuel vehicles twice a week. There is a 30'-wide controlled open-front access on the site.

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 Alastair Millns and seconded by Lynn Christensen.**

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

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

There would be lights on the corners of the building looking down onto the parking lot. There are none in the back part of the lot because cars park alongside the building. Most hours of operation are in daylight. The new lights are replacements for those on the plan. There is no vapor recovery on diesels.

Access through the 30' section would be controlled by an apron accessing the back side of the lot. Cars do not use the driveway. All vehicles on the side of the garage and in front face nose out. Then they drive out. Chairman Best noted that spaces 21-29 would go directly onto Star Drive. Gregg Stinson explained that he would turn Row 2 face-to-face and leave room to park cars in back. The driveway is hard-packed gravel. He would add crushed stone if it sinks.

Nelson Disco asked whether other businesses in back use the driveway easement as a right-of-way. Gregg Stinson it is for the business behind his. The buses would not use it. He would tell his employees to stay off that road. He would pay to clean up oil spills and would not leave oil on the property.

Staff recommends three possible scenarios:

**Scenario 1 Motion** – Should the Board require site improvements such as paving of the site (or portions thereof) as well as drainage improvements, the planning staff recommends the following motion:

**That the Board postpone voting on the merits of the application until such time that the applicant returns with an appropriately revised site plan.**

**Scenario 2 Motion** –

**That the Board grant permission/approval for the Operations and Dispatch Center, but restrict certain uses until concerns have been addressed to the satisfaction of the Board (e.g. fueling – where, how, frequency, containment of spills, etc., and maintenance of fleet).**

**Scenario 3 Motion** – Should the Board be satisfied with the proposed plan, the planning staff recommends the following motion:

**That the board grant final approval to the change of use site plan, with conditions to be fulfilled within six months (or prior to operating from the site, whichever is sooner) 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 Desirea Falt.**

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. Satisfactory review by the Conservation Commission;
4. Review and approval by the Fire Department of the Standard Operating Procedures Spill Response Policy;
5. Install permanent fuel tank by the start of the 2013-2014 school year;

6. Washing to be done off-site with recycled water or on-site by a licensed vendor utilizing a protected collecting tarp;
7. Address planning staff technical comments (see attached).

Planning Staff Technical Comments

1. Revise the Hours of Operation note on the plan to be consistent with the narrative;
2. Include a note describing the fleet vehicle fueling method(s);
3. Include a note indicating the current zoning;
4. Show and note any proposed fencing to be installed and include a detail of said fencing.

**7. Discussion of Draft Language of Amendments to Section 7, Table I Parking Requirements of the Subdivision Regulations**

Postponed to September 25, 2012.

**8. Two-Year Maintenance Bond Release Request for Greenleaf Street Subdivision – Public Works Department recommends the release of the \$16,386.44 two-year maintenance bond.**

**The Board voted 7-0-0 to release the \$16,386.44 two-year maintenance bond for Greenleaf Street Subdivision, on a motion made by Lynn Christensen and seconded by Alastair Millns.**

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

Tim Thompson will express the Planning Board's appreciation to Merrimack Premium Outlets for showing good faith by voluntarily adjusting the lighting.

**9. Approval of Minutes**

Postponed to September 11, 2012.

**10. Adjourn**

**The meeting adjourned at 12:03 a.m., by a vote of 7-0-0, on a motion made by Alastair Millns and seconded by Lynn Christensen.**