



# 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, OCTOBER 15, 2019**

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, October 15, 2019 in the Matthew Thornton Room.

Robert Best, Chairman presided.

#### Members Present:

- Alastair Millns (Vice Chairman)
- Nelson Disco
- Councilor Tom Koenig, Alternate Ex-Officio

#### Members Absent:

- Dan Ricker
- Lynn Christensen
- Paul McLaughlin
- Neil Anketell
- Councilor Bill Boyd, Ex-Officio

Staff Present: Tim Thompson, Community Development Director and Casey Wolfe, Assistant Planner

**1. Call to Order:** Chairman Best called the meeting to order at 7:00 p.m.

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

Tim Thompson (Community Development Director) introduced the town's new Assistant Planner, Casey Wolfe. Casey joined the Community Development staff on September 30<sup>th</sup>.

Tim Thompson also advised the Board that as designed, there is only one meeting scheduled in November and there are no new applications to review, however, State law requires that all Planning Boards meet at least once a month so the meeting cannot be cancelled. He suggested using the November meeting to review the final DW Highway sidewalk/bicycle plans from the NRPC if they can get confirmation that they are ready for review. Nelson Disco added that he reached out to Matt Waitkins at the NRPC for a status update and he stated that he is waiting on information from staff about wrapping the document up.

Nelson Disco also suggested that the Town develop a master sidewalk plan for the entire town as recommended in the Town's master plan. Tim Thompson stated that it can be discussed at upcoming meetings.

Alastair Millns commented that he noticed that the Residences at Executive Park development looks as though it is near completion and he hopes that the certificate of occupancies (CO) are not going to be issued until the traffic situation is fixed because traffic is terrible at that intersection. Tim Thompson explained that the installation of the peer to peer signal coordination system is complete but the Town, NHDOT and developer have all been working on getting the system's functionality working properly which is an ongoing discussion. He also reminded everyone that the traffic light upgrades were not meant to be a solution to the problems at the intersection, they were merely meant to be an incremental improvement. He clarified that the developer has met their requirement for what needed to be installed for purposes of acquiring the COs.

Chairman Best asked for an update on the Gilbert Crossing development as the location of that project is another traffic issue hot spot. Tim Thompson advised the Board that one building is complete and Planning & Zoning Administrator Robert Price is in the process of inspecting the property for the CO for the second building.

Councilor Tom Koenig offered that the Town Council is trying to set up a meeting with the NHDOT to discuss a few key intersections in town (101A, Continental Blvd, and more).

**3. Crosswoods Path III, LLC (applicant) and DW Development, LLC (owner)** – Review for consideration of an amendment to a previously approved Planned Unit Development. The parcel is located at 747 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation, and Planned Residential Development Overlay Districts. Tax Map 7E, Lot 046-54. Case # PB2019-30.

Tim Thompson began by summarizing that although this is a new application, it is related to item #4 which was reviewed in July for a development consisting of 21 multi-family units and 1,500 square feet of office space. Since this parcel lies within the Crosswoods Path PUD, an amendment to that PUD is required. Staff has agreed that the amendment can be in the form of a narrative that will be filed with the Registry of Deeds once completed.

Brad Westgate, Winer & Bennet, and Chris Bova, applicant, provided a summary of the PUD as it stands today and explained that there have been a few commercial developments approved for the site in question (747 DW Highway) throughout the years that have never materialized. Chris Bova applied for a density variance in February and received approval for a density of 8.36 units per acre which allowed for the proposed development described by Tim Thompson. Attorney Westgate further explained that the 1,500 square foot commercial space satisfies the commercial component of the PUD so they are not seeking relief from the requirements; they are merely looking to amend the PUD to include the new proposal of residential and commercial use. He also explained some of the components of the site plan including the location of the building and how Mr. Bova has been working closely with the Crosswoods Path Homeowners Association. He concluded his summary by referencing that staff recommends that the PUD amendment be approved.

Nelson Disco asked for clarification on the conformity of the PUD with the zoning requirements. Attorney Westgate responded that the number of units conforms and that the site plan itself will need to conform as well, if it is approved. Nelson Disco also asked for confirmation that parking is a permitted use in the Eversource easement. Attorney Westgate confirmed that the building is not in the easement, and parking, storm water management and some landscaping are being proposed. He also discussed the age of the current easement and concluded that a joint use agreement will be needed between the development and Eversource. Chairman Best and Tim Thompson interjected that the easement questions are more suited for the site plan discussion and Tim Thompson added that the impact on the easement for this application is less than previous iterations. Councilor Koenig asked for some clarification on the PUD requirements of the Zoning Ordinance because the amendment request does not seem to meet the intent of

the original approval. Staff addressed these concerns by assuring the Board that the request does meet the current Zoning Ordinance requirements. Chairman Best also suggested that the town possibly take a closer look at the ordinance as a whole and suggested that we could possibly be leading developers to the PUD route because of the options that are currently offered.

No public comment was received.

**The Board voted 4-0-0 to grant conditional final approval, subject to the following precedent conditions to be fulfilled within 6 months and prior to signing of the plan, unless otherwise specified on a motion made by Alastair Millns and seconded by Nelson Disco:**

1. The applicant shall revise/reformat the submitted PUD amendment narrative into a recordable document (limited to only the information necessary for the amendment) and to include a Planning Board signature block.

**The following general and subsequent condition is also placed on the approval:**

1. The final PUD amendment narrative shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.

**4. Crosswoods Path III, LLC (applicant) and DW Development, LLC (owner) –** Continued review for acceptance and consideration of final approval for a site plan to construct 21 multi-family residential and 3 office units. The parcel is located at 747 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation, and Planned Residential Development Overlay Districts. Tax Map 7E, Lot 046-54. Case # PB2019-23. **This item is continued from the July 16, August 20, and September 17, 2019 Planning Board meetings.**

Tim Thompson reminded that Board that this was first discussed in July and at that time the Board voted to allow this application to proceed under the former regulations that were in place at that time. Peer review comments were received a few days ago and a fair number of issues still need to be addressed from those, as well as an issue with a retaining wall that is not meeting setback requirements. Tim recommended that the Board hear the applicant's presentation, accept it as complete and then continue the hearing.

Richard Maynard, Maynard and Paquette Engineering, and Chris Bova, applicant, presented the project and began by explaining that the property has a power line that runs diagonally through the back of it that limits what can be done with the land. Richard Maynard reiterated what Attorney Westgate stated previously about the Eversource easement being used for parking and storm water management. He also discussed some of the other challenges regarding the easement that have either been resolved or will continue to be worked out with Eversource. He also addressed the previously mentioned retaining wall issue by walking through a couple of the options they are considering and discussed lighting changes that were requested by the Homeowner's Association. Additional questions were raised by various Board members regarding the lighting, sidewalks, access for fire trucks and storm water drainage that the engineer will need to address.

Chairman Best summarized the concerns that will continue to be worked out by the engineer and called for a vote on the completeness of the application.

**The Board voted 4-0-0 to accept the application as complete, on a motion made by Alastair Millns and seconded by Nelson Disco.**

Chairman Best opened the floor for public comment.

Linda Felderson (27 Kearsarge Lane) spoke on behalf of the Crosswood's Path Homeowner's Association (HOA). Linda explained that the HOA has been working closely with Chris Bova and has requested the addition of some lights on Crosswoods Path Blvd. She asked for and received clarification on the location of the retaining wall and retention basin. She also mentioned that she had approached the DOT for a traffic light exiting the development and was turned down, so she has asked if signs can be posted stating that it is 1 lane traffic only. The developer agreed to these signs as well as signs during construction that will divert people down Crosswoods Path Blvd. Linda Felderson also had some concerns regarding the damage to the roads during construction. Chairman Best clarified that since Crosswoods Path Blvd is a private road, any agreements made would be between the residents of the association and the developer because the town cannot enforce anything since they do not own the road.

Chairman Best closed the public hearing.

Chairman Best then recommended that the Board discuss a plan for continuance and summarized the actions needed by the applicant and his engineer. The items that need to be addressed are:

- Lighting
- Sidewalks (a waiver is needed if they propose to eliminate them at the front of the property)
- Various Site plan issues
- Driveway configuration/Fire access
- Retaining wall.
- Follow up with DOT regarding the driveway permit

Chairman Best also asked about peer review and Tim Thompson responded that he recommends that a peer review of the final plans be a condition of the approval at the appropriate time.

**The Board voted 4-0-0 to continue the public hearing to December 17, 2019, on a motion made by Alastair Millns and seconded by Nelson Disco.**

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

### **Road Acceptance/Maintenance Bond Recommendation to Town Council – Barbie Court**

The Board discussed a memo prepared by DPW Deputy Director/Town Engineer Dawn Tuomala requesting that a maintenance bond (in the amount of \$50,066.78) for Barbie Court remain in place for two years and that the Board recommend the Town Council to accept Barbie Court as a public roadway.

**The Board voted 3-0-1 to recommend acceptance of Barbie Court to the Town Council and to establish a 2-year maintenance bond of \$50,066.78, on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig abstained.**

## **6. Approval of Minutes — October 1, 2019**

**The minutes of October 1, 2019, were approved as submitted, by a vote of 3-0-1, on a motion made by Alastair Millns and seconded by Nelson Disco. Tom Koenig abstained.**

## **7. Adjourn**

**The meeting was adjourned at 8:36 p.m., by a vote of 4-0-0, on a motion made by Alastair Millns and seconded by Nelson Disco.**