



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, SEPTEMBER 17, 2019

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, September 17, 2019 in the Matthew Thornton Room.

Robert Best, Chairman presided.

Members Present:

- Alastair Millns (Vice Chairman)
- Neil Anketell (Arrived at 7:02)
- Councilor Bill Boyd, Ex-Officio (Arrived at 7:02)
- Paul McLaughlin
- Lynn Christensen
- Nelson Disco

Members Absent:

- Dan Ricker

Staff Present: Robert Price, Planning & Zoning Administrator

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

- Chairman Best designated Nelson Disco to a voting position for Dan Ricker.
- Councilor Bill Boyd and Neil Anketell joined the meeting at 7:02 pm

2. Planning & Zoning Administrator's Report

- None

7. Crosswoods Path III, LLC (applicant) and DW Development, LLC (owner) – Continued review for 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, and August 20, 2019 Planning Board meetings.

This agenda item was discussed before agenda item #3.

At the applicant's request, the Board voted 6-0-1 to continue this item to October 15, 2019, at 7:00 p.m., in the Matthew Thornton Meeting Room, on a motion made by Alastair Millns and seconded by Lynn Christensen. Neil Anketell abstained.

- 3. John Flatley Company (applicant) & Gilbert Crossing, LLC & John J. Flatley (owners) –** Continued review for consideration of an amendment to a previously approved Mixed Use Development Conditional Use Permit. The parcels are located at 645, 673, 685, 703, and 707 Daniel Webster Highway in the I-1 (Industrial), Aquifer Conservation and Wellhead Protection Districts. Tax Map 6E, Lots 003-01, 003-03, 003-04, 003-05, and 003-06. Case # PB2019-27. **This item is continued from the August 20, and September 3, 2019 meetings.**

Chairman Best recused himself, stepped down, and Vice Chairman, Alastair Millns presided.

Kevin Walker, John Flatley Company, and Chad Branon, Fieldstone Land Consultants presented an overview of the Fiscal analysis, and summarized that the residential component has a greater positive impact than the non-residential component (\$553,290 versus \$292,747). This fiscal projection is the basis for the request to amend the conditional use permit to allow for the construction of the 5th building prior to start of the commercial/industrial components. If granted, the 5th building will not start construction until spring of 2020, clearing may begin but the actual building will not be started until the spring.

Several members of the Board expressed concerns with the data used in the fiscal analysis. The concerns raised were old data (from 2015) and the lack of Merrimack establishments used to form the conclusions. Kevin Walker clarified that the establishments used in the report were chosen because of their similarity to those proposed for the Flatley project. Chairman Millns also directed the Board's attention to the fact that the report does state that the police call volumes were updated in 2018. The consensus of the Board is that they would like the Community Development staff to instruct applicants to use Merrimack businesses/residences whenever possible for their reports in the future.

Nelson Disco requested clarification on one of the conditions referenced in Tim Thompson's memo (condition #5 under the general and subsequent conditions section) dated 9/12/2019. Robert Price clarified that the condition means that a site plan needs to be submitted within 2 years of the CUP approval or the future phases of the project would need to start the approval process all over again.

Chairman Millns opened the floor for public comments.

Mark DesGrosseilliers (12 Lantern Lane) spoke about his concerns with the construction of the 5th building because it abuts his property. He is requesting that the developer (and the town) do whatever they can to maintain a significant buffer between his property and the new development. He referenced a parking lot that Kevin Walker had mentioned was not needed and requested that it be removed from the plan if it is not needed to preserve the trees that are currently there. He also mentioned discussions with Kevin Walker about diverting a proposed walking path from the back of the building to the front to preserve some of the wooded area near his property line.

Katherine Hodge (44 Belmont Drive) expressed concerns about a multitude of issues, including the removal of contaminated soil, impact of dust to residents as a result of the construction, and the absence of reports that have been requested and not received (soil and groundwater testing specifically as well as a Groundwater Management Plan). She also spoke about traffic concerns and how it makes no sense to allow additional office space when the town currently has a lot of vacant office locations already.

Ashely Tenhave (75 Shelburne Road) requested that the Board take another look at the traffic impact that this project is going to have on the current residents because it is already taking her 20 minutes to drive from Exit 13 to Webster Green. Ashley also spoke about her own soil and soot testing results and how her concern is that if her results were high and she is across the street from St. Gobain then she cannot imagine how high the Flatley property results would be since they are on the same side of the road.

Katy Poirier (11 Kimberly Drive) reiterated what the other residents said about environmental concerns and expressed that she does not feel that the fiscal benefits are worth all of the negative environmental impacts. She also voiced her concerns that the iteration of the plan she reviewed shows the fifth building as phase 3 and not phase 2 as indicated earlier in the meeting. Robert Price confirmed that the notes on the plan have been updated since she was provided a copy of the plan.

Gail Shaw (10 Templeton Court) asked why a soil and groundwater study has not been conducted on area 3-4 of the plan.

Chairman Millns closed the floor to public comments and welcomed Kevin Walker and Chad Branon back to the podium to address the concerns raised.

Kevin Walker began by explaining that he has spoken to Clark Friese at the New Hampshire Department of Environmental Services about testing and that they have agreed to complete testing on the rest of the site before construction begins. Flatley is fully committed to working with DES and getting approvals from them prior to breaking ground. He also confirmed that all of the necessary tests for the entire residential section (including the 5th building) were conducted back when excavation was in progress for the first four buildings. DES visited the site on numerous occasions and acknowledged that the developer was keeping up with the dust as best as they can. Flatley did increase the watering at one point of the construction to help with the dust. Kevin also reiterated that the only construction approval being sought at this time, is the construction of the 5th apartment building and the testing for that area has already been completed.

Chad Branon echoed that they are just in the conditional use permit stage and are not ready to present a formal proposal at this time for the remainder of the site. Once the formal plan is in place, it will address many of the concerns that were brought up. He also reconfirmed that his office (Fieldstone) has an open dialogue with DES regarding this site. Kevin Walker explained that they submit a testing plan to DES for approval before any testing is done. Once DES approves the plan, they complete the necessary testing. Chad also commented that the plan has been modified since the original concept to change the use of the land near St. Gobain to Industrial/Flex use. He believes this will have a positive impact on the traffic study when it is completed.

Chad and Kevin both responded to the concerns of Mark DesGrosseilliers (12 Lantern Lane) by explaining that the existing buffer is greater than what is required but they will continue to review it during the development of the building to provide the largest buffer possible. Kevin also confirmed that they are looking into the possibility of re-routing the walking path as Mark DesGrosseilliers explained. Robert Price stated that changes to the walking path route likely could be done through an administrative approval.

Councilor Boyd requested that a condition of approval be added that the DES documentation surrounding the residential buildings is provided to the Community Development department for the project files.

Nelson Disco asked for clarification on whether or not soil was being removed from the site. Kevin Walker explained that it did occur once early in the project because the contractor was unaware of the requirement but they quickly put a stop to it.

Chairman Millns also requested clarification on the concerns that were raised about construction trucks not being hosed down before they leave the site. Kevin addressed this by stating that it is a DES requirement and that they do the best that they can but it is still a construction site so some transfer of soil occurs when the trucks leave the site.

The Board voted 4-2-0 to permit the applicant to construct the 5th residential building as part of Phase I, on a motion made by Lynn Christensen and seconded by Bill Boyd. Paul McLaughlin and Neil Anketell voted in opposition.

The Board voted 6-0-0 to grant conditional final approval of the amended CUP, subject to the following precedent conditions to be fulfilled within 12 months and prior to signing of the plan, unless otherwise specified on a motion made by Bill Boyd and seconded by Lynn Christensen:

1. Phasing shall be noted on the Master Site Development Plan in accordance with the Board's determination that the 5th residential building is the second phase, and that the non-residential development portions can be phased in any order so long as the conditions from precedent condition #2 are met;
2. All future phases of development (regardless of sequencing) shall be required to provide updated fiscal impact analyses to ensure that each phase of the project remains fiscally positive to the Town (the Town reserves the right to require peer review, at the applicant's expense, if necessary for fiscal impact analyses, as determined by the Community Development Director);
3. The project's Development Agreement shall be revised as applicable based on the phasing decision approved by the Board in precedent condition #1, reviewed and approved by Community Development Department staff and, if necessary, the Town's Legal Counsel (at the applicant's expense);
4. The applicant shall provide an updated narrative package (as was provided with the original CUP approval) containing all revisions to the project including, but not limited to, project narrative, fiscal impact analysis, phasing documents/materials, and any other information that is amended by the current application;
5. The applicant shall address any forthcoming comments from municipal departments as applicable to the CUP application;
6. Address the following planning staff technical comments relative to the revised Master Site Development Plan:
7. The applicant shall label the lot for the commercial development, indicating approximate lot size, as is indicated for the other lots that are part of the mixed use CUP.
8. The lot line for the commercial lot runs through a proposed retail building, parking area, and driveway. While the Master Site Development plan is not a construction plan, this should be revised to remove encroachments across lot lines;
9. The label for the lot containing the revised light industrial/flex buildings is still labeled as "Proposed Commercial Parcel." Please revise to indicate the proposed use of this parcel as industrial/flex;
10. Note 5 should be revised to indicate that the purpose of the plan is specific to the amended mixed use CUP, and that no construction is authorized by approval of the CUP. Construction requires subsequent site plan approvals from the Planning Board;

11. Note 9 needs to be updated per the recent adoption of Site Plan Regulations by the Planning Board. See Section 3.11 of the new regulations for the revised calculation for multi-family residential and update the total required parking as applicable;
12. Portions of Note 11 and all of Note 12 reference buffer requirements that no longer exist in the newly adopted Site Plan Regulations. Please revise the notes as necessary, referencing the Landscaping Design Standards section of the new regulations (Section 3.09, and Section 3.11.1);
13. Note 13 regarding phasing shall be updated as necessary based on the decision of the Board as it relates to phasing of the amended CUP.

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

1. The applicant shall provide documentation that the NH Department of Environmental Services has received groundwater testing and a groundwater management plan as part of the construction of the residential portion of the site, and is satisfied with what has been provided;
2. The approval of this amended Conditional Use Permit does not authorize the applicant to undertake any construction related to the proposed development. The applicant must subsequently obtain subdivision approval for the platting of individual lots and site plan approvals for buildings or sites within the mixed use development in accordance with the Town of Merrimack Site Plan Regulations, Subdivision Regulations (as applicable), and Section 2.02.4.D.6 of the Zoning Ordinance;
3. Final Architectural design review of all proposed structures/facilities shall be required at the time of the subsequent site plan applications to ensure compliance with Section 3.12 of the Site Plan Regulations and Section 15.03.D.3 of the Zoning Ordinance as applicable;
4. The applicant is responsible for obtaining any federal, state, or local permits that may be required as part of any subsequent subdivision or site plan approval following the granting of this amended Conditional Use Permit;
5. The applicant is permitted to undertake minor deviations (including but not limited to building orientation on a site, decreases in density or building size, etc.) from the Master Site Development Plan and amended Conditional Use Permit documentation in such instances where the deviations do not increase the impacts to the Town as demonstrated through the traffic impact analysis or fiscal impact analysis. Deviations that increase impacts or those which the Community Development Department is not comfortable making an administrative determination of impact, shall require the applicant to return to the Planning Board to amend the Conditional Use Permit approvals. In no circumstance shall any uses permitted through the approval of this Conditional Use Permit be modified/changed without an amended Conditional Use Permit approval from the Planning Board;
6. If this amended Conditional Use Permit approval is not acted upon within a period of two (2) years from the date of the final endorsement by the Planning Board (for all phases following Phase 1), then the amended approval shall be null and void. Actions sufficient to vest an approval for this amended conditional use permit include Planning Board site plan or subdivision approval (for any phase amended by this approval), issuance of a building permit, or a Certificate of Occupancy issued by the Building Department where no Planning Board approval or building permit is required. However, should any subsequent site plan or subdivision approval or building permit expire unused after the conclusion of the two-year validity period provided for herein, the

amended conditional use permit granted as a precondition to said site plan or subdivision approval or permit shall become void as well;

7. Should the applicant need to extend the two-year validity period, the applicant shall demonstrate to the satisfaction of the Planning Board that it was impossible or impractical to receive the necessary approvals to move forward in reliance on the amended conditional use permit granted within two years;
8. Any renewal/extension application shall be filed with the Planning Board no sooner than 90 days, nor later than 30 days, prior to the expiration of the Conditional Use Permit;
9. The Planning Board may, in its sole discretion, grant such extension of the above validity period as it deems warranted.

Vice Chairman Millns stepped down and Chairman Best presided. The Board took a 5 minute recess and reconvened at 8:48 p.m.

4. RH Cars, LLC, (applicant) and Sunnyside Real Estate Holdings, LLC (owner) – Continued review for consideration of final approval for a site plan to construct a paved car sales lot where the existing area is gravel. The parcel is located at 113 Daniel Webster Highway in the I-1 (Industrial), and Aquifer Conservation Districts. Tax Map 2D, Lot 018-1. Case # PB2019-28. **This item is continued from the August 20, 2019 meeting.**

Robert Price summarized the project explaining that the initial site plan was presented to the Board in August and since that time peer review of the drainage has been completed. The Community Development staff is fairly confident that the concerns raised in the peer review have been addressed however they are recommending that the Town's peer review consultant (Fuss & O'Neill) take a look at the final plans for verification. The concerns brought forth by the Board centered on parking, landscaping and lighting. Robert also mentioned that the project still needs to be presented to the Conservation Commission and that meeting has been scheduled for October 7.

Chad Branon, Fieldstone Land Consultants presented the project on behalf of RH Cars, LLC.

Chad walked through each of the issues beginning with parking. The required parking for the site is 38 spaces and they are proposing 20, so they submitted a waiver requesting for the 18 space shortage. Chad went on to explain that the landscaping concerns have been addressed with the addition of some trees and shrubbery to the plan in front of the proposed display area. The landscaping being proposed is consistent with what is currently on site and in the surrounding area. Finally, regarding lighting, they had originally proposed 4 pole mounted lights be added to the property, however the owner has since asked for a reduction so they are now proposing 2 taller lights instead of the four that were originally presented. (Chad handed out a revised lighting plan to the Planning Board)

Chairman Best explained to Chad that the Board may need additional time to review the changes being presented to the lighting but opened it up for Board comments and questions.

Alastair Millns asked if the two existing flood lights located on Eversource utility poles would be removed once the new parking area lights are erected. Chad confirmed that they would be working with Eversource on the removal of the utility pole lights.

Chairman Best and Nelson Disco raised concerns about lighting uniformity and the lack of lighting in the back of the lot with the two light proposal. Robert Price read the uniformity ratio lighting requirements

from the site plan regulations and it was determined that the new proposal would not meet those requirements. Chad Branon concluded that they would stick with the original plan of four lights in order to keep the application on track as the owner would like to complete the paving before winter.

Nelson Disco asked for clarification on the comments from the Conservation Commission and Robert Price confirmed that the Conservation Commission meeting is scheduled for October 7, 2019 and that all comments received from that meeting would also need to be addressed as part of a conditional approval. Nelson also asked for conformation on what was decided about cross easements. Robert Price explained that cross easements are not necessary at this time since both parcels of land are owned by the same entity, however the staff memo did call out that language should be added to the plan that addresses this in case the land is ever sold. Chairman Best suggested that they could also merge the lots to solve for any easement problems and Chad confirmed that it has been discussed and that the owners wish to keep them separate.

Seeing no public comment, Chairman Best closed the public hearing.

The Board voted 7-0-0 to grant a waiver from the requirements of Section 7.03 – Parking, citing that specific circumstances relative to the site plan or conditions of the land in such site plan indicate that the waiver will properly carry out the spirit and intent of the regulations, on a motion made by Bill Boyd and seconded by Lynn Christensen.

The Board voted 7-0-0 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 Paul McLaughlin:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address any forthcoming comments from the town's peer review consultant, Fuss & O'Neill, including any forthcoming comments resulting from review of the final plans for Planning Board signatures, as applicable;
6. The applicant shall address any forthcoming comments from the Conservation Commission, as applicable;
7. The applicant shall address any forthcoming comments from the Fire Department, as applicable;
8. The applicant shall address any forthcoming comments from the Pennichuck Water Works, as applicable;
9. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;

10. The applicant shall address the following Planning Staff technical comments:
11. Applicant shall revise Sheets 2 & 3, Note 5 as follows:
12. Revise the beginning of the note to read “Zoning for the parcels is the I-1 (Industrial) District, but the use is commercial. Section 3.02 allows commercial uses in the I-1 District to utilize C-1 & C-2 District requirements, which are as follows...” The remainder of the note need not be changed, as the requirements are listed correctly;
13. Applicant shall revise Sheet 3, Note 18 to indicate that striping of the storage areas is not required, but striping of the customer and employee parking spaces is required;
14. Applicant shall add a note to the plan indicating that cross easements between Map 2D, Lot 018, or Map 2D, Lot 018-1 shall be put into place should either lot ever be transferred to a new owner;
15. Applicant shall add the following note to the plan: “This project is subject to the requirements of the Town of Merrimack Stormwater Management Standards (Chapter 167 of the Merrimack Town Code). A pre-construction meeting with the Community Development Department and Public Works Department shall take place at least two weeks prior to commencement of earth disturbance”;
16. Applicant shall revise the plan to indicate that both existing flood lights installed on Eversource utility poles at Map 2D, Lot 018-1 shall be removed.

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

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
 2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the building (or other applicable means of securing final permitting from the Building Division if a CO is not applicable);
 3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
- 5. Hoyle, Tanner & Associates, Inc. (applicant) and OVP Management, Inc. (owner) – Continued review for consideration of final approval for a site plan to construct 40 multi-family residential units. The parcel is located at 360 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Elderly Housing and Planned Residential Development Overlay Districts. Tax Map 4D-3, Lot 001. Case # PB2019-22. This item is continued from the July 2, July 16, and August 20, 2019 Planning Board meetings.**

Chairman Best recused himself, stepped down, and Vice Chairman, Alastair Millns presided.

Robert Price referenced the staff memo to recap the project citing the requirements for a sidewalk for pedestrian access that were suggested by both Community Development and Public Works Department staff as well as secondary access to the residential buildings that is being requested by the Fire Department. The applicant has filed a waiver requesting permission not to comply with the sidewalk requirement and there are not any town regulations to support the Fire Department's request, so the Board will need to weigh in on both of these issues.

The applicant was represented by Bill Davidson, Hoyle Tanner and Robert Barsamian, OVP Management.

Bill Davidson presented the revisions that were made to the plan since the last meeting which include:

- Reconfiguring the placement of the entrance to address concerns from the Board and the fire department.
- Widening and lengthening of the apartment driveway which lessened the grading

Robert Barsamian explained the discussions that were had regarding the secondary access that was requested by the Fire Department and concluded that they were not able to accommodate the request because the abutters were not willing to agree to an easement.

Several Board members offered potential secondary access alternatives such as widening the sidewalk to allow for a fire truck and contacting the DOT to look at access via the Everett Turnpike. Councilor Boyd suggested that they bring this up for discussion with the NHDOT when it comes time to begin the project to widen the highway which is on the ten year plan.

Nelson Disco asked for clarification on parking for the development because Bill Davidson had mentioned spaces being eliminated to accommodate the driveway being widened. Bill Davidson explained that when the site plan was updated to replace the restaurant with a bank, the parking calculations were reconfigured and it was determined that they were still within the requirements of the waiver, even with the elimination of those spaces. Bill also mentioned that they submitted a traffic analysis that should be included in their packets and Robert Price interjected that the Community Development Staff is recommending that the traffic study be included in the final peer review by Fuss & O'Neill.

The Planning Board engaged the applicants in a discussion about a sidewalk along DW Highway. The applicants explained the research they have conducted into the feasibility of constructing the sidewalk as well as their concerns that the sidewalk doesn't actually go anywhere. They identified a number of engineering and drainage-related challenges that made its construction a difficult proposition. Robert Barsamian suggested that he make a monetary contribution to the town to benefit its ongoing sidewalk project. Several Board members discussed similar projects and the challenges that have been faced with accepting monetary donations. Councilor Boyd suggested that Robert Barsamian have a discussion with the Town Manager about his suggestion.

Vice Chairman Millns opened the floor for public comments.

Robert DeFreitas (9 Colonial Drive) expressed his concerns for the need of a signaled crosswalk going from East Ridge to the plaza.

Vice Chairman Millns closed the public hearing and welcomed Bill Davidson and Robert Barsamian back to the podium to address the concern raised.

Bill Davidson addressed the abutters concerns by explaining that signaled crosswalks are not typically used in parking lots and that the signage and pylons that are being proposed should be sufficient.

The Board voted 6-0-0 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 Bill Boyd and seconded by Neil Anketell:

1. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
2. The applicant shall obtain all required State approvals/permits as may be applicable, note the approvals/permits on the plan and provide copies to the Community Development Department;
3. Any waivers granted (including Section and date granted) and/or any changes requested by the Planning Board shall be listed and fully described on the final plan, as applicable;
4. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant's expense, by the Town's Legal Counsel;
5. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, including any forthcoming comments resulting from review of the final plans for Planning Board signatures;
6. The applicant shall address the following comments from the Conservation Commission:
 - a. Applicant shall note on the plan that soils shall be tested prior to the application of any fertilizers in the planting areas;
 - b. Applicant shall note on the plan that any fertilizers used on site shall be no phosphate, slow release nitrogen compounds;
 - c. Applicant shall note on the plan that the use of salt and other de-icing compounds shall be performed by a NH Certified Green SnowPro applicator;
7. The applicant shall address any forthcoming comments from the Assessing Department, as applicable;
8. The applicant shall address any forthcoming comments from the Building Department, as applicable;
9. The applicant shall address the following comments from the Fire Department, as applicable:
 - a. The primary access road shall meet or exceed all public road standards as required by the Town of Merrimack Department of Public Works and Town Engineer;
 - b. Pressurized fire hydrant locations need to be shown on the plans. Hydrant locations shall be approved by both the Merrimack Village District and Merrimack Fire Department;
10. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable;

11. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;

12. The applicant shall address the following comments from the Wastewater Division:

a. On Sheet 2, Utility Notes, include the following:

- i. All Sewer Permit Connection fees shall be paid in full prior to building permits being issued;
- ii. All sewer is and shall remain privately installed and maintained.
- iii. Note 7-remove “a special exception can be made with approval of the town”
- iv. Note 16-Clean check part number refers to the Sewer Backflow to be installed

b. On Sheet 8:

- i. Two SMH6’s are shown
- ii. Backflow must be installed just outside building
- iii. Install trench dams between SMH6 and SMH7?
- iv. No invert or rim elevations shown on Sewer Manholes
- v. Slope drawing does not include Existing SMH to SMH3
- vi. Slope diagram extremely congested-provide diagram with sewer only
- vii. No flow calculations provided-must use Metcalf Eddy manual

c. On Sheet 16:

- i. C16-3 Sewer Notes-Remove detail on riser section
- ii. C16-3 Eliminate “flex seal” in diagram
- iii. Town of Merrimack requires Neenah Foundry manhole cover 1743LM or equal as approved by sewer inspector
- iv. C16-1 Manhole joining requires Bitumastic dual row only-remove others
- v. C16-1 pipe to manhole detail-remove non-shrinking mortar detail
- vi. Drop manhole detail should be 5’ diameter not 6’
- vii. Provide trench dam detail

13. The applicant shall install a sidewalk starting at the northerly site entrance, continuing into the site to connect with the sidewalk in front of the existing retail plaza, and install a connection from the proposed crosswalk to the East Ridge Condominium site toward Daniel Webster Highway.
14. The applicant shall address the following Planning Staff Technical Comments:
 - a. All references to PRD/PUD shall be removed from the plans;
 - b. Applicant shall note on the plans the special exception to permit the residential use in the C-2 District, as well as the variance to permit the proposed density;
 - c. Revise Sheet 1 to reflect change from Fairpoint Communications to Consolidated Communications;
 - d. Revise Sheet 4, Note 9 to note that site improvements for Unit 3 are also not completed;
 - e. Revise Sheet 6, Notes section, Note 1 “construction” should be “construct”;
 - f. Applicant to add Planning Board signature blocks to the site plan sheet(s) intended for recording at the Hillsborough County Registry of Deeds unless the intent is to record the entire plan;
 - g. Revise Sheet 6, Site Data section, Note 6 to include Aquifer Conservation District (not Aquifer Protection Zone), Elderly Housing Overlay District and Planned Residential Development Overlay District;

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

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. The applicant shall submit an As-Built Plan prepared by a qualified professional (Professional Engineer or Licensed land Surveyor, registered/licensed in New Hampshire) to the Community Development Department prior to the issuance of a Certificate of Occupancy for the apartment building;
3. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant.
4. The applicant shall address any forthcoming comments from the Building Division pertaining to building code compliance, permitting, etc., as applicable (that are not deemed precedent conditions);
5. The applicant shall address the following comments from the Fire Department:
 - a. The proposed building shall be protected by an approved NFPA-13 compliant fire sprinkler system including standpipes as required (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11). Plans shall be provided to this office for review and approval before a permit can be issued;

- b. The proposed building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to this office for review and approval before a permit can be issued;
 - c. The proposed apartment building shall be addressed as 366 Daniel Webster Highway.
- 6. Sulloway & Hollis, PLLC (applicant) and OVP Management, Inc. (owner) – Continued review for consideration of final approval of condominium conversion. The parcel is located at 360 Daniel Webster Highway in the C-2 (General Commercial), Aquifer Conservation, Elderly Housing and Planned Residential Development Overlay Districts. Tax Map 4D-3, Lot 001. Case # PB2019-29. This item is continued from the August 20, 2019 meeting.**

The applicant was represented by Bill Davidson, Hoyle Tanner.

Bill Davidson explained that the plan being presented is a plan to convert the whole of the property into a condominium form of ownership.

Nelson Disco asked for clarification on the term “Air Condominium” and Bill answered that it is in reference to the volume. Nelson then asked if the Town’s Legal Counsel has reviewed this plan. Robert Price confirmed that they have not, adding that they would be engaged once the condo documents are drawn up.

Nelson Disco’s motion to require the Town’s Legal Counsel review the plan prior to the Planning Board making a decision failed for a lack of a second.

Seeing no public comment, Vice Chairman Millns closed the public hearing.

The Board voted 6-0-0 to accept the application for review and 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 Bill Boyd and seconded by Paul McLaughlin:

1. The Condominium Conversion Plan shall be removed from the site plan application materials and considered a separate application;
2. Final plans and mylars to be signed by all property owners. The appropriate professional endorsements and signatures shall also be added to the final plans and mylars;
3. The applicant shall obtain all required State approvals/permits, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department, as applicable;
4. The applicant shall note all waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable;
5. The applicant shall provide draft copies of any applicable legal documents for review, at the applicant’s expense, by the Town’s Legal Counsel;
6. The applicant shall address any forthcoming comments from the Assessing Department, as applicable;

7. The applicant shall address any forthcoming comments from the Public Works Department, as applicable;
8. The applicant shall address the following Planning Staff Technical Comments:
 - a. Revise title block area to indicate applicant and owner rather than just applicant for clarification;
 - b. Provide a place for owner's signature on the plan;
 - c. Applicant shall add a Planning Board signature block to the condominium plan;
 - d. Please add a scale to the plan;
 - e. Add water source (Merrimack Village District) and sewer source (municipal sewer) to the plan;
 - f. Remove the north arrow that is currently overlapping the site entrance;
 - g. Applicant shall revise Sheet 4, Note 9 to make note that improvements for Unit #4 are complete, and Unit #3 are currently underway;
 - h. Applicant shall remove the “\F;” located before Notes 1 & 2;

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

1. The applicant is responsible for recording the plan (including recording fee and the \$25.00 LCHIP fee, check made payable to the Hillsborough County Treasurer) at the Hillsborough County Registry of Deeds. The applicant is also responsible for providing proof of said recording(s) to the Community Development Department;
2. Any proposed easements and/or applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
3. The applicant shall obtain right-of-way permits from the Public Works Department for all new driveways.
4. The applicant shall address the any forthcoming comments from the Fire Department, as related to building addressing and fire code compliance, as applicable.

Vice Chairman Millns stepped down and Chairman Best presided

8. Discussion/possible action regarding other items of concern

Paul McLaughlin asked how the traffic light improvements at Exit 11 are progressing. Several Board members and Robert Price addressed this indicating that certificates of occupancy for the Executive Park Residences project cannot be granted until the improvements are completed. Chairman Best also commented that the light cycle has seemed better lately.

9. Approval of Minutes — September 3, 2019

The Board voted 7-0-0 to approve the minutes of September 3, 2019 as submitted, on a motion made by Lynn Christensen and seconded by Bill Boyd.

10. Adjourn

The Board voted 7-0-0 to adjourn, on a motion made by Paul McLaughlin and seconded by Nelson Disco. Meeting adjourned at 10:21 p.m.