



Town of Merrimack, New Hampshire

Community Development Department

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Planning - Zoning - Economic Development - Conservation

MERRIMACK PLANNING BOARD APPROVED MINUTES TUESDAY, SEPTEMBER 7, 2021

A regular meeting of the Merrimack Planning Board was conducted on Tuesday, September 7, 2021 in the Matthew Thornton Room.

Paul McLaughlin, Vice Chairman, presided.

Members Present:

- Lynn Christensen (arrived at 7:05)
- Jaimie von Schoen
- Town Councilor Barbara Healey Ex-Officio
- Nelson Disco - Alternate

Members Absent:

- Robert Best (Chairman)
- Neil Anketell

Staff Present: Community Development Director, Tim Thompson

1. Call to Order

Paul McLaughlin called the meeting to order at 7:00 p.m. and designated Nelson Disco to sit for Neil Anketell.

2. Planning & Zoning Administrator's Report

The Board voted 4-0-0 to determine that the Governors Hill Lot Consolidation/Lot Line Adjustment is not of regional impact, on a motion made by Nelson Disco and seconded by Barbara Healey.

3. Annual Meeting - Election of Officers & Review of Rules of Procedure

The Board voted 3-0-1 to elect Bob Best as Chair and Paul McLaughlin as Vice Chair on a motion made by Nelson Disco and seconded by Barbara Healey. Paul McLaughlin abstained.

Lynn Christensen arrived at 7:05 p.m.

Staff proposed minor modifications to the Rules of Procedure to clarify (and make consistent with the Zoning Board) the date of the Annual Meeting of the Board, and to modify

requirements regarding audio/video recording of meetings in light of current practices and technology, referring to statutory requirements.

The Board voted 5-0-0 to amend the Rules of Procedure as recommended by staff on a motion made by Nelson Disco and seconded by Lynn Christensen.

4. **John Flatley Company (applicant/owner)** – Continued review of a Site Plan to construct a 120,000 sq.ft. warehouse/distribution building, per the requirements of the Flatley Mixed Use Conditional Use Permit. The parcel is located at 707 Daniel Webster Highway in the I-1 (Industrial) District and Aquifer Conservation area. Tax Map 6E, Lot 003-06. Case #PB2021-24. **This item is continued from the June 15, July 20, and August 17, 2021 Planning Board meetings.**

Tim Thompson provided a brief history of the project and advised the Board that revised plans have been received that address the majority of the peer review comments. He concluded that staff is recommending that the Board grant conditional approval.

Nathan Chamberlain (Fieldstone Land Consultants) and Kevin Walker (John J. Flatley Company) presented the project on behalf of the applicant. Mr. Chamberlain began by sharing the site plan and demonstrating where the parcel in question is located in comparison to the other Flatley projects on DW Highway. He explained that this warehouse project was previously approved in 2012 on another section of the Flatley land and is now being proposed on lot 6E/003-06. Mr. Chamberlain went on to explain that the access road to the site will be off of the St. Gobain entrance and the building itself will be 20,000 square feet with parking in front of the building, and loading bays in the back.

He reminded the Board that due to the PFOA contamination from St. Gobain, they are not allowed to infiltrate stormwater on the site so he described how the proposed drainage plan will work. He added that the plan calls for underground utilities and demonstrated the approximate location of where the water and gas lines will be. He also briefly walked through the landscaping plan and noted that they are requesting a waiver from section 4.12.c.18.viii (identification of trees greater than 15" in diameter on the existing conditions plan).

Vice Chairman McLaughlin asked if the drainage plan that was described complies with all state regulations and Mr. Chamberlain replied that it does. Lynn Christensen asked how many waivers are being requested and Mr. Thompson responded that there are two being requested, the one previously mentioned regarding identifying trees greater than 15 inches and Section 3.13.e.3.ii regarding lighting levels at property lines. Councilor Healey asked for clarification on where the treatment swale is draining into and Mr. Chamberlain responded that it is directed back to the wetlands that are located on the property. She then asked about the existing vegetation near DW Highway and whether or not that will remain in place. Mr. Chamberlain referred to the site plan to demonstrate where some clearing will take place for a staging area and explained that all other vegetation will remain. Mr. Thompson added that staff made a recommendation to the landscaping plan to replace the proposed white pine trees that are closer to the building with spruce trees because they offer better screening.

Nelson Disco asked if the roads are going to be private and if peer review comments for the traffic study were received. Mr. Thompson advised that the roads will be private and that peer review comments were received but there were only two minor comments on traffic. Mr. Disco then asked for clarification on the waiver for Section 4.12.c.18.viii because he was under the

impression that the lot was already cleared. Mr. Thompson explained that there are still some large trees remaining but they have not been individually identified and noted on the plan, which is required by the town's regulations and why the waiver is being requested.

The Board voted 5-0-0 to grant a waiver to Section 3.13.e.3.ii (lighting levels at property lines), on a motion made by Nelson Disco and seconded by Barbara Healey.

The Board voted 3-2-0 to grant a waiver to Sections 4.12.c.18.viii (identification of trees greater than 15" in diameter on the existing conditions plan), on a motion made by Nelson Disco and seconded by Lynn Christensen. Barbara Healey and Jaimie von Schoen voted in opposition.

There was no Public Comment

The Board voted 5-0-0 to grant conditional Final Approval of the site plan, 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 Nelson Disco and seconded by Lynn Christensen.

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review (proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address the forthcoming comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
5. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
6. The applicant shall address any forthcoming comments from the Wastewater Division, as applicable.
7. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
8. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant shall address the traffic impact analysis peer review comments, as necessary.
 - b. As required by the CUP for the project, the applicant shall submit an updated fiscal impact analysis for this phase of the project.

- c. The applicant shall address the following relative to the Master Site Plan (sheet 2): If determined necessary through the traffic review by NHDOT, note the following per Section 4.11: “In accordance with Section 6.01 of the Merrimack Site Plan Regulations and RSA § 676:12, all off-site improvements specified on these site plans shall be constructed, completed, inspected and approved by the Town of Merrimack (and/or the NHDOT, if applicable) prior to the issuance of a certificate of occupancy.”
- d. The applicant shall address the following relative to the Illumination Plan (sheet 10):
 - i. Please verify that all lighting fixtures are “full cut-off” in accordance with Section 3.13 and add a note indicating such on the plan.
 - ii. There are multiple areas where the illumination levels at the property line exceed the maximum of 0.2 foot-candles. Please revise where possible, and request a waiver for the areas where parking and driveways cross property lines within the access and drainage easement.
- e. The applicant shall address the following relative to the Landscape Plan (sheet 11): Please consider substituting spruce for the proposed white pines indicated on the plan. Pines do not achieve low height screening as the regulations contemplate, and spruce varieties provide appropriate screening/buffering qualities envisioned by the regulations.
- f. The applicant has submitted a separate building elevation sheet. Please include this sheet as part of the overall plan set, as required by the regulations, and verify compliance with Section 3.12 of the regulations as required by the CUP.

The following general and subsequent conditions are 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 the final Certificate of Occupancy.
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 Conservation Commission (MCC) had discussed onsite excavation of material at the 9/21/20 MCC meeting for an earlier Flatley project (Tax Map 6E, Lot 003-04) in a letter that was sent to the Planning Board on September 24, 2020. The MCC has no record of receiving the plan that Mr. Chamberlain had stated Flatley would be creating with NHDES. If a copy of this plan is available, the MCC would appreciate a copy for review.
5. The project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments.

- a. Submit a complete building permit application, provide the job location, indicate the scope of work, proposed use and estimated construction value.
 - b. All plans and construction documents shall prepared by a NH design professional engineer and shall be submitted with the application for code compliance review, prior to the Pre-Construction Meeting with Community Development.
 - c. The Town of Merrimack reserves the right to require that all commercial and industrial projects are subject to Third Party Inspections, per Chapter 17 of the International Building Code to include but not exclusively limited to: verification of soils, proctor, compaction, cast in place concrete, structural steel reinforcing, draft and fire-stopping, manufactured trusses, engineered floor systems and fire rated assemblies.
6. The applicant shall address the following comments from the Fire Department:
 - a. The access road must be maintained passable throughout the year, which includes the timely removal of snow and ice.
 - b. Due to the size of this building multiple Knox lockboxes will be required for emergency access. The number and location of these boxes will be determined by the Fire Marshal upon review of building plans.
 - c. Fire Department water supply (pressurized hydrants) are required. In keeping with the compliance of state fire codes, NFPA codes and continued practices with other subdivisions and residential complexes within the community the installation of Fire Hydrants on a minimum of an eight inch water main will be required with Fire Hydrants located every 500 feet along all roadways and no more than 250 feet to a driveway as calculated along the new road starting at the nearest hydrant located on Daniel Webster Highway. Final drawings showing the locations of the fire hydrants must be submitted to the Fire Marshal's Office for approval.
 - d. The entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11). Plans shall be provided to the Fire Marshal for review and approval before a permit can be issued.
 - e. The entire building shall be protected by an approved independent NFPA-72 fire alarm system. Plans shall be provided to the Fire Marshal for review and approval before a permit can be issued.
5. **John Flatley Company (applicant/owner)** - Continued review of a Site Plan to construct an internal access road per the requirements of the Flatley Mixed Use Conditional Use Permit. The parcels are located at 645, 673, 685, and 703 Daniel Webster Highway in the I-1 (Industrial) District and Aquifer Conservation area. Tax Map 6E, Lots 003-01, 003-03-05. Case #PB2021-29. **This item is continued from the July 20 and August 17, 2021 Planning Board meetings.**

Nathan Chamberlain (Fieldstone Land Consultants) and Kevin Walker (John J. Flatley Company) presented the project on behalf of the applicant. Mr. Chamberlain began by sharing the site plan and demonstrating the layout of the proposed road and drainage basins. He also explained that vacant fish hatchery structures that are currently onsite will be demolished. Mr. Chamberlain called out a St. Gobain drainage pipe that cuts across the Flatley land to drain into the river and explained that the proposed plan also calls for this pipe to be relocated so they do not cross the development part of the parcel. Kevin Walker added more context to the discussion by explaining that DES has been asking St. Gobain to replace the pipes in question so since the site will be under construction for the road, they determined it makes more sense to do it now. He also clarified that St. Gobain will be responsible for doing the work on their pipes but Flatley will be constructing the road.

Mr. Walker asked the Board if they would consider allowing construction to begin on the flex site if they secure a DOT permit for a temporary gravel road. He explained that DOT is short staffed right now and their permits are taking longer than usual and Flatley is hoping to start construction on the flex buildings as soon as possible. Mr. Thompson responded by explaining that since the town's regulations require all permits be in place before construction can begin a waiver would be needed. Since the flex buildings project is already conditionally approved, it would have to be brought before the board again on a separate agenda to allow for public testimony. He also added that staff would be happy to meet with them to discuss their options but they would not support a waiver.

Councilor Healey asked some questions about the storm and wastewater drainage and recommended that the town's wastewater department be advised of the plans. Mr. Thompson interjected to advise the Board that the proposed access road services parcels that are both part of and outside of the Conditional Use Permit (CUP). The section of land in-between St. Gobain and the river is not included in the CUP and is zoned industrial so there will be different conditions applied to anything proposed there. Mr. Disco asked about pedestrian walkways within the site and Mr. Thompson explained that the pedestrian way will parallel DW Highway along Flatley's property, but outside of the right-of-way as was approved during the CUP process.

The Board voted 4-1-0 to grant a waiver to Sections 4.12.c.18.viii (identification of trees greater than 15" in diameter on the existing conditions plan), on a motion made by Lynn Christensen and seconded by Barbara Healey. Nelson Disco voted in opposition.

Public comment

Richard Foote (129 Indian Rock Road) asked what is going to happen to the existing fish hatchery. Mr. Chamberlain responded that the ponds will remain in place but the structures are going to be torn down.

Mr. Disco asked if peer review comments have been received and Mr. Thompson confirmed that they have been received and there are no substantial findings.

The Board voted 5-0-0 to grant conditional Final Approval of the site plan, 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 Lynn Christensen and seconded by Barbara Healey.

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review (proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address the forthcoming comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
5. The applicant shall address any forthcoming comments from the Fire Department, as applicable.
6. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
7. The applicant shall address any forthcoming comments from the Wastewater Department, as applicable.
8. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
9. The applicant shall address the following Planning Staff Technical Comments:
 - a. On the Cover Sheet, please change Community Development *Division* to **Department**;
 - b. On the Cover Sheet, change *Robert Price* to **Tim Thompson**;
 - c. Sheet 2 – Note 5 includes zoning information for Map 6E, Lot 3-4, but omits Lots 3-1, 3-3 & 3-5.
 - d. Sheet 2 – Revise Note 10 to indicate the site is within the Aquifer Conservation District, but only partially within the Wellhead Protection Area.
 - e. Sheet 2 – Delete Notes 11 (signage), 12 (dumpster pickup) & 13 (snow removal & storage).
 - f. Sheet 2 – Revise Note 18 to eliminate reference to issuance of a certificate of occupancy.
 - g. Sheet 2 – Delete Note 27 as new construction on the properties there are no specific off-site improvements that can/would be made part of this specific site plan for the access road itself, and it is already part of the flex space site plan and will be proposed as part of the high-bay warehouse and any other future site plans for new construction on the properties.

- h. Sheet 2 – Delete Note 29, waiver request # 1 (lighting at property lines).

The following general and subsequent conditions are 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 the final Certificate of Occupancy.
 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 should address the following comments from the Conservation Commission, if determined applicable by the Planning Board:
 - a. The MCC is concerned about control of storm water that may enter Dumping Brook, and requests that final resolution of the stormwater design (following peer review and NHDES review) be presented back to the Commission.
 5. The applicant shall address any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
 6. The applicant shall address any forthcoming comments from the Fire Department, as related to building fire code compliance, sprinkler systems, building addressing, etc., as applicable (that are not deemed precedent conditions).
- 6. TC Boston Development, Inc. (applicant) and Rykel Company, Inc. (owner) – Continued Review for consideration of Final Approval for a Site Plan to construct a 323,750 s.f. warehouse/distribution facility & associated site improvements. The parcel is located at 50 Robert Milligan Parkway in the I-1 (Industrial) and Aquifer Conservation Districts. Tax Map 2D, Lot 078. Case #PB2021-32. This item is continued from the August 17, 2021 Planning Board meeting.**

Mr. Thompson prefaced the presentation by explaining that this project is considered an economic development priority and was first heard at the August 17th meeting but was continued because peer review comments had not been received. Since that time, the comments have been received and are mostly plan clean-up items and the recommendation for additional waivers, which have been submitted and provided to the Board. He concluded by indicating that Staff is recommending conditional approval.

Austin Turner (Bohler Engineering) and Elisha Long (Trammell Crowe) presented the project on behalf of the applicant. Mr. Turner began by providing an overview of the project and advising the Board members that the applicant has no concerns with making the changes

recommended by Fuss & O'Neill. He also provided an update on the Alteration of Terrain (AOT) Permit, explaining that they designed the stormwater system based on early discussions with DES but were waiting to submit the application until they could do some testing to ensure their design would function as planned. The tests have been conducted and the results validated that the plan will work as designed, so they will be submitting the AOT application soon. Mr. Turner spoke briefly about the traffic pattern and Mr. Thompson added that the majority of the trips will be from DW Highway to Industrial Drive and then onto the turnpike, so the impact will be minimal.

Mr. Thompson asked if there have been any updates to the Fire Department request to have an emergency access road off of the highway. Mr. Turner explained that due to DOT staff shortages, they have not made significant progress on the request but do know that DOT seems to be responsive to the idea. He also requested that the condition of the access road be updated to remove the location requirement because the applicant would prefer to have the access road connect to their main entrance driveway and not to the interior parking lot.

The conversation turned to waivers and Mr. Thompson made the recommendation to the Board that the waiver request for section 3.08.c.4 – Driveways (Access points shall not be located closer than 100 feet from one another on the same side of the road or 50 feet from intersecting streets (as required by the Merrimack Zoning Ordinance) does not apply because it is an existing driveway.

Mr. Disco asked about the plans for stepping the ledge as mentioned in the last Planning Board meeting. Mr. Long responded by explaining that they have plans to reinforce the face to make it safer but they are not doing any work to the ledge itself. Mr. Turner added that fencing is also going to be added to the top and bottom of the wall to prohibit access and that they can add any work they intend on doing to the site plan.

Councilor Healey asked for clarification that the vegetation along the DW highway is going to remain intact and what the view is going to be from the turnpike. Mr. Turner confirmed that the trees along the highway will not be removed and demonstrated on the site plan where trees are being proposed inside of the parking lot and along the front of the building. He then shared the architectural rendering of the building to give the Board an idea of what will be visible from the highway.

Mr. Disco mentioned that during the last meeting the façade of the building was discussed and how there are currently no breaks being proposed and wondered if there has been any more discussion on that topic. Mr. Turner advised that given the use of the building as a warehouse, they are requesting a waiver from the facade requirement. Mr. Thompson agreed that architectural jogs do not usually work well with the functionality of a warehouse building. Mr. Turner added that since they do not know yet if the building will be one or more tenants, changing the façade could present some challenges that they are hoping to avoid and intend on using landscaping to break up the space.

Mr. Turner explained that the Stormwater waiver (from section 3.07.a.1) is only being requested because DES asked that the stormwater be designed as if the lot was never developed but if they do that, it alters the results because the driveway is already in place. Mr. Thompson interjected to indicate that staff feels this is a reasonable waiver to grant due to the request from DES to consider the site undeveloped when actuality it has been modified from its original

condition. He added that this waiver would not be required if DES was not requesting that the site be considered not modified.

Mr. Disco asked for clarification on Al Paul Lane and Mr. Thompson shared a map of the road to show where the developed portion ends and where it lies in comparison to the project being discussed.

The Board voted 4-1-0 to deny a waiver to Section 3.12.d.2.ii (Building Design Standards – Facades), on a motion made by Nelson Disco and seconded by Barbara Healey. Lynn Christensen voted in opposition.

The Board voted 5-0-0 to grant a waiver to sections 3.07.a.1 (Storm Drain System) due to the manner in which NHDES is requiring the applicant to model the stormwater on the site for the AOT Permit (in actuality the runoff will not be increased at the driveway), on a motion made by Lynn Christensen and seconded by Nelson Disco.

The Board voted 5-0-0 to grant waivers to Sections 3.11.l.1 (Internal Parking Lot Landscaping), and 4.12.c.18.viii (identification of trees greater than 15” in diameter on the existing conditions plan), on a motion made by Nelson Disco and seconded by Lynn Christensen.

There was no public comment.

The Board voted 5-0-0 to grant conditional Final Approval of the site plan, 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 Barbara Healey and seconded by Lynn Christensen.

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, note the approvals/permits on the final plans and mylars and provide copies to the Community Development Department.
3. The applicant shall provide draft copies of any applicable legal documents for review (proposed access/drainage easement), at the applicant's expense, by the Town's Legal Counsel.
4. The applicant shall address the comments from the town's peer review consultant, Fuss & O'Neill, as applicable.
5. The applicant shall address any forthcoming comments from the Public Works Department, as applicable.
6. The applicant shall address any forthcoming comments from the Wastewater Department, as applicable.
7. The applicant shall address any forthcoming comments from Pennichuck Water Works, as applicable.

8. The applicant shall revise the design of the proposed building to comply with the requirements of Section 3.12.d.2.ii (Building Design Standards – Facades). Additionally, the applicant shall return to the Planning Board for a compliance hearing to verify the revised building design meets the regulatory requirements prior to final approval (plan signatures).
9. The applicant shall address the following Planning Staff Technical Comments:
 - a. The applicant has submitted a “preliminary traffic impact assessment” which does not include the elements required by Section 3.14 of the regulations. The applicant shall provide the applicable analysis as required by the regulations (based on the preliminary information provided, it appears a “short analysis” is applicable).
 - b. The applicant has provided demolition plans and several survey plans (at the end of the plan set), but has not provided what staff would expect for a proper existing conditions plan including all required plan notes per Section 4.12. The applicant should work with staff to provide a proper existing conditions plan (titled as such as required by the regulations).
 - c. The applicant has not provided the required plan notes (from Section 4.11) which should be added to the overall site plan sheet (to be recorded at the Registry of Deeds):
 - i. Tax map and lot #;
 - ii. Zoning designation of subject parcel.
 - iii. Existing and proposed use.
 - iv. Sanitary sewer source.
 - v. Water supply source;
 - vi. List of required permits and permit approval numbers.
 - vii. List of Planning Board waivers (if applicable).
 - viii. Note the following: "If, during construction, it becomes apparent that additional erosion control measures are required to stop any erosion on the construction site due to actual site conditions, the Owner shall be required to install the necessary erosion protection at no expense to the Town."
 - ix. For sites with greater than 20,000 square feet of land disturbance, note the following: "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."
 - x. A note stating: "On-site drainage shall be the responsibility of the owner and a long term inspection and maintenance plan shall be provided at the time of the pre-construction meeting. Every year semi-annual or annual reports shall be submitted to the Community Development Department."
 - xi. For parcels within the Aquifer Conservation District and/or a Wellhead Protection Area, a note stating that no salt or chemical de-icers are to be used for winter maintenance, and that winter maintenance shall be performed by a Green Sno-Pro certified (or functional equivalent certification) contractor.

- d. In addition to the plan notes listed above (comment “c”), the applicant address the following relative to the Overall Site Plan (sheet C-301):

- i. On this (and all other sheets of the plan set where a Planning Board signature block is required) correct signature block shall be as follows, per the requirements of Section 4.03:

Approved by the Merrimack, NH Planning Board on: _____
Certified by:
Chair: _____
Vice Chair: _____

;

- ii. There is a setback line on this sheet (and others) that appears to possibly be the State Shoreland Protection limit, but it is not labeled (on this or any other sheets). Please label and explain what this line is intended to depict (it is much too large a setback to be the local wetland setbacks or buffers).
- e. Relative to the Landscape Plans (sheets C-701 through C-704), the applicant shall review the placement of plantings with the proposed lighting fixtures to ensure no conflicts or verify that the plantings will not interfere with the placement of the lighting fixtures or necessary electric connections for the fixtures.
- f. The applicant address the following relative to the Illumination Plans (sheets C-706 through C-708):
- i. Please verify that all lighting fixtures are “full cut-off” in accordance with Section 3.13 and add a note indicating such on the plan.
- ii. There are several areas where the illumination levels at the property line exceed the maximum of 0.2 foot-candles (primarily along the access drive from Robert Milligan Parkway and along the FE Everett Turnpike property line). The applicant shall revise as necessary to comply with the regulations.
- iii. Note 11 on each sheet shall be removed as it does not apply to this application.

The following general and subsequent conditions are 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 the final Certificate of Occupancy.

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 project shall comply with all ICC Building, Fire and Life Safety Codes adopted by the State of New Hampshire, including all amendments.
5. The Applicant is required to submit a complete building permit application provide the job location indicate the scope of work, proposed use and estimated construction value prior to issuance of any building permits.
6. All building permit related plans and construction documents shall prepared by a NH design professional engineer and shall be submitted with the application for code compliance review, prior to the Pre-Construction Meeting with Community Development.
7. The Town of Merrimack reserves the right to require that all commercial and industrial construction projects are subject to Third Party Inspections, per Chapter 17 of the International Building Code to include but not exclusively limited to: verification of soils, material proctor, bearing compaction, cast in place concrete, reinforcing, masonry, structural steel, draft and fire-stopping, manufactured trusses, engineered floor systems and fire rated assemblies.
8. The building access road shall be maintained to remain passable throughout the year for emergency service vehicles, which includes the timely removal of snow and ice.
9. Due to the size of this building multiple Knox lockboxes shall be required for emergency access. The number and location of these boxes will be determined by the Fire Marshal upon review of building plans.
10. A gated emergency access road from the property to the northbound lane of the F.E. Everett Turnpike shall be required (***if permitted by NHDOT***). This is to allow Merrimack emergency responders access to a 1 mile section of the turnpike between the Nashua line and Exit 10 North This section of the northbound lane cannot be accessed without traveling south on the turnpike to Exit 8 in Nashua and reversing direction back north to the Merrimack line. This access gate will eliminate an over 3.5 mile detour that is currently required. The emergency access road must be maintained to remain passable throughout the year, which includes the timely removal of snow and ice.
11. Due to the large size of this building as well as the uncertainty of what may be stored within the building additional fire hydrants may be required. The number and locations of the hydrants will be determined by the Fire Marshal with input from the developers engineering consultant.
12. The entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (Town of Merrimack Building Zoning Ordinance and Building Code, Section 11). Plans shall be provided to the Fire Marshal for review and approval before a permit can be issued.
13. The entire building shall be protected by an approved NFPA-72 fire alarm system. Plans shall be provided to the Fire Marshal for review and approval before a permit can be issued.

14. The entire building shall be surveyed by the developer to determine if bi-directional radio amplification is needed to ensure that proper radio reception for Merrimack emergency responders both inside and outside the proposed building. If it is determined that amplifiers are necessary then the developer shall install and successfully test the amplifiers before a Certificate of Occupancy can be signed by the Fire Department.

7. **Madi Choueiri (applicant) and 480 DW Highway-Choueiri Realty (owner)** - Review for consideration of Final Approval for a waiver of full site plan review to allow for a previously approved, but expired, site plan (under the former regulations) to utilize an existing structure for a restaurant located at 480 D.W. Highway in the C-1 (Limited Commercial), Elderly and Town Center Overlay and Aquifer Conservation Districts. Tax Map 5D-3, Lot 046. Case #PB2021-34

Mr. Thompson began by explaining to the Board that after the owner of this property (Madi Choueiri) received all of the necessary approvals to open a restaurant at this location in March of 2016 he began working on remodeling the building when his financing suddenly fell through. He recently secured the funds needed, but when he went to pull the necessary building permits to restart the project, the Building Department staff was unable to grant the permits because the site plan approval had expired on March 1, 2021. Robert Price discussed this situation with the Board at the August 3rd meeting and the Board agreed to allow the applicant to submit the waiver of full site plan from 2016 and to apply the regulations that were in place at that time. The applicant has now formally submitted the waiver request and is here tonight so the Board can vote on the waiver of full site plan request.

Mr. Choueiri (applicant/owner) was present but had nothing more to add. Nelson Disco asked if the variances that are mentioned in the plan notes have been obtained and Mr. Thompson confirmed that have been.

The Board voted 5-0-0 to reinstate the 2016 final approval on a motion made by Lynn Christensen and seconded by Jaimie von Schoen with the following general and subsequent condition remaining on the reinstated approval:

1. All proposed easements and any applicable legal documents shall be recorded at the Hillsborough County Registry of Deeds at the expense of the applicant;
2. Applicant shall address the following comments from the Fire Department:
 - a. As this proposal is for a change of use to a mixed use combining a residence and restaurant the entire building shall be protected by an approved NFPA-13 compliant fire sprinkler system. (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 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.
3. Applicant shall address the following comment from the Wastewater Division: A plumbing plan indicating a grease trap is required (see precedent condition #7a from the 2015/2016 approval letter).

8. **Governors Hill Corp (applicant/owner)** - Review for consideration of an amendment to a previously approved Subdivision Plan to consolidate 13 lots into 5 reconfigured lots. The parcels are located on Claire, Level, Louie and Robert Streets and Acre Lane in the R-4 (Residential) and Aquifer Conservation Districts. Tax Map 6D, Lots 065, 075-079, 081, 124 & 125 and Tax Map 7D, Lots 057, 058, 062 & 063. Case #PB2021-35

Mr. Thompson began by providing a history of this project, explaining that the lots in question are part of the Level Acres subdivision that was originally approved in 1970. There is a large wetland covering the area of many of the lots, which is why they have not been built upon. The land was sold to a new owner (Governors Hill Corporation) and they have been working with Keach Nordstrom and the Town to determine what can be developed. They are here tonight proposing that 13 of the original lots be reconfigured to become 5 buildable lots for development.

Matt Peterson (Keach Nordstrom Associates) presented the project on behalf of the applicant. He began by sharing a layout of the area in question and providing a history of the original layout of the lots. He then shared the plans that Keach Nordstrom has prepared and walked the Board through the configuration of the new lots as well as some small changes to the cul-de-sac that were requested by DPW. He pointed out that the lots in question are R-4 and will therefore be serviced by town water and sewer.

Mr. Disco asked if pumping is required for the sewer or if it is all gravity and Mr. Peterson confirmed that it is gravity.

The Board voted 5-0-0 to accept the application as complete, on a motion made by Barbara Healey and seconded by Nelson Disco.

Chairman McLaughlin asked if there are any waivers being requested and Mr. Thompson explained that there was a request for a sidewalk waiver, however, since this is a lot line adjustment/consolidation, the Board can determine that the waiver is not necessary. The Board agreed that the waiver would not be necessary.

Mr. Disco asked about the roads because he was not able to tell from the plan what is existing versus what is proposed. Mr. Peterson explained that none of streets that allow access to the lots exist today. Mr. Thompson also offered clarification by explaining that the roads on the plan that indicate “unimproved” will remain unimproved and the rest are being built out as part of this project. Mr. Peterson further explained that the plan does not include road profiles because the approvals are already in place and the applicant is working with Public Works on construction. Mr. Thompson explained that the original approvals from 1970 still apply because the development has vested development rights, because of this, the current owner is working closely to DPW to try to get the roads created while still following today’s requirements.

Public comment

Ashley Cardin (15 Page Drive) asked how the proposed lots are going to be accessed. Mr. Peterson shared a plan to demonstrate where the road connection will take place and where the wetlands lie.

Councilor Healey asked if any of the reconfigured lots have wetlands on them and if so, if they have allowed for enough buildable space to not encroach into the wetlands. Mr. Peterson confirmed that yes, there are still wetlands on the lots and they take them into consideration when combing the lots to ensure there was still enough space to build a house.

The Board voted 5-0-0 to grant conditional Final Approval of the amended subdivision, 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 Lynn Christensen and seconded by Jaimie von Schoen.

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 any required State approvals/permits applicable to the project and provide copies to the Community Development Department, as applicable.
3. The applicant shall note any waivers granted by the Board on the final plans and mylars (including Section, and date granted) as applicable.
4. The applicant shall provide draft copies of any applicable legal documents for review, if applicable and at the applicant's expense, by the Town's Legal Counsel.
5. The applicant shall address any forthcoming comments from the Fire Department as applicable.
6. The applicant shall address any forthcoming comments from Merrimack Village District, as applicable.
7. The applicant shall address the following comments from the Public Works Department, as applicable.
8. The applicant shall address any requests made by the Planning Board during the public hearing.
9. The applicant shall address the following Planning Staff Technical Comments:
 - a. Amend note #1.2 on Sheet 1 to reference lot 77, not 79, to be added to the Claire Street ROW.
 - b. On Sheets 1 and 3, add "unimproved" to the road name labels for both Level Street and Claire Street.
 - c. The "new" portion of Level Street that is being constructed as part of this plan is likely going to need a different name due to the existence of Level Street further down (but not connected due to the presence of wetlands). The appropriate street name should be reflected on the final plan following review and approval from the Fire Department.
 - d. On Sheets 1 and 2, add a note that lists the frontage for each parcel.

- e. On Sheet 1, add the minimum lot depth requirement to Note #3.
- f. On Sheet 2, the two building envelope appear to be delineated with the “abutter line” instead of the building setback line.
- g. Add mention of the Aquifer Conservation District to note #3 on sheets 1 and 2.
- h. Delineate the 40’ wetland structural setback & 25’ wetland buffer on the plan.
- i. Indicate that the subject lots will be serviced by Merrimack Village District for water service, specifically.
- j. Per Section 4.06.1.m: Applicant shall provide a written statement from Merrimack Village District as to the availability of water supply to the development.
- k. Label the distance between property lines and structural setback lines.

The following general and subsequent conditions are 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 any forthcoming comments from the Building Department, as related to building code compliance and permit application, as applicable (that are not deemed precedent conditions).
5. The applicant shall address the any forthcoming comments from the Fire Department, as related to property addressing and fire code compliance, as applicable.

9. Discussion/possible action regarding other items of concern

- **Recommendation to Town Council - Authorization for issuance of a building permit without frontage on a Class V road** – Ruland Revocable Trust, 312 Baboosic Lake Road

Mr. Thompson summarized the situation with the property, with a proposal to demolish and reconstruct a home on a lot without frontage, which requires the Planning Board to make a recommendation on granting a building permit per the process outlined in RSA 674:41.

The Board voted 5-0-0 to recommend to the Town Council that a building permit be authorized for 312 Baboosic Lake Road per the requirements of RSA 674:41, on a motion made by Lynn Christensen and seconded by Barbara Healey.

10. Approval of Minutes — August 17, 2021

The Board voted 2-0-3 to approve the minutes of August 17, 2021 as submitted, on a motion made by Lynn Christensen and seconded by Nelson Disco. Barbara Healey, Paul McLaughlin, and Jamie von Schoen abstained.

11. Adjourn

The Board voted 5-0-0 to adjourn at 9:18 p.m. on a motion made by Barbara Healey and seconded by Jamie von Schoen.