

The Planning Board for the Town of Derry held a public meeting on Wednesday, November 18, 2009 at 7:00 p.m. at the Derry Municipal Center (3rd Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chair; Virginia Roach, Vice Chair; Jan Choiniere, Secretary; Randy Chase, Administrative Representative; Gary Stenhouse, Town Administrator; John O'Connor, Maureen Heard, Members, Darrell Park and Frank Bartkiewicz, Alternates

Absent: Brian Chirichiello, Paul Hopfgarten, and Jessica Hodgeman

Also present: George Sioras, Director of Community Development; Elizabeth Robidoux, Planning Clerk

Mr. Granese called the meeting to order at 7:00 p.m. The meeting began with a salute to the flag. He introduced the staff and Board members present, and noted the location of emergency exits and agendas and other materials.

Mr. Bartkiewicz was seated for Mr. Hopfgarten for the evening.

Escrow

#09-36

Middleridge Subdivision

H&B Homes

Cash Escrow

Parcel ID 03011

The request is to approve Release #2 in the amount of \$152,212.61. The amount to be retained is \$70,953.41.

Motion by Choiniere, seconded by Heard to approve as requested, discussion followed.

Mr. O'Connor advised he had questions regarding this project, specifically with the intersection improvements (traffic lights) planned for Route 28, Kilrea Road/Gulf Road. He noted there was a recent newspaper article that mentioned Mr. Fowler of DPW was requesting residents to send in petitions to request the improvements be done at that intersection. He thought the intersection work was a condition of approval, and that no occupancy permits would be allowed until the work was complete. He thought the additional pavement could not be placed, nor the construction of homes in Windham until the four homes in Derry are complete. Did he misread the February 18th notes?

Mr. Sioras explained the intersection project is no longer in the NH DOT 10 Year Plan. However, the town has correspondence from NH DOT that states DOT obtained funding from another federal source for this project. Mr. Fowler is requesting petitions to obtain more support for the project. The DOT has told the town they are moving forward with the intersection project. If the intersection work is not performed by the DOT at this intersection, the developer for Middleridge will need to come back before the Planning Board for a Condition Compliance hearing. Mr. Sioras stated he would speak with Mr. Fowler. Mr. O'Connor stated he is concerned because this Board approved a subdivision and there will be a lot of traffic coming through from Windham to this intersection.

Mr. Granese did not feel these points were part of the escrow discussion. Mr. Sioras noted the escrow has to do with field work; Mr. O'Connor was asking about the intersection. Mr. O'Connor stated the work related to the escrow has to do with pre-pavement and will make it easier to get equipment across town lines. Mr. Granese said if the developer has done the work, then the town has to release the escrow. Mrs. Roach noted that both Mr. Fowler and Mr. L'Heureux had signed off on the escrow.

The motion passed unanimously.

#09-37**Tire Warehouse****Tire Warehouse Central****Letter of Credit 20000595, TD Bank****Parcel 08073-003, 17 Tsienneto Road**

The request is to approve Letter of Credit #20000595, dated November 18, 2009, in the amount of \$59,677.24, with a new expiration date of December 22, 2010.

Mrs. Roach questioned the amount of escrow. Mr. Sioras explained the Board approved a reduction in the escrow amount at the last meeting.

Motion by Roach, seconded by Choiniere to approve as presented. The motion passed unanimously.

Minutes

The Board reviewed the minutes of November 4, 2009 meeting.

Motion by O'Connor, seconded by Heard to accept the minutes as written. The motion passed in the affirmative with Stenhouse and Roach abstained.

Correspondence

Mrs. Choiniere advised the Board has received correspondence from West Environmental, Inc., offering to assist with environmental needs. If any members have questions, they should contact Mr. Sioras.

Other Business

Al Dimmock, of High Street, requested a few minutes to speak with the Board. He stated he attended the Town Council meeting last evening and was impressed. All of the redistricting requests passed, which means something was done right. These requests took time and thought and were well thought out by the Planning Board. He spoke of some of the variance requests he sees as a member of the ZBA. He feels this Board should be commended on the work. He also advised that last evening Councilor Benson made another request regarding the signage in town and that he would like to see the regulations reviewed. Mr. Dimmock agrees. There are areas in town with too much signage. He would ask the Board to please do as good a job revising the sign ordinance as it did with the zoning changes.

Mr. Granese commented Mrs. Roach spearheaded the zoning changes. The Board does have a Sign Subcommittee and this issue will be referred to it.

PUBLIC HEARING**Outer Limits Realty, LLC
PID 03033, 255 Rockingham Road
Acceptance/Review, Site Plan Determination
Used Auto Sales**

Mr. Sioras provided the following staff report. This lot is adjacent to Computer Auto Sales, and is the former Derry Marine. The purpose is to assist Code Enforcement. The town is trying to get all of the auto sales facilities to put plans on paper that shows the limits of the number of cars on site. There have been instances where a lot is approved for ten cars and then all of a sudden there are 20 on the lot. The use on this lot will not change; it has been used for auto sales. Mr. McCue, the owner, was asked to prepare a plan and he did as the town asked. This plan shows the number of cars on site and will provide better enforcement capability.

Tim Peloquin, Promised Land Survey, presented for the applicant. He advised this is the former Derry Marine and is located near the Windham town line. Arthur McCue also owns Computer Auto Sales, which is located next door. He is a very conscientious owner and cleans his property and keeps it neat. He will enforce the same on this lot.

Mr. McCue is aware he can put 20 cars on site and that has been indicated on the as-built site plan. There are no improvements shown on the plan, nor are any proposed. Mr. Peloquin stated his understanding is that if there is any expansion of pavement or of the building, it will require a full fledged site plan.

Mr. Granese inquired as to signage? Mr. Peloquin advised there is an existing sign in front and one on the abutting property. This is a good question. He would suggest that there will be no new signs. There may be an addendum to the existing sign, but nothing would be done without a permit.

Mrs. Roach noted the total number of cars on site is 20. Two have been set aside for customers. Mr. Peloquin advised this plan went through the TRC process and customer parking was one of the comments. There needs to be spaces for the employee and customer parking. He suggests 20 cars, plus or minus, on site. This is a used car lot and the parking is not striped. Mrs. Roach confirmed the maximum number of cars on site would be 20. Mr. Peloquin concurred, stating some parking could occur in front of the concrete markings.

Mr. Stenhouse asked if there is a requirement for customer parking in the LDCR and what is it? Mr. Sioras advised it is based on the office space. It is proposed to be a one man operation. Mr. Stenhouse noted that if spaces are reserved for customers, then the cars for sale cannot be placed in those spots, which leaves 18 spaces for sale. Mr. Sioras advised that a service establishment requires 1 space for every 200 square feet of gross floor area, an office establishment requires one space for every 300 square feet of gross floor area, and a warehouse requires one space for every 1200 square feet of gross floor area. Mr. Peloquin noted that would eat up a lot of the parking spaces (approximately 7-9 spaces).

Mr. Granese inquired as to the number of cars that would be on the lot at one time? Mr. Peloquin stated 20. Mr. Stenhouse felt that left no room for customers. The town is trying to solve the ongoing issue it has (not with this applicant) with this type of use, and the plan will need to say how many cars will be on site.

Mr. Peloquin advised there would be space for 18 cars for sale. Mr. Granese thought it should be 17, as there needs to be a space for the employee as well. Mrs. Choiniere inquired what happens if there are more than 17 cars for sale on the site? Mr. Sioras stated the applicant would need to come back to the Board and show the additional spaces. Mr. Stenhouse said this is an issue that the town has been trying to solve because people have been expanding beyond their approvals. Mrs. Roach noted this process allows the Code Enforcement Officer to go out and enforce if the lot expands beyond the 17 cars for sale.

Motion by Roach to accept jurisdiction of the application, seconded by Stenhouse. All voted in favor in a roll call vote.

Motion by Roach to approve the application for Outer Limits, LLC, at parcel 03033, 255 Rockingham Road, pursuant to the LDCR, Article IX, Section 170-51, Site Plan Determination, subject to the following conditions:

The site will not exceed 17 cars on site at any given time.

Regarding signage, the existing sign will remain and any improvements to the sign, or additional signage will need to be approved by this Board, at a Condition Compliance Hearing.

Mr. Chase clarified that the number of cars on site *for sale* at any given time will be 17. The motion was seconded by Choiniere. Mr. O'Connor asked that the conditions be noted on the plan.

Stenhouse, Heard, Roach, Bartkiewicz, Chase, O'Connor, Choiniere, and Granese all voted in favor and the motion passed.

WORKSHOP

Mr. Granese advised that this particular workshop would be not be televised. The purpose of the workshop is for the Board to discuss the Visions and Goals draft chapter of the Master Plan. The Board would take a five minute break prior to the workshop.

The Board held a short discussion regarding escrow policies. Mr. Granese advised he attended a meeting with Mr. Sioras, Mrs. Robidoux, Mark L'Heureux, Janice Mobsby, Frank Child and Rita Cornea to discuss in house procedural issues. The result is that there is new information on the escrow cover sheets, and staff is working internally to expedite the process. Mr. Sioras remarked the meeting was productive. Mrs. Heard asked if this process will include better scrutiny of the banks? Mr. Sioras said it would. It was indicated at the meeting that there was agreement there has been a lack of communication. If there is an issue with a bank, Finance will let the Board know ahead of time, rather than just before a meeting. Mrs. Heard felt some of the smaller banks should be scrutinized more frequently. Mr. Sioras agreed and said that this is why Finance recommended as they did for Butler Bank. Mrs. Choiniere recalled Mrs. Mobsby stating she does check on the banks. Mr. Sioras confirmed she does check on them. The Butler Bank situation was a unique one. On another matter, he advised the Meade property on Hampstead Road went to auction and it was sold to a developer out of Massachusetts. He assumes they will come in with their own Letter of Credit for the property and the town will release the cash escrow back to Butler Bank.

Visions and Goals

Mr. Sioras advised that input from the Planning Board is required so this chapter can be finalized. The vision should come from the Board.

The Board reviewed the draft Visions and Goals chapter and the original Visions and Goals summary sheet.

Mrs. Roach asked with regard to the Senior Center. Is that not going to be part of the Boy's Club? Mr. Sioras advised that project is in progress. Grant funding has been obtained and plans are moving forward.

Mrs. Heard felt that the development of consolidation plans and regional plans surrounding Fire Departments and emergency agencies should be moved up the list. Mrs. Robidoux advised it had been moved to the number 2 position under Community Facilities.

Mr. O'Connor asked if his comments had been included in this draft? Mrs. Robidoux said that they had. She took the three sets of comments she received from Mr. Granese, Mrs. Heard and Mr. O'Connor and combined the comments. Where there were conflicts with suggested changes she tried to place the one with a higher chance of being obtained first.

Mrs. Choiniere asked how current is this list? She thought the pump replacement for the Meadowbrook Community Well System had been funded? Mrs. Robidoux said she did not know and that is one of the reasons they are asking for input; to make sure this is as accurate as possible.

Mrs. Roach noted the Natural Resources section should be updated. There is now a program at the Barka School.

Mrs. Choiniere asked about the status of the Mariner Inn? Mr. Sioras advised those buildings, if purchased and rehabilitated, would need a Community Development Block Grant. The two buildings are currently on the market. Some of the units need extensive work from what he has been told by Fire Prevention and Code Enforcement. Mrs. Choiniere thought it would be beneficial to purchase the lots, raze the buildings, and build a new Vet's Hall and parking area. Mr. Sioras said that exact scenario had been discussed at one point. That is a solution that would help everyone.

Mr. Chase did not feel that the Board should limit the vision to land around the Vet's Hall, it should also include the Adam's Memorial Building.

Add to Community Vision: Acquire property surrounding the existing Veteran's Hall and Adam's Memorial Building with the intent to provide additional parking and to construct a new Recreational Facility. This goal should be applied to any community facility requiring additional space or parking.

Mr. Sioras asked the Board if they felt downtown revitalization was a priority and should it be one of the goals? Mr. Granese felt it should. The downtown is one of the gateways to Derry and it should be attractive. Mrs. Roach said the Board supports better architecture in the downtown, as it showed with its support of Martingate's plan for its new mixed use building on East Broadway. Mr. O'Connor noted the town has invested funds for the downtown survey. Mr. Sioras reported that Town Council is holding a workshop on December 15th with all Board and Commission Chairs. The second item on the agenda for that evening is to discuss the results of the RKG Study. He will be providing the Downtown Subcommittee with a copy of the report ahead of time and can provide one to the Board as well. Mrs. Roach felt that would be beneficial and the Board has asked for a copy of the report in the past and not received one.

Mrs. Choiniere had questions regarding one of the community vision goals. It mentions acquiring the Masonic Temple. Mr. Sioras said that is similar to the area near Veteran's Hall. The building is old and would need to be brought up to code. Mr. Chase cautioned against purchasing too many properties and razing them. How many buildings will get torn down before there are parking lots to nowhere? There needs to be a balance. Mrs. Roach noted the Masonic Temple is a nice building. Mr. Sioras said there is parking for library patrons in a municipal lot on the other side of the Temple.

Mr. Chase noted there are three large parking areas in the downtown, but people don't want to walk to their destinations. He thinks Derry should do something similar to what Portsmouth did – make it interesting to walk from the parking lot. There is plenty of parking, but there needs to be investment in the downtown structure. There needs to be a place to go that is attractive. Mrs. Heard said she would like to see the businesses work together; for example, if someone is waiting for a table at a restaurant, that they be given the suggestion to go over to some of the other businesses and browse. There are so many good businesses that are no longer in the downtown.

Mr. Sioras commented the Board was having a good discussion and this is what was hoped would happen at this workshop. He commented on the improvements that will be taking place in the downtown. Martingate will construct the new multi use building in the spring. The intersection at Crystal and Birch is being improved, the overhead wires will come down, a new lane added, as well as more public parking. The owner of the Chinese restaurant has approval to upgrade the building to a Victorian style building that will change the look of the intersection. Halligan's Tavern is scheduled to open in December of this year. Stu Arnett has been hired and is charged to market the DiFeo property. If that is revitalized, it will take a block of downtown property and improve it.

Mrs. Roach commented on what the Town of Exeter does during the holiday season. They have a "shop downtown" event where the main street is closed off and people walk to all of the shops. It would be a great idea for Derry. Mr. Sioras said there are some success stories in Derry. The Coffee Factory is doing very well, Poles Apart, Backmann Florist and Fidelity Stereo are all doing well. The town needs more of this type of business. Mr. Granese recalled that three merchants in the downtown asked him if they could sell on the sidewalk. Mrs. Roach felt they should be able to do that by permit. Mr. Chase related that he stopped in a town up north where the street was not closed off, but all of the downtown merchants had their wares on the sidewalk and people were walking and shopping. Being able to drive through and see the activity caused them to stop. Mrs. Roach noted the municipal parking lots can be utilized. Mr. O'Connor suggested shutting down Manning Street and Courthouse Lane and letting vendors set up tents, similar to DerryFest. Mr. Sioras thought that was something that could be easily done. The long range plan is to extend Merchant's Row down to South Avenue in the future. These are items that should be put into the goals so that the town can work on it.

Mrs. Heard noted the Derry downtown is gorgeous during the holidays and it would be nice to showcase that. Mr. Sioras commented the Recreation Department is trying to get more to happen in the downtown. Mr. O'Connor commented on the success of the trick or treat event in the downtown. He said many people went into the downtown shops. Mr. Sioras noted downtown revitalization will take time. Maryanne's took a risk when they moved the restaurant to the downtown, but they have been very successful. They were followed by Rig-A-Tony's, and the area is slowly improving.

Mrs. Choiniere inquired as to building owners of buildings that need some work. Mr. Sioras said it can be challenging when there are absentee owners who do not take care of their property. Mr. O'Connor suggested adding a blight ordinance to the list of goals. Mr. Sioras said there are other buildings for sale in town, such as the American Legion; they are also experiencing dwindling membership.

Mr. Chase said if the Board wants to revitalize the downtown, it is going to have to deal with the buffer zone issue, or it will be a problem. Mr. Sioras advised the town attorney has been asked to draft some language that will work.

Mr. Chase spoke with regard to Natural Resources. He felt the town should **market the open space/conservation land so that people know where it is**. If residents knew where the public conservation land was and where they could access it, he felt there would be more support.

Mrs. Choiniere asked what would the adoption of a blight ordinance gain the town? Mr. Sioras said it would give more teeth to Code Enforcement to help with the dilapidated properties. Mrs. Choiniere asked if the town can force the landowners to comply? Mr. Sioras explained it is challenging, but the town has a right to enforce it if the property is

a health or safety hazard. Derry is relatively fortunate; there aren't that many of this type of property.

The Board mentioned the improvements at Anthony's Cucina.

Mr. O'Connor asked with regard to the goal listed under "Housing". Derry has met the demand for affordable housing and no one wants to look like Derry. Mr. Granese **suggested changing the wording to "Continue to adapt to the demand for affordable housing in Derry."**

Mrs. Roach asked what does "develop a planning board mission statement mean?" Mrs. Robidoux explained that goal came from the Economic Development Subcommittee, but there is no statutory authority for the Board to develop one. Mrs. Roach said if there is no statutory authority, the Board can't do it. The Board does try to prioritize, and that is why there is a Master Plan.

Mrs. Choiniere asked what is the citizen referral program that is listed as a goal? Is that to pay someone for a business lead that results in a business moving to Derry? It is. Mrs. Roach questioned #17 on page 6 as well, which suggests the formation of an Economic Development Committee with the purpose of developing a process for the town to prioritize future growth. Mr. Sioras explained the Town of Londonderry has one and the Economic Development Subcommittee used that as an example. Mrs. Roach felt it was good to have an Economic Development Committee in town, but planning for the future is not really their role. The Board is open to public input, but she feels there is nothing wrong with the process.

Mrs. Choiniere asked who develops the Fire Code? Mr. Chase explained this is a function of the NFPA. The town adopts or adapts the codes to meet its needs. Mrs. Roach noted when the NFPA Codes change, the town amends the Zoning Ordinance. Mr. O'Connor suggested changing the wording to remove "Fire Code" and instead indicate the intent to get residential sprinklers in new homes. Mr. Sioras explained Chief Klauber has been asked to provide something in writing to the Board so that the LCDR can be amended. Mrs. Roach suggested the Chair contact Chief Klauber with regard to this request again.

It was suggested to **change the wording regarding transportation on page 10 to read, "Address the traffic and safety concerns at Danforth Circle, and Tsienneto Road at Route 102."**

Mr. Chase noted the last goal listed was to develop a database of properties in Derry that are available. It also states this is in progress. Mr. Sioras explained grant funding was provided and the town is halfway through the process. The project identifies the various types of properties, performs a window survey, and all the information is put into a database. This is town wide. With regard to Mr. Arnett, he has been hired to specifically market three properties. Mrs. Roach confirmed the database, once finished,

will be available on the town website to the public. Mr. Sioras added this is similar to what the Town of Hooksett did. Mrs. Choiniere asked if the town is offering any differed tax incentives to get companies to move to Derry? She is aware of a company that was enticed to move to Arizona – the state will be paying the employee salaries for a certain amount of time. Mr. Sioras said New Hampshire does not have same funding that is available in other states, so the state can't say move here and don't pay taxes for five years. The State is trying to look at incentive programs that are similar.

Other items

Mr. Granese asked who is on the Sign Committee? Mr. O'Connor advised he was on it and can organize a meeting to start the process. Mr. Sioras felt Bob Mackey would be a good addition to that committee. Mr. Granese asked that something be put together and brought to the Board in January so that the Board can hold a workshop.

Mrs. Heard thought tonight's discussion was helpful and suggested holding an open discussion like this every three meetings or so.

Motion by Choiniere, seconded by Heard to adjourn. The motion passed in the affirmative and the meeting stood adjourned at 9:05 p.m.