

The Planning Board for the Town of Derry held a public meeting on Wednesday, December 2, 2009 at 7:00 p.m. at the Derry Municipal Center (3<sup>rd</sup> Floor) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chair; Jan Choiniere, Secretary; Randy Chase, Administrative Representative (7:18 p.m.); John O'Connor, Paul Hopfgarten, Maureen Heard, Members, and Frank Bartkiewicz, Alternate

Absent: Virginia Roach, Gary Stenhouse, Brian Chirichiello, Darrell Park, and Jessica Hodgeman

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

Mr. Granese called the meeting to order at 7:02 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 Mrs. Roach for the evening.

## **Escrow**

### **#09-38**

**Woods of Derry II**

**Edward Cooper/Mark Cooper**

**Woods of Derry II**

**Letter of Credit 1227, Bank of New England**

**Parcel ID 03119, Lawrence and Stark Roads**

The request is to approve Release #2 for Letter of Credit #1227, issued by the Bank of New England, in the amount of \$32,335.20 for the above noted project. The amount to retain is \$25,239.60.

Motion by O'Connor, seconded by Choiniere to approve as requested, all voted in favor.

### **#09-39**

**Running Brook Farm, Phase I**

**QROE**

**Derry Preservation Initiative**

**Cash Escrow**

**Parcel 06047, Island Pond Road**

The request is to approve final release of cash escrow in the amount of \$3240.00, plus accumulated interest for the above noted project. Escrow was held for the setting of bounds and bounds certification has been received by the Town of Derry.

Mrs. Choiniere asked for the location of this project. Mr. Sioras explained it is located across from Derby Lane, off Island Pond Road. The main road in the subdivision is called Stonefence Drive. This was the subdivision that was constructed with farm belts and open space about 3 years ago.

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

**#09-40****Middleridge Subdivision****H&B Homes****H&B Homes****Cash Escrow****Parcel 03011, 22 Windham Depot Road**

The request is to approve Release #3 in the amount of \$18,005.33 for the above noted project. The amount to retain is \$52,948.08.

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

**#09-41****Tire Warehouse****Tire Warehouse****Tire Warehouse Central, LLC****Cash Escrow****Parcel 08073-003, 17 Tsienneto Road**

The request is to establish cash escrow in the amount of \$59,677.24 for the above noted project.

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

**#09-42****Tire Warehouse****Tire Warehouse****Tire Warehouse Central, LLC****Letter of Credit #20000595, TD Bank****Parcel 08073-003, 17 Tsienneto Road**

The request is to release Letter of Credit #20000595, TD Bank, dated November 18, 2009, in the amount of \$59,677.24. This Letter of Credit has been replaced by cash escrow.

Mr. Hopfgarten inquired if the town requested the change to cash escrow? Mr. Sioras advised this was at the request of the developer.

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

**#09-43****Bunker Estates****JEMCO Building & Development, Inc.****JEMCO****Letter of Credit #20001082, TD Banknorth****Parcel 02020-001, 65 Fordway**

The request is to renew Letter of Credit #20001082, held by TD Bank, dated December 1, 2009, in the amount of \$62,122.86 with an expiration date of December 11, 2010.

Mrs. Choiniere inquired if the developer intends to finish this project? Mr. Sioras said progress is slow. The foundation is in for the third building. DPW would prefer to see the Letter of Credit renewed so that funds are on hand to finish the project if required. Mrs. Choiniere inquired if there is any stipulation that a certain part of the project should be finished before another? Mr. Sioras said he can find out. The funds are held for the site work, rather than the construction of the buildings.

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

**Minutes**

The Board reviewed the minutes of November 18, 2009 meeting.

Motion by O'Connor, seconded by Choiniere to accept the minutes as written. The motion passed in the affirmative with Hofgarten abstained.

**Correspondence**

There was no correspondence this evening.

**Other Business**

Mr. Sioras advised that there will not be a Planning Board meeting on December 16<sup>th</sup>. The next scheduled meeting is January 6, 2010.

The Town Council will be holding a joint meeting with the Board and Commission Chairs on December 15<sup>th</sup>. Planning Board members are welcome to attend. The Council will also listen to a presentation on the results of the RKG Downtown Marketing Study that evening.

On December 8<sup>th</sup> there will be the final follow up meeting from the Community Profile. The various subcommittees will give status reports. Planning Board members are welcome to attend this meeting.

**PUBLIC HEARING**

**257 Rockingham Road, LLC  
PID 03031, 257 Rockingham Road  
Acceptance/Review, Site Plan Determination  
Used Auto Sales**

Mr. Sioras provided the following staff report. This application is similar to the one the Board saw two weeks ago. The property is the last lot on the right as one travels to the Windham town line on Route 28. It has been used as a used car dealership for many years. The town is trying to get a better handle on these types of uses per the advice of Counsel. It allows Code Enforcement to enforce violations. He introduced Tim Peloquin to the Board.

Tim Peloquin, Promised Land Survey, presented for the applicant, who was present this evening. He advised he has a revised set of plans for the Board to review. The only change on the plan is that he has designated two customer parking spaces and one employee parking space on the plan.

Motion by Choiniere to accept the revised plan, seconded by O'Connor. Heard, Hopfgarten, Bartkiewicz, O'Connor, Choiniere and Granese all voted in favor and the motion passed.
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Mr. Peloquin advised this is the first lot on the left as one travels north on Route 28 into Derry. The lot is approximately 1 ½ acres and has been a used car lot under various names over the years. There is a significant amount of pavement and concrete on this site. There are no proposed changes to the lot. The applicant is significantly improving the property. When Mr. Peloquin was out performing the survey, the lot was in bad shape. Since then, the applicant has been cleaning it up and doing some landscaping. The applicant is living in the residence on the property with his family.

Mr. Granese established there will be no more than 30 cars on the site. Mr. Peloquin explained that in reality, there will be 27 used cars for sale, with 2 customer parking spaces and one employee parking space. This is what the Board mandated for the adjacent lot as a reasonable number. It was noted this site used to be known as A&B Auto Sales.

Mr. Granese inquired as to signage. There is an existing sign on the site. The applicant, Elias Kanj advised he is not familiar with the town's process. He had intended to request approval this evening and then apply after that for his sign permit, or he will use the existing sign on the building. Mr. Granese advised if Mr. Kanj would like to change the sign, he will need to come back before the Board for approval. He noted it is good to see new businesses wanting to come to Derry.

Mr. O'Connor inquired as to the building noted as office/car storage. How many cars would be stored in that building at one time? Mr. Peloquin said that space could be used to wash the cars as it has been for a number of years. Mr. Kanj explained the building has 2 bay doors. He intends to bring in the cars to detail them, or perform an oil change to get them ready for sale. This is for his own use and not for the public. Mr. Peloquin noted the Fire Department during TRC review had a concern that this building not be used as an auto repair facility. That is why he used that designation on the plan per their recommendation.

Mr. Granese inquired if there is sufficient room for snow storage? There is. Mr. Granese said he could see the changes on the plan with regard to designated parking; would there be signage for those spaces? Mr. Kanj said he could do that. Mr. Peloquin thought it would be easy to do by placing placards on the building. He further explained that he designated the maximum number of cars that would be on site. Mr. Kanj may have less. He understands that if he chooses to expand he will need to come back to the Board with a full blown site plan, showing drainage and landscaping.

Mr. Granese opened the floor to the public.

Sheldon Wolff, 242 Rockingham Road, stated he has no objections to bringing business into town; it is good for the tax base. He does not see any issues with the land use.

Al Dimmock, High Street, said he likes that in Derry, everyone can have a say. Derry needs good businessmen. He mentioned that oil change operations require approval from DES.

There was no further public comment.

Mr. Peloquin advised his client had made note of Mr. Dimmock's comment and will speak to DES. He will ensure that he is not in violation and will either apply with the state or not perform that function.

Motion by Choiniere, seconded by O'Connor to accept jurisdiction of the plan.

Heard, Chase, Hopfgarten, Bartkiewicz, O'Connor, Choiniere and Granese all voted in favor.

Motion by Choiniere regarding the plan for Parcel 03031, 257 Rockingham Road, that it be approved pursuant to LDCR, Article IX, Section 170-51, Site Plan Determination, subject to the following conditions:

Any improvements to the sign or additional signage will need to be approved by the Planning Board at a Condition Compliance hearing.

DES approval should be obtained prior to servicing of vehicles.

The motion was seconded by Heard.

Heard, Chase, Hopfgarten, Bartkiewicz, O'Connor, Choiniere and Granese all voted in favor.

## **MASTER PLAN**

Mr. Sioras introduced Linda Madorma and Jillian Harris from Southern New Hampshire Planning Commission (SNHPC). They will be presenting the Existing Land Use Chapter and Build Out Scenarios to the Board. Following that, he has some staff and subcommittee recommendations on suggested zoning changes.

Mrs. Harris reviewed with the Board, the draft Chapter 10, Existing and Future Land Use.

### Existing and Future Land Use

In the fall of 2009, a Community Survey was made available to residents. The majority of respondents felt the amount of Residential Single family land was just right, there was too much Residential Cluster Housing, and the amount of Rural land was just right. The majority felt there was not enough 55+ housing, Commercial, Business and Office, Commercial Retail, Industrial Manufacturing, or Industrial parks. The majority also felt there was just enough land available for Industrial Sand and Gravel excavation.

Residents were asked if they felt zoning for a particular use was in the wrong location, what would they suggest? There were many responses, among them: Better protection along Route 28, environmental inspection of automobile row; Look at

Londonderry building businesses everywhere, we need to do the same; and, Don't separate groups so much, for instance you might have sand and gravel excavation, other industrial, commercial and residential.

When asked to indicate the level of importance the Town should give to land use development methods, the majority of respondents felt that allowing commercial and residential use on the same lot or building was not important. For allowing commercial and residential in the same zoning district the majority felt that this was somewhat important. Respondents felt that allowing commercial and industrial in the same zoning district was important. They also felt that concentrating development into already developed areas in order to preserve rural character elsewhere was very important. The majority of respondents felt that encouraging clustered residential subdivisions was not important and they felt the same way about permitting higher residential density as a bonus for the creation of affordable/workforce housing.

The Existing Land Use Map (Map 10.1) shows the different types of land use in Derry. Table 10.1 provides a breakdown of Derry's existing land use. This breakdown shows the predominant land uses in Derry are Forest Land and Single Family Residential, followed by Transportation, Wetlands and Agricultural. Undeveloped or Vacant Land in Derry comprises approximately 22 acres of the town. This does not include Forest Land, transitional or Barren land, which may or may not be developable, depending on ownership and topography. Additionally there are approximately 840 acres of open water and 1,334 acres of wetlands that occupy a portion of the town. Together these represent approximately 9.3% of the town.

SNHPC compiles regional land use data on an annual basis. This analysis helps to draw comparisons through time of how the region is growing and developing. Table 10.2 shows that the dwelling units in Derry have expanded from 12,838 units in 2000 to 13,080 units in 2008. This is a 1.9% change and Derry had approximately 4% of the regional growth for this time. During this same time, Derry gained 836,259 square feet of non-residential development, or 12.1% of the total regional non-residential development. That majority of that development was commercial. Table 10.3 shows total developed land area in the SNHPC region. Developed area was 11,426.5 acres in 2000 or approximately 49% of the town. This increased to 12,276.8 acres by 2008 or 52.9%. Total vacant area in 2000 was 11,799.1 acres or 50.8%. This decreased to 10,948.8 acres by 2008 or 47.1%. From this table we can see that Derry has seen a slight increase in development between 2000-2008, and that the majority of that development has been residential land.

Map 10.2 shows the current zoning for the Town of Derry and includes how many acres and what percentage of the town is in each district. From this map we can see that a majority of the town is Low, Low-Medium and Medium-Density Residential. Together these districts make up approximately 84% of the town. The five Industrial districts together make up approximately 5% of the town and the Commercial/CBD districts together make up approximately 3.4% of the town. Office/Business/Medical/Research

and Development districts make up approximately 2.3% of the town and Multi-Family/Medium-High I & II and Manufactured Housing together make up approximately 5.3% of the town, making those high-density residential districts the second greatest portion of the town.

In order to develop future land use recommendations, it is useful to look at previous recommendations for the town in the previous Master Plan and analyze whether the town has been or is achieving those goals and if not, what can be done differently going forward. Previous recommendations were to:

- Preserve Derry's overall pattern of land use that concentrates development in the Downtown and west central sections of the Town, with open lands and sparser development in the east section of the community, avoiding the tendency toward suburban sprawl.
- Continue to guide the amount of growth that is sustainable, given Derry's environment, level of service, and to its desired character, as outlined in its growth management ordinance.
- Integrate Town goals for open space, recreation, economic development, downtown revitalization, with land use policies and regulatory tools where appropriate.
- Continue to review zoning regulations to assure consistency with Town objectives and evolving policies on land use.

Since 2001, Derry has been working to successfully implement these goals.

The following implementing actions were cited in the 2001 Master Plan: revise Derry's zoning and subdivision regulations to allow and encourage open space residential development for a range of households, including moderate and one income households, and to consider creating an agriculture district that gives preference to agricultural preservation. These actions are also recommended for the Town to consider going forward, as they have not been implemented since the 2001 Master Plan.

### Build-Out Scenarios

Ms. Madorma reviewed the first two build outs for the Board. The Base Build-out was done uniformly for all 26 communities in the CTAP area. It shows the maximum amount of developed land, under the current zoning regulations. Constraints considered were wetlands, 100 year flood plains, and conservation land. Conservation land included public and state owned lands.

The Standard Alternative Build-out added the National Services Network as an additional constraint, or layer. These constraints included flood storage areas, wildlife habitat, soils, and water supply lands. This build-out also adjusts density to maintain an equal number of new housing units and non-residential square feet. This growth neutral



method is conducted by increasing density in concentric rings based on distance from one or more community centers.

The Derry Community Scenario (Town Scenario) consists of a new Commercial/Industrial zone in the area north of Tsienneto Road and along Manchester Road in the area currently zoned Industrial III and IV. An additional zone called Future Commercial, was added along the Route 28 corridor in the southern portion of town. Currently, those areas are zoned Residential and General Commercial. She reviewed tables that show how population, and commercial floor area can be affected.

Mrs. Harris advised the Town Scenario will meet the goals and vision of the Town of Derry for a majority of the indicators and is the preferred future land use pattern from the three scenarios analyzed. The purpose of this analysis is to provide the Town of Derry with a planning tool that can be used in an advisory nature to guide the future growth and development of the Town as well as assist the Planning Board in developing and improving the Town's land use regulations. Map 10.3 shows the preferred future land use pattern. In consideration of the historical and cultural resources in the area along Route 28 where a future commercial zone was added in the Town Scenario Build-out the town could consider a historic district overlay zone to preserve these types of resources in town, while allowing the integration of commercial development which fits with the character of the Town. When establishing a historic overlay zone it is important to coordinate preservation regulations and zoning rules. The purpose of the historic district overlay zone is "to encourage the preservation, restoration, and rehabilitation of buildings of historical, architectural or cultural value and to preserve and prevent the loss of significant historic elements, buildings and sites, located within non-residential districts."

Mrs. Harris discussed the recommendations in this chapter.

The Community Survey and Community Profile conducted as part of this Master Plan update provided a number of themes that were important to residents of the Town. From the Community Survey, the top five issues that residents were concerned about addressing were:

- Reducing the tax burden
- Preserving Agricultural Land/Open Space
- Attracting New Retail
- Protecting Drinking Water Supply
- Attracting an office park
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The following themes developed from the Community Profile:

- Protection of Natural Resources
- Community Support
- Leadership and Communication

- Planning
- Traffic/Transportation
- Economic Development
- Downtown
- Recreational & Leisure

In terms of future land use the following recommendations should be considered for the Town of Derry in order to address some of these issues and themes.

- Consider a new Commercial/Industrial zone in the area north of Tsienneto Road and along Manchester Road in the area currently zoned Industrial II and Industrial IV.
- Consider rezoning the area along the Route 28 corridor in the southern portion of the town to commercial.
- Consider the use of a historic overlay district to protect sites and properties from abutting residential and commercial uses.
- Consider Revising Derry's zoning and subdivision regulations to allow and encourage Open Space Subdivisions/Residential Development as a means of implementing smart growth principles and preserving open space in the future.
- Continue to use the Town's Growth Management Ordinance to control and direct growth so that it is sustainable in the future.
- Implement recommendations of the Downtown Market Plan (2008) for strengthening economic development and character in the downtown area and review on a regular basis.
- Consider expanding the Downtown Market Plan for the development of an overall Economic Development Plan for the entire town and include a comprehensive review of current land uses to determine what strategies can be implemented to strengthen economic development in the Town of Derry.
- Implement recommendations of the Beaver Lake Watershed Management Plan in order to protect natural resources within the Beaver Lake Watershed.
- Consider a taskforce to review planning, zoning and code enforcement regulations on a regular basis for compliance with town goals and vision.
- Consider developing a Cost of Community Services Study to determine how land uses should be balanced in the future in the Town of Derry.

Mrs. Harris advised the next chapter to be discussed will be the Implementation Strategies. In the meantime, work will continue on revising and reviewing the chapters already completed. The Board had no questions. Mr. Granese thanked Ms. Madorma and Mrs. Harris for their presentation.

Mr. Sioras advised he had some recommendations that he would forward to SNHPC. In looking at the land use, there are two changes that can be made based on

recommendations from the Profile Subcommittees. The first is in the area known as the Sybiak property. This lot is located just east of I93, and is now owned by the state and is to be used for mitigation for the widening of I93. This area has been zoned Industrial for many years. As the state now owns 200 plus acres, there is no longer any need to retain it for Industrial use; it will never be developed. This land will be kept as permanent open space. Also, given the nature of the land and the lack of water and sewer, it does not make sense to retain the Industrial designation. The second area is the property owned by the Caras family on South Range Road, which is in the Office/Research/Development zone. A feasibility study was conducted several years ago that showed this land is not conducive to an office park. The roads do not meet town standards. It makes sense to rezone this area as residential. The focus of future development is on Route 28 from Shute's Corner, over to the area of Grandview Fleamarket, and then down Route 28 to Ryan's Hill, as well as the potential development in the TIF district located on Manchester Road. Downtown revitalization is also a focus. He recommends changing the zones in the southeastern part of town back to residential. There had been talk in the 1970's that there would be an exit off of 93 located in this area, and at that time, it made sense to zone the land Industrial. That will not happen now as the highway is being widened.

Mr. Hopfgarten asked if there has been any study on the number of units that could be built on the Caras property. Mr. Sioras said he could do that. There are approximately 250 acres on this lot with 2 acre zoning based on soils. He can do that study to determine the potential build-out. Mr. Hopfgarten said one reason he recalled that area being zoned ORD was to mitigate the residential growth. He added the town has been doing a good job of controlling growth over the last decade, and he would like to see that maintained.

Mr. Sioras felt that was a good point. Does the Board want to keep it as ORD in that area? It is a difficult area to develop; he can look into the potential. He wanted to alert the Board to the changes in that area of town. The NHDOT purchased the Sybiak property and about 60 acres along Bowers Road.

Mr. Sioras advised Mrs. Harris will be back before the Board in January with the next chapter.

Mr. Granese reminded the Board the next meeting will be on January 6, 2010 and wished everyone a safe and happy holiday season.

Motion to adjourn by Choiniere, seconded by Heard; the motion passed unanimously and the meeting stood adjourned at 7:58 p.m.
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