

The Planning Board for the Town of Derry held a public meeting on Wednesday, June 8, 2011, at 7:00 p.m. at the Derry Municipal Center (Cable TV Studio) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; Frank Bartkiewicz, Secretary; Randy Chase, Administrative Representative; Darrell Park, Jan Choiniere Members; Michael Fairbanks, Alternate

Absent: Anne Arsenault; John O'Connor, David Milz, Jim MacEachern, John Anderson

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Clerk; Mark L'Heureux, Engineering Coordinator; David Gomez, Town Assessor

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 the exit, and agendas.

Mr. Fairbanks was seated for Mr. O'Connor.

Escrow

#11-11

Project Name: T-Mobile Northeast, LLC

Developer: T-Mobile Northeast, LLC

Escrow Account: Liberty Mutual Insurance Company

Escrow Type: Tower Removal Bond

Parcel/Location: PID 03116, 8 Lawrence Road

The request is to establish a removal bond in the amount of \$25,000.00 to be held in perpetuity, or until such time as the telecommunication tower requires replacement, removal, or relocation (T-Mobile Site Number 4BS1008C)

Motion by Barkiewicz to approve as presented, seconded by Choiniere. The motion passed with all in favor.

#11-12

Project Name: T-Mobile Northeast, LLC

Developer: T-Mobile Northeast, LLC

Escrow Account: T-Mobile Northeast, LLC

Escrow Type: Cash

Parcel ID/Location: PID 03116, 8 Lawrence Road

The request is to establish cash escrow for the above noted project in the amount of \$17,366.40.

Motion by Bartkiewicz, seconded by Choiniere to approve as presented. The motion passed with all in favor.

#11-13**Project Name: Stark Road Subdivision****Developer: MHB Development****Escrow Account: MHB****Escrow Type: Cash Escrow****Parcel ID/Location: PID 03130, 3 Stark Road**

The request is to approve the final release of cash escrow for the above noted project in the amount of \$17,431.20 plus accumulated interest. The amount to retain is zero.

Motion by Bartkiewicz seconded by Choiniere to approve as presented. The motion passed with all in favor.

#11-14**Project Name: Woods of Derry II****Developer: First Stark Road Properties (Edward Cooper)****Escrow Account: Woods of Derry II****Escrow Type: Letter of Credit****Parcel ID/Location: PID 03119, Lawrence & Stark Roads**

The request is to authorize the Treasurer for the Town of Derry and/or her designee to draft Letter of Credit #1227B, drawn on Bank of New England, in the amount of \$25,574.80 on June 15, 2011. Discussion followed.

Mr. L'Heureux advised this draft is just a precautionary measure as there is no meeting between tonight and June 15th. He has been in conversation with the developer who is obtaining the Letter of Credit from the bank, but it will not be delivered until tomorrow. This is a precaution in the event the Letter of Credit does not reach the town by the June 15th expiration date. Mrs. Robidoux asked that the amount be amended to read "\$25,239.60".

Motion by Bartkiewicz to approve as presented and amended, seconded by Choiniere. The motion passed in the affirmative with Fairbanks abstained.

Minutes

The Board reviewed the minutes of the May 4, 2011, meeting.

Motion by Bartkiewicz, seconded by Choiniere to accept the minutes of the May 4, 2011, meeting with an amendment on page 3, paragraph 3 changing "01207" to "01027". The motion passed in the affirmative with Park and Choiniere abstained.

Correspondence

Mr. Bartkiewicz advised Southern New Hampshire Planning Commission has forwarded a CD copy of the draft Regional Comprehensive Plan. They are asking the Board to review the document and provide comments. The document is also available for viewing on the SNHPC website under the "Latest News" link. Mr. Bartkiewicz said the emphasis and focus of this update has been sustainability. As used in the plan, "sustainability" refers to providing for the needs of current and future generations by promoting fiscally sound and socially responsible long term decision-making that will enhance the ecology, economy, empowerment, efficiency and health of the region. These five areas represent the five legs of sustainability as identified by the American Public Works Association Center for Sustainability.

The Board has also received the new LCG publication catalogue, *The Source and Town and City*. Those are available in the Planning Office.

Other Business

Farmers Market

Mr. Granese advised the Farmers Market will start again on July 6 in the Pocket Park. The hours will be 3:00 p.m. to 7:00 p.m. It was very successful last year and he invited the public to attend.

Rezoning Subcommittee

Mr. Granese advised the Rezoning Subcommittee met this evening prior to the public meeting and reviewed the request from Maureen Rose to rezone the Industrial zone on Windham Road to residential. The Board has received a letter from an impacted property owner, Michael Gardner. Mr. Bartkiewicz read the letter into the record. Mr. Gardner is not in favor of this proposed change as it would make it difficult to improve and maintain his property, add risk and cost to his operations, and reduce the value of the property. Mr. Granese also advised he spoke with other property and business owners. Mr. Espinosa, who operates a home based business, said he would need more information on the proposed change but does not want it to happen. The Subcommittee recommends to the Board that the land not be rezoned. Mr. Granese would like to poll the Board and obtain the members' thoughts to see if they agree with the recommendation of the subcommittee, or would like to move to a public hearing.

There was no Board discussion and Mr. Granese requested the poll of the Board.

Mr. Chase, Mr. Park, Mrs. Choiniere and Mr. Bartkiewicz were in agreement with the recommendation of the subcommittee; Mr. Fairbanks felt there should be a public hearing and Mr. Granese was in agreement with the subcommittee. Mr. Granese asked that Ms. Rose be informed of the decision of the Board.

Windham Town Line Amendment Request

Mr. Sioras advised Attorney Peter Bronstein was present to request an amendment to the town line. This involves a subdivision off of Windham Depot Road. Most of 150 lot subdivision is in the town of Windham. The development connects to Derry through Middleridge Road. The Board members have a handout that shows the parcels that cross the town line. The proposed change to the town line is to place the lots in Windham to allow for ease of emergency and school bus access.

Attorney Peter Bronstein advised he represents H&B Homes. He provided a plan of the overall view of Spruce Pond Estates. The two parcels in question were highlighted in yellow (Parcel A – PID 03005; Parcel B – PID 03039). There are four lots of the subdivision located in Derry, the remainder of the subdivision is in the Town of Windham. He introduced Joe Maynard of Benchmark Engineering. In 1903, a statute was implemented that states a town line cannot be altered without an act of the State Legislature, and each town must pass a ballot vote with a 2/3 majority. In general, the start to this process is to gain impressions from the respective Planning Boards, and the Town Council or Select Board in each town.

Joe Maynard advised Parcel B is comprised of 5 or so acres and is located at 7 Linda Avenue. Access is from a paper road approved in 1964 as part of the Linda Avenue subdivision. This is not truly buildable per driveway standards as there is a 20% grade on the Derry side. The right of way was platted but not constructed. The rules changed in 1989 (state) and the road went unbuilt for 20 years prior, so the land reverted back to the abutters on either side. Spruce Pond Estates had intended to run frontage for this land along Nathan Drive. It was discussed with Derry officials and the developer moved forward with the Middleridge Road proposal. Nathan Drive will not be constructed for another 2 years, and they will come in to see the Board at that time.

The second parcel, Parcel A is just shy of 1.5 acres. There is a residual piece in Windham. In 1860, the railroad came through and divided the access to Windham Depot Road. The only physical access is through Windham and access was granted. These parcels are unique in that they are located in Derry, but there is no ready access from Derry. This opens up other issues with regard to utilities, Police, Fire, schools, etc.

Mr. Granese asked if the line was to be moved, where would it be relocated? Mr. Maynard explained it would encompass the lots in question in a triangle shape. Mr. Fairbanks asked if the 5 acre lot is able to be subdivided at a later date, would it have two homes on it? Mr. Maynard advised the LMDR has 2 acre zoning. The developer

may subdivide the lot if it remains in Derry to create two, 2.5 acre lots; the other lot (Parcel A) would require a variance as it does not meet current lot sizing requirements.

The right of way is located at the end of a cul de sac and there is a natural stone wall on the lot. Mrs. Choiniere said she understood about the larger lot, but what about the smaller one? Mr. Maynard said that lot consists of 1.36 acres. There is minimal wetland on the lot. The Town of Windham created Spruce Pond Estates as a cluster subdivision, and therefore the majority of the lots are about 1 acre in size. The lot meets well and septic criteria; the issue is access. Mrs. Choiniere asked what will happen if the lot stays in Derry? Mr. Maynard explained in that case, in order for the developer to build a home, they would have to ask for a variance.

Mr. Sioras further explained that with the larger lot, if it stays in Derry, the developer is likely to be able to get two lots. There is a stub from the 1960s that makes access difficult. How will the developer access the lots? Can a driveway be built there?

Mr. Maynard said they prepared a driveway profile and the grade goes from 8% to 12, to 20, and back to 12% grade. It is a limited width driveway with no slope easements. It is the best they can do; they would have to create legal frontage on a road for two lots. Mr. Sioras noted the slope is steep in this area.

Mrs. Choiniere asked if there was a slope limit for driveways? Mr. Sioras thought 6-8% was fairly standard. Mr. L'Heureux advised there is nothing in the driveway regulations other than for the first 40 feet. Mr. Maynard stated the right of way is over 300 feet to the beginning of the lot.

David Gomez, Assessor for the Town of Derry had a few comments. He noted he has not received direction from the Administration. He has perambulated the town bounds since 1986; three times with each surrounding town. He has the Windham perambulation map from 1960. The perambulations take place every 7 years. The town line does cut off the lots along the boundary, but this is not uncommon on a town line.

He is personally not in favor of changing the town line. The current line is straight. The change would require a new survey and make the town line crooked by adding triangular parcels in Windham. He can see on the map provided by Attorney Bronstein where the lot lines cross James and Diana and can see the land accessed from Goodhue in Derry, with homes in Windham. There are intermunicipal agreements in place. For a perambulation, the older town contacts the newer town to arrange a date. Derry is the second youngest town (Auburn is the youngest). The other towns are very good about contacting Derry to schedule the perambulation. He is not sure what the purpose of moving the town line is, other than a potential financial gain or loss.

Mr. Fairbanks asked if there is any benefit to the Town of Derry to change the town line? It looks like the taxes for the homes are to Derry with service being provided by

the Town of Windham. Mr. Gomez advised if the line changed, Derry would lose the tax revenue on the two lots.

Mr. Granese asked what the next step would be? Is it a public hearing, or does the Board just make a recommendation? Mr. Sioras advised this is a new process for the town; there has not been a request to change the town line in his tenure. The developer wanted feedback from the Planning Board. Has the developer been before the Windham Planning Board yet? Attorney Bronstein replied not yet. He would prefer to obtain an informal poll of the Derry Planning Board for now. The potential benefit to the Town of Derry would be a savings on the school system. Access to the lots off the cul de sac would mean a long ride for the school bus to get to the homes; there would be mutual aid agreements in place.

Mr. Fairbanks confirmed the children would attend school in Derry if the lots remain in Derry.

Mr. Sioras suggested an informal poll of the Board. If the Board supports the concept, Town Council would need to make the final decision, as they are the legislative body of the town.

Mr. Granese called for an informal poll of the Board.

Mr. Chase was not in favor. He can see Mr. Gomez' point; the town line has been here for 200 years. To move it for two small parcels makes no sense to him. The Town of Derry has automatic response agreements with the surrounding towns for EMS. The Fire Department crosses town lines all the time to respond to residents. He thinks this is an arduous process and it would skew the line and create a very different configuration. He cannot support this request.

Mr. Park agreed, adding that if this change is allowed, it opens up the door for every other developer on a town line to request the line be changed.

Mr. Fairbanks stated he would require more information, so is not in favor; he agreed it may set a bad precedent.

Mrs. Choiniere stated she felt the same and did not like the potential precedent.

Mr. Bartkiewicz felt the lots should be left as they are. He would want to see a cost analysis of what the town would lose in tax revenue to see if it offsets the school cost. He would leave the line as is.

Mr. Granese said he would not be in favor of the change for all the same reasons as previously stated. He would also like more information. He would go on the recommendation of Mr. Gomez; he would also like to see a cost analysis.

The informal poll of the Board indicated the Derry Planning Board is not in favor of changing the town line.

Attorney Bronstein advised he would speak with his client and go from there.

Eco Park Presentation – Saucier + Flynn

Mr. Sioras advised this is a follow up discussion from the February 2010 workshop. At the time the Board discussed the Walmart area and the TIF district with Saucier + Flynn. This is a follow up discussion to pursue the concept more and to give ideas for future regulation changes. Arnett Development and Saucier + Flynn worked on this concept together. One of the positive things that came from that workshop discussion is that the Board approved the Boomer Wolf, LLC plan which incorporated some of the design concepts of the ECO PARK such as the connectivity of walking paths, parking lots and green space. Walmart is building a LEED building and incorporated some of the drainage elements. Boomer Wolf, LLC had a copy of the stormwater proposal and incorporated some of the items.

Stuart Arnett of Arnett Development thanked the Board for its time this evening. One of the projects assigned to his firm was the design and feasibility of four lots located near the Abbot Court parking lot. The plan was presented to the Board, Town Council and the Downtown Committee. The Downtown Committee picked an option and is moving forward with it. The second project was the Route 28 Tax Increment Finance (TIF) District (north side). A TIF district is a way of dedicating future tax revenue to pay for public investments, in this case the widening of the roadway. Tonight, the discussion will encompass the north side of Route 28 in the area of the proposed Walmart. A lot has changed over the last year, most of it good. A year ago, the Board discussed adding value to the area; now the Board may need to make recommendations for moving forward. The third task assigned to his firm was the Farmers Market, which was very successful last year and is hoped to be even more successful this year.

This presentation will be informational in nature. It encourages sustainable ecological development for this area. The plan is good in that it adds value to the properties; is good for employers because it adds low cost, valuable amenities for employees; it is great for economic development in that it allows a higher return on the tax base because the buildings can go vertical, with greater density, more often with a higher level of building, and it creates more and better jobs. Mr. Arnett stated he appreciates the support for the plan from Mr. Sioras. The last three developments have integrated suggestions from this plan into their designs.

Constraints in the area were identified as follows at the last workshop.

1. The area has no real identity, and the thought was to make it distinctive.
2. Much of the area is built out. One year ago it was 80/20; now it is 20/80; it is hoped the upscaling helped create that change.

3. The land is privately owned so there is limited town leverage. The Planning Board can ask for certain things but can't leverage anything outside the limits of the town regulations.
4. One year ago, the Board was working with the question, will Walmart build the larger store? That question has now been resolved and the community will be happier with what is happening there. This is also a good idea for future projects in the area.

Mr. Arnett introduced Bill Flynn of Saucier + Flynn.

Mr. Flynn advised the concept study was discussed with the Board in April of 2010 when the Board looked at mixed uses in the area. Key findings were a lack of identity, individual property owners with no clear unification as a whole, and that wetlands and open space were considered a constraint rather than an asset. They were poorly integrated into the community.

There are forces that guide development and the focus then becomes the image and identity of the area. There is value to good design. Good urban design creates an opportunity to sell the area. A competitive edge is gained by an enlightened Master Plan for the community. Senior business executives are looking for a quality of life. Derry has the ECO-PARK. The PARK contains community open space, sustainable development and quality of life.

Storm water management is a key element and many New Hampshire communities are focusing on it. Management includes such items as rain gardens and pervious pavement, which all enhance water quality.

Mr. Flynn discussed bio-retention, pervious and porous pavement; and the benefits of using the wetlands for recreational areas. Mr. Arnett explained how sustainable stormwater features can also help save the town infrastructure costs in the long run. Mr. Granese spoke to the LID parking lot designs which would also allow an applicant to meet some of the green space requirement on a site. It was noted the City of Portland, WA is very advanced when it comes to this type of sustainable development. Walkable communities can be created using this type of environment.

The intent of the ECO PARK is to create areas where people live and work. Mixed uses within a structure are reminiscent of New England villages one to two hundred years ago. Mr. Arnett gave an example of an IT company that had been looking at a building in Derry with the thought of putting servers on one floor, offices on the second floor and then apartments for the employees on the third floor, so that they did not have to commute to work.

If the town incorporates the elements suggested in the plan, the final product becomes more attractive to potential landowners/business owners moving into the area. Mr. Flynn reported how they met with the engineers for Boomer Wolf and they changed their plan to incorporate some of the design elements suggested in the stormwater

management plan. This plan maintains open areas. It creates a nice environment if it is perceived to be a unified project. This plan could be integrated with the community as well to raise the resident's quality of life.

Mr. Flynn invited comment and questions from the Board.

Mr. Granese stated he likes the concept and that it incorporates walkways, etc. It would be phenomenal if Derry could build the TIF area as conceptualized in this plan. Mr. Flynn stated the Board is in the process of doing just that. It is unusual to have had this type of positive development given the economy. It takes a series of steps. He reminded the Board that these concepts can be applied elsewhere in town.

Mr. Granese said he liked the mix use area located at the top of the TIF. The town needs to keep the momentum going. Mr. Flynn noted zoning is another issue. Form Based Zoning could take a role in this area. Mr. Fairbanks asked how would the town incent companies like Walmart to incorporate these types of elements? Mr. Flynn said that for Derry, the timing was right. In talking to the representatives for Walmart, they were open to these types of concepts partly because they are in the process of redesigning their image for sustainability.

Mr. Granese commented that Walmart worked very well with the town on their project. Other developers, seeing this, will be able to see what the town wants. Mr. Flynn said the work the town is doing here sets positive precedent and attracts upscale, progressive developers.

Mr. Arnett felt this plan shows prospects that the town thought this through and has answers for them. This adds value for all property owners if they can share the drainage system for the area. It uses less land for stormwater mitigation. It leads to nice lots, higher resale value, and better taxes for the town.

There was no further discussion or matters to come before the Board.

Motion by Choiniere, seconded by Bartkiewicz to adjourn. The motion passed in the affirmative and the meeting stood adjourned at 8:12 p.m.
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