

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 04, 2018 at 7:00 p.m., at the Derry Municipal Center (3<sup>rd</sup> Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice-Chairman, Brian Chirichiello, Town Council Representative; Randy Chase, Town Administrative Representative; Frank Bartkiewicz, Jim MacEachern, Mark Connors, Lori Davison, Members; Elizabeth Carver (7:06 p.m.), Alternate

Absent: Maya Levin

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning & Economic Development Assistant; Beverly Donovan, Economic Development Coordinator.

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

### **Election of Officers**

Motion by MacEachern, seconded by O'Connor to nominate Granese as Chairman for another term. There were no other nominations.

Chase, O'Connor, MacEachern, Davison, Connors, Bartkiewicz, and Granese voted in favor; Chirichiello abstained. The motion passed.

Motion by MacEachern, seconded by Bartkiewicz to nominate O'Connor as Vice Chairman for another term. There were no other nominations.

Chase, O'Connor, MacEachern, Davison, Connors, Bartkiewicz, and Granese voted in favor; Chirichiello abstained. The motion passed.

Motion by MacEachern to nominate Bartkiewicz as Secretary. Bartkiewicz declined.

Motion by MacEachern to nominate Davison as Secretary, seconded by O'Connor.

Chase, O'Connor, MacEachern, Davison, Connors, Bartkiewicz, and Granese voted in favor; Chirichiello abstained. The motion passed.

**Escrow****#18-05****Project Name: Annual Review of Cash Escrow**

<b>#11-12</b>	<b>T-Mobile Northeast</b>	<b>\$17,387.53</b>
<b>#13-08</b>	<b>Bella Vista Homes, LLC</b>	<b>\$8,544.06</b>
<b>#13-32</b>	<b>H&amp;B Homes</b>	<b>\$4,252.70</b>
<b>#14-16</b>	<b>Samuel Kershaw</b>	<b>\$44,900.14</b>
<b>#16-30</b>	<b>Doolittle</b>	<b>\$5,184.00</b>
<b>#17-14</b>	<b>DAR Builders</b>	<b>\$24,105.60</b>
<b>#17-17</b>	<b>Bella Vista Homes, LLC</b>	<b>\$10,000.00</b>
<b>#17-19</b>	<b>OSP Realty, Inc.</b>	<b>\$7,711.20</b>
<b>#17-36</b>	<b>Donahue Family LLC</b>	<b>\$3,178.60</b>
<b>#17-41</b>	<b>Mark Reed</b>	<b>\$9,428.40</b>
<b>#17-43</b>	<b>Indian Hill</b>	<b>\$15,018.05</b>
<b>#18-03</b>	<b>Timothy Swinerton</b>	<b>\$11,664.00</b>

Motion by MacEachern, seconded by Bartkiewicz to find the list of open cash escrows are held in amounts which provide adequate security for the proposed length of the project. The amounts listed above are the ending principal and interest amounts as of February 23, 2018. The motion passed with all in favor.

**#18-06****Project Name: 30 Brook Street Site Plan****Developer: Stage Crossing, LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 23016, 30 Brook Street**

The request is to renew Letter of Credit Stage-515-P, drawn on Merrimack County Savings Bank, in the amount of \$175,342.32 for the above noted project. The expiration date will be May 19, 2020.

Motion by MacEachern, seconded by Bartkiewicz to approve as presented. The motion passed with O'Connor voting no as he wished to remain consistent with his previous denials relating to this project.

**Minutes**

The Board reviewed the minutes of the March 21, 2018, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the March 21, 2018, meeting as amended. The motion passed with Davison and Chase abstained.

**Correspondence**

None.

**Other Business**

Mr. Sioras welcomed back the members that were reappointed to the Board and said he is looking forward to working with everyone this year.

Mr. Chirichiello reported during the budget overview to the Town Council last evening, the Town Administrator noted funds have been included in the budget for the update of the Master Plan. The Council will look at that request during budget review.

There are two vacant alternate positions on the Planning Board. One term expires in 2020, the other in 2021.

**Review of Bylaws**

Mr. Sioras advised the Board must have two clear readings of the Bylaws. Tonight is the first reading. Mr. Granese asked the Board members to review the document. Any suggested changes should be forwarded to the Planning Office so that the Board can review them at the next meeting.

*Ms. Carver was present and seated for Ms. Levin.*

**Jay Goga Realty, LLC & the East Derry Improvement Society, PID 39033, 39034 and 39035  
Request to extend conditional approval, 1<sup>st</sup> Request**

Mr. Sioras advised this is the first request of the applicant to extend the approval. Most of the items have been completed, but a few remain outstanding, so the applicant would like an additional six months. Staff recommends approval of the request.

Motion by MacEachern, seconded by Bartkiewicz to extend the conditional approval granted for Jay Goga Realty, LLC and The East Derry Village Improvement Society, PID 39033, 39034 and 39035 for an additional six months. The conditional approval will expire on October 04, 2018.

Chase, Carver, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Schedule Public Hearing – move seven parcels from the MHDR II to the CBD

Mr. Sioras noted at the last meeting, the Board discussed moving seven parcels near the intersection of Maple and Elm which would include the old shoe factory and the business across the street near the brook. The discussion was in two parts. The first was the rezoning of the properties. The Board wanted to move this forward and staff recommends scheduling the public hearing. Mr. MacEachern recalled the Board thoroughly discussed this at the last meeting.

Motion by MacEachern, seconded by Bartkiewicz to schedule a public hearing on April 18, 2018, to amend Article V, Zoning Map and District Boundaries, Section 165-20, Zoning Map, to MOVE seven parcels from the Medium High Density Residential II zone to the Central Business District, specifically: 18 Maple Street, PID 29149; 34 Maple Street, PID 29150; 35 Maple Street, PID 29151; 37 Maple Street, PID 29127; 13 Elm Street, PID 29130; 15 Elm Street, PID 29129, and 19 Elm Street, PID 29128. Discussion followed.

Mr. Connors asked with regard to 37 Maple Street, which is owned by Eversource. Is this the best zone for that lot? Mr. Sioras said the piece is contiguous with the others and not as suited for residential. Lots of this type owned by Eversource are all over Derry.

Chase, Carver, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

**Public Hearing**

**To review the following proposed amendments to the Town of Derry Zoning Ordinance. To amend Article II, Word Usage and Definitions, Section 165-5, Definitions, to AMEND the definition for Warehouse and to ADD a definition for Self-Storage Facilities.**

Motion by MacEachern, seconded by Bartkiewicz to open the public hearing. The motion passed with all in favor and the floor was open to the public.

There was no public to comment.

Motion by MacEachern, second by Bartkiewicz to close the public hearing. The motion passed with all in favor and review of the proposal came back to the Board.

Motion by MacEachern, seconded by Bartkiewicz to amend Article II, Word Usage and Definitions, Section 165-5, Definitions to amend the definition of “Warehouse” and to add a definition for “Self-Storage Facilities” and to forward same to Town Council for their review and acceptance. Discussion followed.

Mr. Chirichiello asked why the two definitions are being separated. Mr. Granese explained they wanted to separate out warehouse and self-storage use so that self-storage did not show up in areas where it should not. There should be two different definitions as they are two different uses. Mr. Chirichiello confirmed both uses were listed in various zones; for example, warehouse is allowed in Industrial IV

Chase, Carver, Chirichiello, O’Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

**Workshop #1 - To review permitted uses in the Central Business District and to review the definitions of those permitted uses.**

Mr. Granese had asked the Board members to review the material at the last meeting. He was looking for input from the Board members.

Mr. Connors asked if “Inn” and “Hotel” should be the same definition? “Inn” is included in the definition for “hotel”; “motel” seems more common, but “motel” is not called out separately. Mr. Sioras said a “motel” was something like the Robert Frost Inn where there are rooms for the public that can be used long term. Ms. Davison asked if Mr. Connors was suggesting the Board should add “Motel” to the list of permitted uses? Mr. Sioras explained the town used to have rooming houses on Broadway which fell under the “Inn” description. The town wanted to eliminate the ‘rooming house’ use.

Ms. Davison asked about Airbnb. Mr. O’Connor said the Legislature is working on a bill but there is no resolution yet. Mr. Chirichiello added the issues is being pushed by towns/cities who want to be able to tax the Airbnbs but Airbnb collects tax and pays it to the state. Mr. Granese felt the Board should discuss Airbnb once the state finalizes its legislation.

Mr. Connors felt Airbnb fell within the definition of “Tourist Home”. Mr. Chirichiello pointed out as a homeowner, a person has the right to rent out his home or a portion of it. He did not think Derry would see a lot of Airbnbs. Ms. Davison thought “Tourist Home” was not a long term boarding situation, or a few months stay. Airbnb and Bed and Breakfast could go under the definition of “Tourist Home”. Mr. Granese said he would like Mr. Mackey to make a determination on where Airbnb would fall in the definitions. Mr. Sioras added that sometimes, the way the state code defines something makes a difference. The code definitions can vary from the definitions found in the Zoning Ordinance. Ms. Carver noted “Tourist Home” is owner occupied. Some of the issues arising from Airbnbs are because they are not owner occupied. Mr. Chirichiello said there is a mix. Some people rent out a room to Airbnb. Others rent out small homes and don’t live there.

Mr. Chirichiello said he would like to delve deeper into the CBD. Originally, the thought behind putting retail on the first floor, office on the second and residential on the third and above had been to spur economic development. That did not happen. He feels there should be a wholesale change. He suggested forming a subcommittee to delve deeper into the zoning. Mr. Granese recalled when the town changed the zoning here. Allowing residential below the third floor is a tough sell for him. The downtown needs the people who own property but don't live here, to sell their lots. Some owners don't want to pay for renovations. Some tenants are paying for renovations they should not. Mr. Chirichiello asked Ms. Donovan for her thoughts.

Ms. Donovan explained the town has implemented a Building Façade Improvement Program and about half a dozen property owners and renters are interested in applying. That is good news. One owner in the downtown will be making internal improvements to his property and has obtained those permits; he will also be looking at the Façade Improvement Program. Over the last four years she has changed her mind with regard to mixed use. Communities like the idea of mixed use but find it is not practical to find office users to pay the rent the owners need to meet their proforma. When developers add residential above, they need to increase the use standard. This topic needs more exploration. An apartment does not mean the unit has to be a three-bedroom unit that brings kids into the school system. It can be market rate, a micro apartment, or a mixture. The apartments don't have to be Section 8 housing. She does not see a lot of land where developers would do that. Mr. Granese recalled one developer who wanted to put 100 apartments in the downtown; he does not want that. Ms. Donovan agreed and noted the Tuscan Village development in Salem is market rate housing. The thing to do would be to not provide tax breaks and incentives to the developer.

Mr. Granese asked where the money was coming from for the Façade Improvement Program. Funding for the program is provided by a \$100,000 allocation of the recently approved recapitalization of the Derry Revolving Loan Fund administered by the Regional Economic Development Center (REDC). Ms. Donovan explained the housing trend is for retirees or empty nesters who are looking for walkable downtown neighborhoods; they are willing to spend market rate to get what they want. If the Board allows the development, but does not give tax breaks, then the Board can control what is developed. She agreed the town does not need more low income housing.

Ms. Carver said she was not familiar with the Façade Improvement program and would not mind an overview. She would also like to know the definition of "market rate". Ms. Donovan explained the façade improvement program is an incentive to entice owners and tenants to make improvements to the front of their business. For example, if an owner had a metal awning that needed replacement and had not done it yet because of lack of funds, the town can supply a matching grant of up to \$5,000.00 for the repair. There is an application process and the application needs to be approved. Mr. Sioras said the Town Council set aside the funds. The Review Committee is made up of representatives from Planning, Code, Economic Development and Finance; these are staff members. The applications are reviewed. The grant can be anywhere from a few hundred dollars up to \$5,000.00. The deadline for applications is July 01, 20192018. There has been some interest in the program. It is hoped the program will improve the downtown. The application checklist is vetted thoroughly. Information on the program can be found on the Planning and Economic Development pages of the town website.

Ms. Donovan explained market rate housing. If a developer has a plot of land and wants to build apartments and can come up with a proforma, they can make it as nice as they want and charge whatever the market will bear; the risk is on the developer. There are no special waivers built in and no tax breaks or incentives to give any unit away for less than what the market can bear. Section 8 housing is housing that receives tax breaks to make a portion of the units lower income. Some communities allow this because they need to meet their fair share of the affordable housing market.

Mr. Chirichiello said the rentals on Fordway and Kendall Pond are getting between \$1800 and \$2,000 per month or more for a two-bedroom apartment. Ms. Donovan was asked if Tuscan Village offered any incentives in the zoning to create the project. She said the project is located in a Performance Zone, but the developer did not receive density bonuses or other incentives. They are building what they want to sell. There is a market for high end, market rate apartments. This is good because ~~is it~~ brings in retail and other amenities. Walkable downtowns are very attractive. Market rate is done at the builder's peril because if the market turns, there is no recourse for the developer.

Mr. MacEachern agreed any changes to the zone should be looked at closely but felt the whole Board should look at it. He felt some of the uses could be combined. At the last meeting, the Board discussed how the district is not just the downtown; it goes back several streets. He suggested the district boundaries might need to change. Three streets back from Broadway, there are homes. He would not want to see an apartment building two streets back from Broadway. He felt the Board needed to be very careful about how the zone was written. The Board can structure the verbiage so it can allow a limited number of apartments and add language to make sure apartments are constructed to a high standard. The Board needs to write the language in the way they want to see it developed. Apartments can be allowed, but the Board can limit the distance between the apartments and plot that out on a map. He can see where both Mr. Granese and Mr. Chirichiello are coming from.

Mr. MacEachern thought it was important to have apartments so that there are people to walk downtown. He felt the Board should look at the whole zone. Maybe the TBOD and CBD can be combined to make a smaller area. How far back from Broadway does the Board want to go? Only one street, or to the pond? There is a lot of work to do on the amendments and he feels the definitions are old. For example, 'Travel Agent' can be added to 'Commercial Service Establishment'. 'Pharmacy' can go under 'retail sales establishment'; the Board needs to look at what it really wants for definitions. When the town does a Charrette, it comes up with a vision of what the town should look like in the future. This all ties into the Master Plan update. He suggested checking in with the Economic Development team. Perhaps this amendment can be coordinated with the Master Plan update.

Mr. Granese liked the idea of a subcommittee. If the entire Board works on it as a whole, there will be too much back and forth and nothing will get done. Who would like to be on it? Mr. MacEachern, Mr. Chirichiello and Ms. Carver volunteered. It was noted subcommittee meetings are open to the public.

Mr. Chirichiello thought the subcommittee could get some of the downtown work done in advance of the Master Plan update, if that gets approved this year. It is best to work on this sooner rather than later. Mr. Connors said if this ties into the Master Plan are there any items that can be done now to stimulate what the Board wants to see. Housing on the second floor may have an effect on the marketability of property in the downtown.

Ms. Carver suggested amending Section 165-33.B.5 as it eliminates the potential for micro apartments. Is it possible to request people to create green buildings or to require solar panels? Mr. Granese said the town cannot force someone to do that. Ms. Donovan added it is too costly.

Mr. Chase said he did not want to see Broadway become Linlew Drive. There needs to be commercial uses on the first floor in the TBOD. Something could be done on the streets to the back. The CBD is fairly large. It is not feasible as the zoning is written now. Economic growth needs to be spurred in the downtown. If the downtown is all apartments, there will be nothing to walk to. Ms. Donovan stressed this is not what she is suggesting.

Mr. Chirichiello offered when they created the CBD, Derry was going through different times. The schools were overflowing. The concept was good, but the business did not come. Now the zoning needs to be dusted off; the town does not have the same issues it had twenty years ago.

It was decided that the subcommittee will come up with the first drafts of the amendments. The decision to prohibit certain uses can be discussed at subcommittee. Mr. Sioras and the Planning Office will be a resource. Mr. Sioras noted the Master Plan update can take eighteen months to two years to complete. If the zoning goes to subcommittee, the Board can move forward. It was suggested a member of the EDAC should be part of the subcommittee; Mr. Sioras will bring this up at the next EDAC meeting.

Mr. Granese confirmed Mr. MacEachern will Chair the subcommittee. Mr. Chirichiello, Mr. Chase, Ms. Carver and a member of the EDAC will sit on the committee. The first meeting of the subcommittee will be on Wednesday evening, May 09, at 7 PM; and is open to the public. In between meetings, the Board members can research zoning.

Mr. MacEachern requested a map of the area which encompassed the TBOD, CBD, South Avenue to the ball fields, the library and ended at the Londonderry town line.

Mr. Sioras reminded the Board members where the TBOD was located. There is very strict zoning in this district. It might be possible to do something else in the CBD.

There was no further business before the Board.

Motion by Chirichiello, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting adjourned at 8:05 p.m.
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Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

Approval date: \_\_\_\_\_