

The Planning Board for the Town of Derry held a public meeting on Wednesday, May 01, 2019 at 7:00 p.m., at the Derry Municipal Center (Third Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: John O'Connor (Chair), Lori Davison (Vice Chair), Maya Levin (Secretary), Frank Bartkiewicz, Mark Connors, Members; Brian Chirichiello, Town Council Liaison; Randy Chase, Town Administrative Representative; Jim MacEachern, David Granese, Alternates

Absent: David McPherson, Mark Grabowski

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

Mr. O'Connor called the meeting to order at 7:01 p.m. The meeting began with a salute the flag. Mr. O'Connor then noted the location of meeting materials, emergency exits, and introduced the Board members and staff present.

*Mr. Granese was seated for Mr. McPherson. Mr. MacEachern was seated for Mr. Grabowski.*

## **Escrow**

None.

## **Minutes**

The Board reviewed the minutes of the April 17, 2019, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the April 17, 2019, meeting as presented. The motion passed with Granese and Chase abstained.
---

The Board reviewed the notes from the April 24, 2019 site walk in the area of Aiken Street.

Motion by MacEachern, seconded by Bartkiewicz to approve as presented. The motion passed in favor with Granese and Chase abstained.
---

## Correspondence

Each Board member has received a copy of the updated Policy and Procedures, effective April 17, 2019.

## Other Business

### Confirm date of Public Hearing – Zoning Ordinance, to add Electronic Vehicle Charging Stations to all zones

Mr. Sioras advised staff was unable to post the legal notice for the proposed change in time to hold the hearing this evening as staff was out of the office. He asked the Board to confirm the new date for the hearing.

Motion by MacEachern, seconded by Bartkiewicz to confirm the date of public hearing for May 15, 2019, to discuss a proposed amendment to Article III, General Provisions, regarding Electronic Vehicle Charging Stations. The motion passed with all in favor.

## Public Hearing

### **Pinkerton Academy**

**PID 43006, 43008 and 08068**

**19 North Main Street, 39 North Main Street, 33 Tsienneto Road**

**Review of Site Plan**

**Extension of athletic field access road**

**(Continued from April 03, 2019)**

Mr. Sioras reported the Headmaster sent an email advising that both he and the engineer were unavailable for this evening due to other commitments and asked the Board to continue the hearing to May 15. Mrs. Robidoux confirmed there is room on the May 15, 2019, agenda for this item.

Motion by MacEachern, seconded by Granese to continue review of the site plan application before the Board for Pinkerton Academy, PID 43006, 43008 and 08068, 19 North Main Street, 39 North Main Street and 33 Tsienneto Road to May 15, 2019.

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

There will be no further notice of the continuation.

**Second Public Hearing to discuss proposed amendments to the Town of Derry Zoning Ordinance, Section 165-30, Zoning Map to move 20 properties from MHDR and 1 property from GC to the Office Business District.**

Mr. O'Connor stated at the last meeting there were many questions and concerns raised by the residents in the neighborhood. Mrs. Robidoux reviewed the minutes of the last hearing and the site walk and prepared answers to the questions. A copy of that information is on the table in the back of the room. An example of one of the questions is, "Would business adversely affect the properties on the other side of Aiken Street?" The answer is, "The architectural requirements in the OBD require that any conversion of a residence to a business, or new construction of a nonresidential use shall be constructed so that the appearance, scale, proportion and material blend into the existing neighborhood to maintain the residential character of the neighborhood. [ZO 165-34.E.3]"

While on the site walk, Mr. O'Connor recalled hearing some confusion over the proposed zoning amendment and its relationship to the Opportunity Zone. At the last meeting, the Town Administrator discussed the Opportunity Zone. The Board is looking at rezoning MHDR to OBD. Later in the evening, the Board will review the permitted uses in the zone and may decide to change them. At the last meeting, the residents were allowed to speak at length. He would ask that one spokesperson represent the group, or only a few approach the podium this evening. Otherwise the comments will need to be held to three minutes each.

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

Tom May, 1 Valley Street, on behalf of the neighborhood thanked the Board for allowing them to express their views and concerns with regard to the proposed amendment. He hopes they have relayed their concerns and evidence as to why they believe the Board should reject the amendment. He thanked the Board for visiting the neighborhood and seeing what makes them a community. He trusts the Board has been convinced the topography on Aiken does not lend itself to any type of commercial development and should be left as residential. The average length of ownership in the neighborhood is 25 years. None of the residents are interested in selling so he feels that in 20 years, the neighborhood will remain the same. They want to remain a stable, residential community and ask the Board to reject this proposal.

Lisa Joslin, 15 Aiken Street, submitted her comments into the record. {Copy placed in the file.} She read the following, advising she also had a list of questions she hoped the Board would consider as it deliberated. {Copy of the questions placed in the file.}.

In a time of self-indulgence and living beyond our means, our community is old school. We live within our means, so we can look to the future to provide our children with an education, and for our retirement needs. When someone is ready to move, their home provides an affordable home for a young family in a community that is safe and stable, as well as convenient to the highway and shopping center, not to mention an excellent school district.

We are a community of professionals: nurses, bankers, teachers, real estate agents are just a few of the wide range of professionals that live in the Aiken Street neighborhood. We are also home to several veterans. One of our vets was the very last person to be drafted during the Vietnam War. We have among us stay at home moms, elderly and people with disabilities. All of whom have been active members in the Derry community. Our neighborhood is a very important component to the makeup of Derry as a whole. We believe the town will benefit by keeping the proposed 20 properties as residential in several areas.

1. Aiken Street area is an established neighborhood of single family homes that pay taxes.
2. No matter what the town calls the wetlands/runoff water, it has a positive impact on Derry's conservation. We have incredible wildlife here in the heart of Derry. We have deer, turkey, ducks, turtles, rabbits, a wide range of birds that thrive in this woods and wetlands.
3. Our area has a population that ranges 1 to 100. Our elderly residents have well established homes that are affordable and situated to take care of their needs through retirement, while our younger residents have affordable homes as they raise their children and plan for the future.
4. This area of Derry provides a safe and stable sense of community. We really do have something special here. We make it a point to get out and meet our neighbors; we look out for each other.

This whole conversation of rezoning Aiken Street has been very stressful. You have caused unnecessary stress for the entire community. You don't seem to have a plan on how you expect this area to change and develop as OBD. Several of my friends and neighbors have talked about how this stress is negatively affecting their physical and mental health. We just want to continue to live our lives in our friendly little neighborhood. We want to work on our goals and plans for the future and not have to worry about the towns plans to rezone and redevelop our homes. Remember with any kind of renovation, you always make a mess, you have unexpected problems and it always cost three times more what you expected it to cost. Please leave this area zoned as residential. We feel it is perfect just the way it is.

Ms. Joslin offered to read the questions into the record. Mr. O'Connor noted each Board member had a copy and can review it. Ms. Joslin reminded the Board that during the site walk, the powerlines that hang low near the road intersection were pointed out to the Board. Following the site walk, a tractor trailer came down the street, and took out the powerlines. This is something for the Board to consider.

Linda McLaughlin, 4 Valley Street, also thanked the Board for walking the area. She feels this area does not fit the criteria for a business zone and the town has no plan. She was told the zone boundary will change first and then the Board will consider what will go in the zone; that is irresponsible. Why perpetuate the aesthetic in Londonderry at the town line into Derry? Towns usually have regulations in place to protect and enhance the entrance into the downtown. It should look like a New England village, introducing the nice downtown, retaining the character as the towns surrounding Derry become more commercialized. Derry could be a different

community from others because the character was retained. The proposed changes will not guarantee success.

Chris Joslin, 15 Aiken Street, also thanked the Board for the site walk. Now that the Board has reviewed the neighborhood, he also had a list of questions for the Board to consider as it debated the issue. He submitted a copy into the record. {Copy placed in the file.}

1. Will the town be required to make Aiken Street and the side streets, Clark, Valley and St. Charles wider, to have a sidewalk and to have street lighting on these streets per the new zoning requirements?
2. Will the Town of Derry be moving the fire hydrants, utility poles, and water supply shutoff valves that are not less than five feet from the street now? (Since they are now closer than they were the last time the town widened the street in 1995.)
3. How much land is required for the houses to be from the lot lines/street? He believed it to be 15 feet to each border. Some of the houses have less than 15 feet now.
4. If the streets are widened and sidewalks put in, what happens to the properties that have fences, small retaining walls and stairs in front of their homes that are less than 10 feet from the street now?
5. When would the town be required to complete all of these improvements required by the new zoning? Before or after businesses move in?
6. Finally, if the town does all these improvements, and the homeowners stay in their homes another ten to twenty years (as most of us plan on doing) and no businesses go in this area what would be the benefit for the town, state and the tax payers to have this area re-zoned?

Marcia Toki, 5 Valley Street, requests that before the Planning Board members make a decision that they think of their street and neighbors and figure out which side of the microphone they would be on this evening.

Richard Disisto, 18 Aiken Street, felt the plan was mishy-mashy. Any zoning change is unacceptable. They don't want it and will fight it through the Town Council and the Court. They want to be left alone.

Joseph Pongratz, 9 Fordway, has lived in the area for two years. He has a different perspective than the other residents. The change would have an indirect effect on them. They would be worried about the potential for future rezoning into the future. How soon would it be before people looked at their area? They don't want to move and don't want to have to consider rezoning.

George Madden, 21 Aiken Street, has lived for fifty-five years at this location. He thanked the Board for letting the neighbors speak. It has been said that new businesses in this area will get a tax break. Many of the residents have struggled over the years to raise their families. One benefit of this proposal is that this issue has brought the neighborhood together. He currently has

some health issues; if he had to move from his home, he would be lost in the new one. He asks the Board to consider these types of situations as they discuss this amendment.

There was no further public comment.

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

Mr. O'Connor discussed the Opportunity Zone. The zone goes from the Londonderry town line, to Cemetery Road, over to Humphrey, and then back up Kendall Pond Road to the town line. The Governor initiated this. Twenty-seven zones were designated on low to medium income census tracts. He stated he may delay his vote on this matter until he has a better understanding of the Opportunity Zones. There is an informational session that will be held in Derry in a few weeks.

Mr. Connors asked to clarify a few items. This rezoning is not akin to eminent domain. Rezoning does nothing to the homeowner. The homeowner cannot be forced to sell or leave their home. If they decide to sell, they can sell it as a residence. Rezoning is all about future planning. Planning Boards are charged with the orderly growth of the municipality. With regard to the gateway to Derry, there are only a few and Ms. McLaughlin made some good points. The Board should look at what the gateway should look like in the future and that is what the Board is trying to do. The town may not have gotten everything right in the past, but they are looking to the future. The Office Business District is very different from General Commercial. There are no manufacturing plants or large stores. The OBD is very restrictive right now. It takes the existing homes and creates businesses in them. The Medium High Density Residential District, which is the district in which the residents are zoned, allows apartment buildings. The Board will be looking at what the OBD will look like a little later this evening. The width of the road was mentioned during the site walk. The town owns the right of way, which is wider than the pavement. No matter what zone someone lives in, no one can force someone to sell their property. This rezoning creates opportunities for the future.

Mr. Chirichiello advised he lives in a residential neighborhood that is similar to Aiken Street. Across the street from him is the Central Business District which was established in the early 2000s. In the CBD, people can build retail and apartments. Nothing has changed on his street. Just because the land is rezoned does not mean things will change overnight.

Mr. Granese said the Master Plan update is in progress. He feels like this amendment is putting the cart before the horse and the Board should be looking at other areas of town. It might be beneficial to hold off until the Master Plan update is completed so that the Board does not make any errors.

Mr. MacEachern said rezoning is a hard thing for a Planning Board to do. He has sat through many rezoning efforts. It does affect people. The Board needs to consider the area. The initial proposal included the whole neighborhood from Broadway to the Transfer Station. The Board quickly saw that was too broad an area and felt a more natural boundary should be used. It seemed to make sense to use Aiken Street as the boundary to start and then look at the area. A

lot is being thrown at the Board right now. He feels procedurally the requests should be done in a more cooperative effort and begin at the Board level. The Board knows the town needs to do more rezoning and the Board needs to look at all the zones. Change has been made in other areas of town. He understands the concept of the Opportunity Zone, but when planning, the Board needs to make sure it is doing it right, proceed cautiously, and look at the town as a whole, and then see what makes sense. He will be open minded. The Board has made changes in the past and it does its best to mitigate the negative impacts to the residents involved. The Board has a duty to take input from staff and others, do the due diligence, and not rush through anything

Procedurally, Mr. MacEachern questioned the notice of the public hearing. The agenda incorrectly identifies the Section of the Zoning Ordinance as Section 165-20. Mr. O'Connor advised he had the same question – the legal and affected property notices cite the correct section which is Section 165-30. There is typographic error on the agenda.

Mr. MacEachern stated he would like to hear more about the Master Plan and what people want to see in town. If the Board is making a change, he would like to understand the economic benefit to the tax rate. If the Board does nothing, the tax rate will not change. This is a bedroom community and that means there is a high tax rate. The Board is looking at rezoning in other areas of town and is also working on the West Running Brook Village District. There needs to be a balance and he needs all the data in front of him when he makes his decision.

Ms. Davison asked if there is a timeline tied to the Opportunity Zone. Does it expire? Mr. O'Connor said it will expire in July of 2020.

Beverly Donovan, Economic Development Director, explained staff began discussions about zoning in the area last winter (January, 2018). As part of her job, she has been charged with looking at potential for future growth in Derry. The Opportunity Zone was designated in July of 2018. This zoning change is not being driven by the Opportunity Zone. The Opportunity Zone is a federal tax program and is available for housing opportunities as well.

Mr. Connors felt it was important to point out there is no hidden agenda. The Opportunity Zone exists whether this zoning amendment happens or not. He does not feel rezoning will work for some of the lots, but it will for others in the proposed area. This won't instantly change the neighborhood. It provides an avenue for some property owners. For the majority of the street, it would not be cost effective for a developer to pay market rate for several homes and then develop a large project. This is a zone that would be expanding from West Broadway. Developers won't spend the money to mitigate the topography. There are some opportunities near the Londonderry town line and near Fordway, but he believes it would be incremental change.

Mr. O'Connor reminded members of the audience the public hearing portion had been closed and the Board was in deliberation.

Mr. Chirichiello thought it was possible similar development could occur as happened on Fordway where multiple lots were purchased in the MHDR and a three story, multifamily building was constructed. The current zoning allows that. The Opportunity Zone operates

similar to a 1031 Exchange for investors to help them avoid capital gains tax. When a property is purchased and the investor holds onto the property for a period of time in the program, they don't pay the appreciated value in capital gains when they sell the property. In the current residential zone, if someone wanted to invest in the area, they could purchase the lots in MHDR and build something similar to Fordway. That can happen today, whether the town rezones these lots on Aiken Street or not. The fact that this area is in an Opportunity Zone increases that possibility.

Ms. Donovan noted the Opportunity Zone seminar presented by the Chamber of Commerce will be taped by DCAM and will be available for those who cannot attend the actual seminar. She added that she has heard investors have knocked on doors in this area; the town does not drive that activity. Mr. Chirichiello commented there was an article published today indicating property values in the Opportunity Values have increased twenty percent.

Mr. Connors suggested the residents become familiar with the uses and the restrictions in the MHDR and OBD. The OBD is very restrictive; not much will change because of the topography which would not be attractive to a large scale developer. He does not feel this change is as bad as some of the residents might think. If the change were to General Commercial or one of the Industrial zones, that would be a very different story.

Mr. MacEachern reiterated there are a lot of proposals before the Board right now. The workshop for the OBD will follow this public hearing; the Board will be discussing the permitted uses in the zone. He feels the Board is putting the cart before the horse and is missing the Master Plan piece. The Board needs to sit with the new Master Plan and see what that means in relation to the zoning ordinance. When the Board knows what people want, then the Ordinance can be tweaked. It needs to be done sequentially. He personally does not want to change a zone just because there is a federal program available for the area. The Board's job is to see what fits if the Master Plan recommends it. If the residents say the town should remain a bedroom community, then the Board will plan for that. If the residents want an industrial park in a certain area of town, the Board can add one, but some people will be unhappy with the change. He feels he needs more information.

Mr. Chirichiello explained the clock has started for the Opportunity Zone. Landowners need to own the property in the zone for the ten years of the program. The pressure will be on in the MHDR. The longer the Board waits to change the zoning, the more risk there is that the town will get something the town does not want because it is allowed in the zone. Mr. Connors said this is not the first update of the Master Plan. The 2010 Master Plan already states the residents acknowledge the need for more economic development, nice entries to the town, and improvements in the downtown. Those elements will stay the same in any version of a Master Plan. The Master Plan does not provide marching orders for the Board; it is a guideline. He does not like political hot potatoes and this neighborhood is becoming one. He feels the Board should do what is right for the town as a whole. This is one of the times when the Board has to make a decision and he does not feel delaying the decision is beneficial to the town.

Mr. Granese commented in the past, the Chairman has re-opened the public hearing when it appears the public has new questions or comments after the Board has held its deliberation.

Mr. Chirichiello indicated the proposed boundary area. His focus is the frontage lots on West Broadway. At the very least, the parcels fronting Broadway between Dickey Street and the town line and the two parcels abutting the town line on the other side of the road should be included in the OBD to make it one cohesive line. Mr. Connors felt it would be spot zoning to do that. Mr. Chirichiello said it would be a continuation of the zone; all of the lots fronting on West Broadway in this area should be in the zone. The market can then dictate development. If someone wants to purchase a lot on Aiken Street and combine it with a lot on West Broadway, they can do that and it would become OBD anyway.

Mr. O'Connor noted the topography on Aiken Street. He agreed that some parcels might benefit more than others with this proposed amendment. He also feels the Board is putting the cart before the horse and until the Board holds the workshop on the uses in the OBD, the Board should not move forward with the public hearing. He agrees the two parcels across the street between Dickey Street and the town line should be included in the OBD. The Master Plan is a guideline that leads the Board. He cautioned the public to be involved; if they don't get involved in the Master Plan process, then the result ends up coming from the opinion of a small group of people.

Mr. Sioras confirmed the Master Plan should be ready for adoption by the Board this fall. Mr. MacEachern said he was not comfortable defining the zone until the Master Plan was complete.

Mr. O'Connor stated since it appeared members of the audience had more comments, he would re-open the public hearing.

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

Ms. Joslin asked for confirmation that the Chairman was not suggesting all members of the neighborhood attend the Opportunity Zone informational meeting on May 14. Mr. O'Connor explained it was an educational opportunity if anyone was interested in investing or learning more about the zone; that session has nothing to do with the rezoning under consideration by the Planning Board. Residents can also find information about the Opportunity Zone at [www.nh.gov](http://www.nh.gov). Mrs. Donovan stressed the session on May 14 is not a public meeting. It is an event being put on by the Greater Derry-Londonderry Chamber of Commerce. The town will do its best to make information available to the public. The session on May 14 is not the place to discuss what the residents like or don't like about the proposed zoning change. Ms. Joslin confirmed the session has nothing to do with the proposed changes.

Mr. Connors said residents don't need to attend the Opportunity Zone meeting. It is to educate business people and investors on what the Opportunity Zone means. Ms. Joslin noted the neighbors had been unclear that session was separate from this zoning change. It was a coincidence they are happening at the same time. Mr. Chirichiello said if his home was in the Opportunity Zone, he would want to know the benefits and potential impacts. It was noted there is a fee to attend this event.

Ms. Joslin asked if a parking lot was created, how would that increase tax revenue? Her understanding is that a parking lot would devalue a property if it replaced a structure. She does not feel that would help the neighborhood with regard to appearance or the tax rate. The Board is only talking about 20 properties and she does not think changing the 20 properties will have that much of an impact on the tax rate.

Gerry St. Louis, 31 Stonegate Lane, has lived in this neighborhood for 25 years. She has seen the neighborhood grow. Traffic can be very busy between 2:30 p.m. and 5:30 p.m. If a new business or multifamily was developed, it would increase traffic in this area. She knows the town needs growth but there are other opportunities elsewhere. This change is a big deal for the neighborhood because the families want to keep the neighborhood safe. She asked the Board to please consider the impacts to the individual residents.

Mr. O'Connor noted anyone can ask for rezoning. It is the Planning Board's purview to perform due diligence when it receives these requests. This amendment was presented to the Board, and the Board is doing its fact finding and is listening.

There was no further public comment.

Motion by Granese, seconded by MacEachern to close the public hearing. The motion passed with all in favor and discussion returned to the Board.

Motion by MacEachern to table this discussion to a date to be determined, seconded by Granese.

It was noted a motion to table is not debatable and the Board needed to vote.

Chase voted no because he did not like to table something to an undetermined date. The roll call did not continue.

MacEachern rescinded his motion, Granese rescinded the second, and the motion was cancelled.

Mr. MacEachern said he wanted to table the discussion. Mr. Chirichiello said it might be appropriate to continue it to June so that the Board can hold its workshops to discuss the uses in the zone. Mr. Connors confirmed there is no clock to be met with zoning amendments. Mr. Sioras said the Board should first continue the public hearing for the boundary discussion before it starts discussion in the workshop.

Motion by MacEachern, seconded by Granese to continue the public hearing to June 19, 2019, for the proposed expansion of the OBD boundary.

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

Mr. MacEachern noted there will be no further notice of the continuation. The Board is going to discuss the uses allowed in the OBD zone; and may not be finished with that discussion by June 19<sup>th</sup>.

Mr. O'Connor advised the audience that the Board is moving into a workshop to discuss the permitted uses in the OBD. The public will not be providing input until this reaches a public hearing, but he encouraged the public to remain and listen to the discussion. The Board will hold discussions until it has finalized the wording.

## **Workshop**

### Workshop #5 – to discuss the permitted uses in the Office Business District (Continued from April 03, 2019)

The audience was encouraged to stay to hear the discussion. As this was a workshop, there were no draft copies of the proposed changes available to the public, but it was reinforced that the uses to be discussed this evening would have a direct impact on the OBD and any expansion of that zone.

Mr. MacEachern felt the area along Broadway from the town line to the Library on each side of the road should be one district. He does not care what it is called but does not feel the zones should change along Broadway. Exit 4A will be a reality in three years. He questions how much zoning change should there be between now and 2023. How will Exit 4A change the level of traffic in the downtown? Should the Board wait until then, or do incremental changes now? It is likely the zoning will change again in 2022 if there is not a lot of traffic in the downtown. He knows the Town Council has discussed the arts district overlay; he agrees the town needs to focus on the arts and entertainment because that is what Derry has that is unique and not found in other towns.

Mr. Chirichiello said the Opportunity Zone is a tool that the Town of Derry gets to use and the town needs to take advantage of it for redevelopment. Not all towns in New Hampshire have this opportunity. This is a real way to lower the tax rate. The downtown is important, but the Opportunity Zone is only on half of it. He feels the town needs to be proactive. He personally feels Exit 4A will take traffic off the downtown but does not know to what degree. When that happens, do they then talk about making the town more walkable, similar to Concord? The Town Council has discussed extending the Tax Increment Finance District because it has been so successful; that can also be utilized for redevelopment. The town has the tools in place to do what it has been discussion for the last 20 years – everything is moving very quickly. The Board can't keep waiting on this discussing. Mr. MacEachern said the Opportunity Zone provides an opportunity to redevelop but it will be based on the zoning, so what kind of zoning does the town want. Mr. Chirichiello stressed if the town waits too long, people won't take advantage of the Opportunity Zone and won't invest in Derry.

Mrs. Donovan said the Cultural District is very different from Woodmont; that is why they formed it. She envisions a very different scenario for the Opportunity Zone depending on the

area. The West Running Brook Village District is very different from the OBD. When staff first began discussions with regard to expanding the OBD, it was with the intent to facilitate startups and small business such as dentists, etc. With the Opportunity Zone in place, landowners can also repair and replace almost to the total value of the property. What that can do for a startup is to allow someone to build their business, using their capital gains money, without paying a penalty up front. It defers or eliminates debt over the ten year period. She is talking about small businesses. This is not urban renewal. This is incremental and this ties in with what she has been hearing the residents want at the Master Plan meetings. She feels this is the appropriate type of economic development for this area. The topography is a bit rough on some of the lots in the OBD. The change in this area would be incremental, not wholesale. She likes the idea of extending the zone down to maybe South Avenue or the frontage lots. Londonderry is also discussing rezoning along the town line; things will change in this area. Mr. MacEachern felt the Board could expand the zone once it knows what the effects will be from Exit 4A. What does Derry want the main street to look like? Should the zone be from the town line to the library? The Board should be looking at the area as it extends out of the downtown. What does that look like? What should be done in front of Folsom Road? The Board has had some previous discussions about what that gateway into town should look like. The Aiken Street area is not unique with regard to these types of discussions. He feels the Board should be looking at things on that level. It is not appropriate to move forward on it yet, but the Board should be looking it. The Opportunity Zone is a tool to bring business into town. The Planning Board, Economic Development Department, Economic Development Advisory Committee, and the people of Derry as part of the Master Plan, determine the type of business. This tool helps bring those businesses in.

Mr. Chirichiello maintained if the Board is not proactive, then the Opportunity Zone will deal with the zone as it exists now. If MHDR is near Fordway, then what is allowed in MHDR is what will be built. The town may not want that but if the town does not move quickly enough, that is what will be built because that is what is allowed.

Mr. Connors noted the OBD is much more stringent than the CBD. Does the Board want an overlay? Mr. MacEachern said the Board has done overlay districts in the past, but it may be better to make it one zone; the Board would need to determine which streets to be included. There are three entrances into Derry. Mr. Chirichiello said the Board has to prioritize what it wants to work on. Mr. Connors said there are two separate things going on. The Opportunity Zone is there now, and the Board should be focusing on what is the right zoning for that area, not on the Opportunity Zone. If the board takes no action, it will not serve the town as a whole. There is existing multifamily in this area and that makes it attractive to build more multifamily if the Board does not take action and change the zoning. Mr. MacEachern said the Board can focus on Broadway, Crystal Ave, Fordway, the area near Exit 4A, and Route 28; where does the Board want to focus? The Board needs to make a list and prioritize it. These are all different areas of town and they may or may not fall into zone "x".

Mr. Granese reminded the Board members the focus of the workshop is to define the list of permitted uses in the OBD. It seems the Board has strayed from that discussion.

Mrs. Donovan explained the proposed list of uses came about when staff looked at what was allowed in surrounding zones and what was happening in the downtown. Originally, the zone was proposed for a larger area so some of the uses proposed on the list are not sized right for the current boundary under discussion.

Mr. Chirichiello suggested the Board review the definitions of the proposed uses to see what fits and what does not.

Mr. MacEachern said the proposed uses are pertinent to the discussion about the boundary and until the Board defined the zone, he felt it was premature to change the uses. This could all change again in 6 months if the Board decides to create a zone "x". He would like to see a project plan sequentially laid out. He also has some reservations about removing the list of prohibited uses. He felt it was important to retain the list and recalls being told the Board must include a list of prohibited uses. Mr. Connor wanted to see the Board move forward with the workshop tonight. Why is this being pushed off? This is the only area zoned OBD in town and he does not feel the zone should be expanded down Broadway.

Mr. Chase said he could see two problems. On one hand, Board members are saying they can't determine which parcels to put in the OBD to expand it until they know the uses that will be in the zone, and on the other hand they are saying they can't decide on what uses put in the zone until they know what the area looks like. The Board is chasing its tail. The list of permitted uses needs to be resolved. The Central Business District uses will not fit in this area; that is why the OBD was created in the first place. It is a unique area. He would be hesitant to abandon the OBD because it does not fit in with what is found in a traditional downtown. Mr. Sioras explained the Derry Restaurant and Pizza lot was rezoned to General Commercial by warrant article. At the time, there was a furniture store on the lot. In 1990, the Board felt with the increase in noise and traffic, it was getting impossible for people to live along Broadway. The area from Valley Street to where the Derry News is located today was all single family residences. The town did not want to see fast food and gas stations on these lots, nor did they want it to look like Crystal Avenue. The Board held a site walk and walked the street. It was agreed to keep the frontage lots because the depth did not make sense. This is a very restrictive zone. Slowly, over the years the homes have turned over to business. He is not disputing what Mr. MacEachern had to say but felt that the Board needed to prioritize. It is frustrating for staff to work on proposed changes and then have the work put to the side. This happened with the 4A area discussions; does the Board want that to be a priority? The West Running Brook Village District zoning is almost finished; legal counsel is reviewing it now. The Board needs to prioritize which zone to look at first; they are all important. He agrees some of the proposed uses are not conducive to this zone, but feels this zone will see some redevelopment. It would be easy to redevelop the block of lots where Valentine Real Estate is located.

The Board reviewed the proposed list of permitted uses and made the following changes. Animal Hospital was removed. Bank, Bed and Breakfast remained. Brewery was removed as the Board would prefer to see a microbrewery in the zone and that is already on the list. Commercial Performing and Fine Arts Schools and Studios remained; this use would be analogous to The Voice Studio located on Crystal Avenue. Commercial Service Establishment remained, as did Daycare. With regard to multifamily dwelling, the Board allowed that to

remain as it was restricted to the same requirements as found in the Central Business District - it is limited to one or two bedrooms, 800 square feet and located on the second floor or above. Electric Vehicle Supply Equipment and Grocery/Convenience Store were removed. Home occupation remained on the list. Indoor Commercial Recreational Facility was removed. Industrial Establishment was removed and Industrial Establishment, Light was added. Laboratory (medical/dental) and Laboratory, Research, Experimental, Testing remained on the list. Light Industry and Light Manufacturing were removed. Medical office remained as did Microbrewery, Multiunit Commercial Establishments, Office, Professional Office, Research and Development Facility, Research Lab, Restaurant and Retail Sales Establishments that do not exceed 5000 square feet remained on the list. Workforce Housing was removed.

The Board held the following discussion as it was refining the list of permitted uses. "Brewery" as defined was too big for this area. Grocery/Convenience store was too large for these lots. Industrial Establishment, Light would be okay if it was something like silk screening, piece work or computer assembly. Research labs would be more for a startup lab. Medical and Dental laboratories are analogous to indoor air or water quality testing labs, or Quest Diagnostics. Mr. MacEachern questioned biohazards associated with laboratories such as Quest. It was suggested that OSHA requirements and industry standards address those concerns. The NH Department of Health and Human Services oversees those types of laboratories. Medical office would likely be a small office such as a chiropractor, which already exists in the zone. For a multiunit commercial use, a developer would need to purchase multiple lots, but the overall building would need to fit the architectural requirements of the zone. For the various "office" uses, the parking requirements are different and therefore the uses need to be listed separately. Mr. Connors questioned whether the definition of Light Manufacturing conflicted with Research Lab. Mr. MacEachern said it would likely be more of a business incubator, which Mrs. Donovan clarified. A startup incubates a business where a business incubator includes multiple startups. Retail sales had been included when the zone was going to be larger in size. Ms. Davison questioned the ability to provide parking for restaurants. Derry Restaurant and Pizza is larger than 5000 square feet and there are other buildings that are larger than 5000 square feet existing in the zone today. Mr. MacEachern was comfortable with retail use but thought the Board should review the maximum size as the zone will be a much smaller area. Mr. Chirichiello commented a business could be put on one lot and parking on another.

Mr. MacEachern felt the list of prohibited uses should stay in place and that the town had more teeth if the prohibited uses were listed. Mrs. Robidoux disagreed, stating the ordinance is a permissive ordinance which meant if the use is listed, it is permitted. If it is not listed, it is prohibited. Mr. Sioras read aloud an excerpt from correspondence from legal counsel in 2010 which supported the statement and cautioned the Board to not include a list of prohibited uses. He said a copy would be sent to the Board members. Mr. MacEachern still felt it was ambiguous to leave the list open ended and that there was more of a safety valve if there was a list of prohibited uses. Mr. Sioras said it is cleaner to not list them. It is a bit different with the sexually oriented businesses and telecommunication towers as those uses are dictated by federal Supreme Court decisions; towns have to allow them and cannot zone them out. Towns can however, limit the locations where those particular uses are allowed.

The Board agreed to leave the proposed changes to Section C as is. Retail business uses would have a maximum of 5000 square feet., new construction must be no closer than 20 feet from the right of way and the height of any new building cannot exceed three stories.

*Mr. Bartkiewicz departed the meeting.*

The Board reviewed Section G which appeared to have repeating language. Mrs. Robidoux will take a closer look at that and bring any required deletions back to the Board. With regard to maximum lot coverage (Section I), the Board decided to keep the 70% lot area and review it at the next meeting. There would be buffer zones on the lots. Mr. MacEachern asked Planning staff to analyze the 20 properties proposed to be added to the OBD to see what a maximum coverage of 70% looked like and to bring that information back to the Board. Some of the lots are 10,000 square feet, which means the building and parking lot would be on 7000 square feet. The Board did not want to prohibit development. Curb cuts will remain at a maximum width of 20 feet, with one curb cut. Mr. Sioras said the town controls the driveway permits on this area of Broadway as it is in the Urban Compact. Mr. Chase thought if the intent of the architectural design regulations was to keep this area looking more residential a 24 foot wide driveway might take away from that. If necessary, the Board can waive the width if a project requires an entrance that was wider.

Staff will incorporate the proposed changes to the document and bring it back to the Board at its next workshop which will be on June 19, 2019.

There was no further business before the Board.

Motion by Granese, seconded by MacEachern to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:43 p.m.

Approved by: \_\_\_\_\_  
Chairman/Vice Chairman

\_\_\_\_\_  
Secretary

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