

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 21, 2016, 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; Michael Fairbanks, Secretary; Randy Chase, Administrative Representative; Frank Bartkiewicz, Jim MacEachern (7:10 p.m.), Lori Davison, Mirjam Ijtsma, Members; Mark Connors, Marc Flattes, Alternates

Absent: Charles Foote, John O'Connor, Elizabeth Carver

Also present: George Sioras, Planning Director

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

Mr. Connors sat for Mr. O'Connor, and Mr. Flattes was seated for Mr. MacEachern

Escrow

#16-30

Project Name: Paul Doolittle, Patricia Hutchins, Robert Doolittle: 3 lot subdivision

Developer: Natural Energy Designs, Inc. (Craig Fowler)

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 09138, 33 Old Chester Road

The request is to establish cash escrow in the amount of \$5,184.00, for the above noted project. This is a non-interest bearing account.

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

Minutes

The Board reviewed the minutes of the September 07, 2016 meeting.

Motion by Bartkiewicz, seconded by Flattes to approve the minutes of the September 07, 2016 as written. The motion passed with Fairbanks and Chase abstained.

Correspondence

Mr. Fairbanks advised the Board has received a letter from the NH DOT informing of the meeting scheduled for September 27, 2016, beginning at 7:00 p.m. at the Derry Municipal Center. This is a Combined Public Official/Public Information Meeting to discuss the status of the Exit 4A interchange study. The Board has also received a copy of an escrow expiration reminder sent to American Excavating. Also included in the packets this evening is a copy of the list of Town owned properties recommended for disposition.

If the Board has any comments or recommendations on the disposition of the town owned properties, Mr. Sioras requested the information be forwarded to himself or Mrs. Robidoux prior to October 10th so that the Tax Collector can be advised. Mr. Fairbanks asked what “intent to repurchase” means. Mr. Sioras said his understanding is the property owner has been in touch with the Tax Collector and indicated they would like to repurchase the property.

Mr. Connors stated he has a concern with regard to the Rail Trail culverts and would like that item to be addressed during the DOT meeting next Tuesday. Mr. Sioras advised the meeting is informational in nature and Mr. Connors should bring that item up during the meeting. Mr. Connors inquired about the two route options for Exit 4A. Mr. Granese felt this should be discussed at the informational meeting.

With regard to the disposition of the town owned parcels, Mr. Granese felt the properties should be sold. Mr. Connors asked if the parcels would be auctioned, or sold for the assessed value. Are they sold as is? Mr. Sioras said they are auctioned for what the town can get for them. The properties are sold as is, and if any properties need to be cleaned up for any reason that would be on the developer. Mr. Fairbanks noted the 19 Elm Street property is currently being cleaned up by the EPA. Mr. Flattes asked when 19 Elm Street would be ready for sale. There is additional material to be removed from that site. Mr. Sioras said he did not know. The property was taken for taxes and the town razed the building. The question now is should the town sell the property? Town Council may want to discuss zoning or conditions that could be placed on the sale of this particular parcel during its workshop with the Planning Board. Mr. Flattes felt the town should retain ownership of 19 Elm Street until it is free and clear of any contaminants. The remaining parcels should be sold. Mr. Bartkiewicz felt the properties on the list should be sold. Mr. Connors confirmed that the Planning Board makes a recommendation to Town Council as to the disposition of the properties, but Town Council makes the final decision.

Mr. MacEachern was seated and Mr. Flattes stepped down.

Other Business

Mr. Sioras reminded the Board members of the Exit 4A meeting next week. There will be a joint workshop of the Planning Board, Town Council, and the Economic Development Advisory Committee next Thursday, September 29, 2016 beginning at 7:00 p.m. There will not be a meeting on October 5; the next meeting will be on October 19, 2016.

Beaver Lake Lodge Assisted Living Facility- request to remove dumpster enclosure

Mr. Sioras advised the Board has a memo from the Beaver Lake Lodge Assisted Living facility requesting the removal of the dumpster enclosure from the site plan. There is a map showing the proposed location for the trash receptacles. He introduced Tony Massahos of 21st Century Development Corporation, the developer.

Mr. Massahos directed the Board to the rear of the property (on the map) which shows the proposed dumpster enclosure location. The Board had reviewed the location at the hearing in January. When they got back in that area and did the perc tests, the tests did not come back as favorably as they would have liked. This resulted in moving the infiltration area closer to the driveway so that they could take advantage of better soils. The area on the plan which shows the proposed dumpster location cannot be developed as proposed; there is a very steep drop in that area. He would not be able to erect the fence. If they have to put a dumpster in that location, he would have to put it on the pavement. He provided the Board with pictures of the property. (The photos were not retained for the record.) One showed the lodge. The other showed the turnaround area. The Massahos family owns Pine Hill Assisted Living in Windham. They took that facility over last year and performed extensive renovations. They have found they do not generate a lot of trash. There is no dumpster at the Windham facility. They utilize a storage area in the basement.

Issues they would encounter if they placed the dumpster in the proposed location would be that they have limited staff. Staff would have to walk a distance to get to the dumpster (215 feet); it is a steep grade in that area. Mr. Massahos pointed out the area they would like to put two, 96 gallon containers to hold the trash near the utility room. They will have weekly refuse removal. They will begin with one container, but have room to put two containers in the area. They will also recycle. They would like to not construct the dumpster enclosure as approved on the plan. The proposed dumpster location would cause an issue for snow removal. This area is also used as a Fire Department turn around area. They do not need the dumpster and would prefer not to have one.

Mr. MacEachern felt this was straightforward and DPW has indicated they have no issues.

Ms. Davison noted there is a window where the containers would be stored. Is that a window for a resident room? Mr. Massahos said that is the kitchen window. The kitchen door abuts the dining room. Ms. Davison asked if he wanted to have trash containers stored outside the dining room. Mr. Massahos said they will have blinds on the window. Their cook would rather have the trash receptacles in that area than use a dumpster. Ms. Davison confirmed there will be no medical waste. Mr. Massahos said they are a non-medical facility. They assist with medication dispensing only. There will be no medical waste. Mr. Connors asked if the concrete pad has been constructed. Mr. Massahos said the plan said it could be asphalt. 90% of everything that comes off the roof and driveway comes down that area. There will be 16 residents; they know what they generate for trash in Windham and feel comfortable with the proposal. Mr. Connors confirmed there would be no conflicts with the electrical if the receptacles are placed in this

location. Mr. Flattes asked if the recyclables will be stored in the receptacle area as well. Mr. Massahos said they are stored in the 6 x 6 foot mudroom. There is plenty of room to put a recycle container. Stateline will pick up once per week. The trucks are smaller; he is not a fan of the larger vehicles. Mr. Flattes asked if Mr. Massahos had any concern that wildlife might get into the receptacles, given the proximity to the dining room window. Mr. Massahos said he did not have a concern; the receptacles can be locked. Mr. Granese felt this was a good idea.

Mr. MacEachern confirmed the town departments had no issues with this change.

Motion by MacEachern, seconded by Bartkiewicz to approve the applicant's request to remove the dumpster enclosure and to proceed as discussed this evening.

MacEachern, Chase, Davison, Ijtsma, Fairbanks, Connor, Bartkiewicz, and Granese voted in favor and the motion passed.

Public Hearing

PTK Holdings, LLC
46 Crystal Avenue, PID 31072
Acceptance/Review, Site Plan Determination
Redevelopment of site, Nestlé Toll House Café

Mr. Sioras provided the following staff report. The purpose of this plan is for a change of use and redevelopment of the former Pizza Hut to Nestlé Toll House Café. The property is located in the General Commercial district. All town departments have reviewed the plan. There is a waiver request for the parking stall dimensions and the existing dumpster location. Staff would recommend approval of both the waiver requests and the site plan determination application. Tim Karatzas of Karatzas Contracting and the owner, Jim Barbuzzi, are present to discuss the application this evening.

Mr. Karatzas advised they are taking the old Pizza Hut and converting it to a Nestlé Toll House Café. They serve coffee, baked goods, crepes, wraps and other specialty items. They are trying to get away from the Pizza Hut look of the building. Prior to sale, the previous owners attempted to de-brand the building and took the peak off, changed the color of the building, and removed the sign. They would like to have more of a colonial look to the building and will re-clad the outside, and put in new windows. They are trying to keep it as simple as possible. The building façade consists of tan clapboard, blue shutters, a band around the overhang, and the roof will remain the same. They are trying to make it look as pleasant as possible. There will be a dining area. They will gut the inside. The bathrooms are being reconfigured. The bake and food prep area will largely stay the same, but the middle will be gutted. They don't need the giant exhaust hoods. It is a fairly simple buildout. In the parking lot, they will patch what they can and reconstruct the areas where it is very bad. They will construct new sidewalks and a patio area.

This allows them to make the building truly handicap accessible. There will be two doors. One will be for everyday use, the other will be handicap accessible. There will also be a door out to the patio area. They are also proposing a drive-through.

Mr. Granese asked if this Café was the first in New England. Mr. Karatzas said it was; the nearest Café is in New York. Mr. Granese said he likes the concept, and the new re-branding of the building. It will fit the area.

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

Richard Tripp, Windham Road, advised he was at the Economic Development Advisory Committee meeting on Monday and this project was discussed. There was some excitement about the project. He wished the applicant luck and felt this was an improvement to the area and welcomed the business to Derry.

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

Mr. Fairbanks noted there was no report from the Fire Department or any other departments. Mr. Sioras said this is an existing building. Site Plan Determinations do not require the TRC sign offs. The departments did review the plan and there were TRC meetings. Mr. Fairbanks asked for an explanation of the waiver requests.

Mr. Karatzas said the first waiver was with regard to the parking stall dimensions. This is an existing site and everything is already laid out. If they did the 20 foot long parking stall, rather than the proposed 18 feet, they would not be able to maintain the 24 foot drive aisle. They felt it more important to have the 24 foot width to accommodate two cars than the longer parking stall. With regard to the dumpster location, there is no place to put the dumpster and meet the 20 foot requirement. Mr. Fairbanks asked what is behind this lot. Mr. Karatzas said they are bounded by the cycle shop and a neighborhood. Pizza Hut had their dumpster on the cycle shop's property.

Mr. Connor noted there is no access to Concord Avenue and confirmed there is none proposed. He confirmed the shed that will be removed is also on the cycle shop's property. There is no way to relocate that and meet the setbacks so they will remove it. The walk in cooler that bumps out to the side exists today.

Mr. Flattes asked if Pizza Hut had a drive-through previously. Mr. Granese said they did have one. They did not use it for food service but used it for deliveries. The driver would pull up to the window to pick up the deliveries.

Mr. Granese asked when they planned to open. Mr. Barbuzzi said as soon as they can obtain the appropriate approvals. Mr. Karatzas recalled the Police Department had questions with regard to peak hours of operation. They will be between 7:00 and 9:00 a.m.; 11:00 a.m. to 1:00 p.m. and

3:00 p.m. to 5:00 p.m. The trip counts from other stores are 150-200 cars. Mr. Barbuzzi said they planned to open around 7:00 a.m. It is not set in stone yet. They plan to be open until 7:00 p.m. They may need to start a little earlier, depending on the amount of customers. Mr. MacEachern noted Derry is a commuting town. Other Board members suggested during the summer they may want to be open later.

Ms. Ijtsma felt this was a tremendous improvement but wondered about the landscaping. Mr. Barbuzzi said he owned a landscaping company and has plans to improve the landscaping on the site. Ms. Davison asked about the drive-through. Mr. Karatzas explained customers would pull in off Crystal Avenue and travel to the right of the building. There will be an order window and people will pull around the building to pick up their orders. Abutters have indicated to Mr. Karatzas that previously Pizza Hut employees drove over the abutter's lawn. Mr. Barbuzzi is considering a simple post and rail fence along the property line to ensure that customers stay on their property.

Motion by MacEachern to accept jurisdiction of the site plan determination application before the Board for PTK Holdings, LLC (Nestlé Toll House Café), 46 Crystal Avenue, PID 31072, seconded by Bartkiewicz.

MacEachern, Chase, Davison, Ijtsma, Fairbanks, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant a waiver from Section 170-63.C.1, Parking Stall Dimensions, to allow the applicant to maintain the existing parking stall dimensions as after review of the waiver request the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver request would not be contrary to the spirit and intent of the regulations; and to grant a waiver from Section 170-67.B.1, Solid Waste Storage Provisions, to allow a dumpster within 25 feet of the property line as after review of the waiver request the Board finds that specific circumstances relative to the plan, or the conditions of the land in such plan, indicate that the waiver would not be contrary to the spirit and intent of the regulations.

MacEachern, Chase, Davison, Ijtsma, Fairbanks, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz to grant conditional approval pursuant to LDCR Article IX, Section 170-51, Site Plan Determination with the following conditions: subject to owner's signature, subject to onsite inspection by the Town's Engineer, establish escrow for the setting of bounds or certify the bounds have been set, establish appropriate escrow as required to complete the project, obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24/170-61, note approved waivers on the plan, conditions precedent shall be met within 6 months and final determination of hours of operation are pending approval of the Planning Director.

MacEachern, Chase, Davison, Ijtsma, Fairbanks, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

The Board members welcomed the business to Derry.

Mr. MacEachern asked with regard to the Town owned property. Was the list reviewed with an eye to the abutting properties; for example, other town owned land or conservation properties? Mr. Sioras said the list came from the Tax Collector, and the Conservation Commission is on the list of agencies to review the list of properties. Mr. Granese said the majority of the Board felt the properties should be sold with the exception of 19 Elm Street. Mr. Connors said one of the properties, if sold, may open up land for a large residential development. Mr. MacEachern recalled last year, a neighborhood requested property not be sold to avoid just that scenario. It behooves the town to look at this list and make sure selling the property is the right thing to do.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:46 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____