

The Planning Board for the Town of Derry held a public meeting on Wednesday, April 01, 2015, 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; Michael Fairbanks, Secretary; Mark Osborne, Town Council Liaison; Darrell Park, Jim MacEachern, Lori Davison, Members; Marc Flattes, Frank Bartkiewicz, Alternates

Absent: John O'Connor, Randy Chase, Jan Choiniere

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning Assistant; Mark L'Heureux, Engineering Coordinator

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 exits, the location of meeting materials and introduced the Board members and staff.

*Mr. Flattes was seated for Mr. O'Connor*  
*Mr. Bartkiewicz was seated for Mrs. Choiniere*

### **Election of Officers**

Mr. Granese opened the floor for nominations.

Nomination by MacEachern, seconded by Bartkiewicz (and Park) to appoint Mr. Granese as Chairman.

Nomination by Flattes to appoint Mr. Fairbanks as Chairman. Mr. Fairbanks declined, stating he would prefer to serve as a full member for at least a year before considering that position.

Davison, Osborne, Fairbanks, Flattes, MacEachern, Bartkiewicz, Park, and Granese voted in favor and Mr. Granese was installed as Planning Board Chairman.

Nomination by MacEachern, seconded by Bartkiewicz to appoint Mr. O'Connor as Vice Chairman.

There were no other nominations.

Davison, Osborne, Fairbanks, Flattes, MacEachern, Bartkiewicz, Park, and Granese voted in favor and Mr. O'Connor was installed as Planning Board Vice Chairman.

Nomination by MacEachern, seconded by Park to appoint Mr. Fairbanks Secretary.

There were no other nominations.

Davison, Osborne, Fairbanks, Flattes, MacEachern, Bartkiewicz, Park, and Granese voted in favor and Mr. Fairbanks was installed as Planning Board Secretary.

## **Escrow**

### **#15-07**

#### **Annual Review of Cash Escrow**

Mr. Granese advised the Board has been provided a list of 11 cash escrows, the oldest was established in 2010. Mr. Sioras said the Board is required to review the cash escrow accounts annually. Mr. L'Heureux and Mrs. Robidoux worked with Janice Mobsby in Finance a few years ago on the changes to the Administrative Regulations relating to development security. As part of those changes, the escrow accounts need to be reviewed annually to make sure there are enough funds to finish the projects. There needs to be an annual review and a vote by the Planning Board. Staff recommends approval of this list.

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 project. The amounts provided are the ending principal and interest amounts as of January 31, 2015. Discussion followed.

Mr. Granese asked if any of the listed escrows would be short funds prior to completion. Mr. L'Heureux said no.

The motion passed with all in favor.

### **#15-08**

**Project Name: South Avenue Townhouses**

**Developer: David Barka**

**Escrow Account: 17 South Avenue, LLC**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 30012, 17 South Avenue**

The request is to establish Letter of Credit #9092230, drawn on GraniteBank in the amount of \$70,990.99 for the above noted project. The expiration date will be March 17, 2016.

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

**#15-09****Project Name: 70 Fordway – 13 Unit Apartment Building****Developer: 70 Fordway LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 24005, 70 Fordway**

The request is to establish Letter of Credit #26281, drawn on Enterprise Bank in the amount of \$163,642.03 for the above noted project. The expiration date will be December 24, 2015.

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

**Minutes**

The Board reviewed the minutes of the March 18, 2015 meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the March 18, 2015 meeting as written. The motion passed with Granese, Osborne, and Park abstained.

**Correspondence**

Mr. Fairbanks reported the Board is in receipt of an updated member listing, a public notice dated March 2, 2015 from Manchester Water Works regarding the Water Conservation Plan, and a notice dated March 16, 2015 from the NH DES regarding the Route 93 upgrade.

**Other Business**

Mr. Sioras reminded the Board that the Town Council will be holding a public hearing on Tuesday, April 7<sup>th</sup> on the proposed changes to the Zoning Ordinance related to multifamily requirements. If passed, the changes will significantly lower the density, provide more open space and parking. It would be a huge step to have that move forward.

**Extension Request, PID 08280-002, 35 Manchester Road, Hannaford Brothers**

Mr. Sioras advised the Board had approved a Hannaford To Go location at the existing Hannaford Bros. This is a drive through grocery pickup. It would be added to the side of the building facing The Zoo. Originally this project had been put on hold while others were constructed in other regions. He spoke with J. Lord, and Hannaford will be moving forward with the project and will plan to start soon on the necessary renovations. Staff would recommend approval of the extension.

Motion by MacEachern, seconded by Bartkiewicz to approve the second extension of the conditional approval granted on April 16, 2014 for Hannaford Brothers, Parcel ID 08280-002, 35 Manchester Road. The new expiration date of the conditional approval will be October 16, 2015. This is the last extension of approval.

Davison, Osborne, Fairbanks, Flattes, MacEachern, Park, Bartkiewicz and Granese voted in favor and the motion passed.

### Annual Review of Planning Board Policy and Procedures

Mr. Sioras stated every April at the organizational meeting, the Planning Board, per its policies is required to review the Policy and Procedure document. There should be two readings. At the next meeting, the Board can review the document again. If there are any suggested changes, those should be forwarded to the Planning Department.

### Subcommittee Report

Mr. Sioras reported the subcommittee formed to discuss mixed use met and notes of the meeting were provided to the Board. This is separate from the workshop the Board will hold later this evening. Mr. O'Connor took the lead on this subcommittee; in his absence tonight Mr. Sioras recommended the Board review the notes of the meeting and the subcommittee can continue to look at this.

Mr. Fairbanks asked what is the purpose of the subcommittee. He understands it is to look at mixed use, but what is the end result? Mr. Granese stated people have been asking for mixed use. The Board separated mixed use, based on a poll of the Board, from the Route 28 south discussions. In the interest of keeping things transparent, a subcommittee was formed to see if mixed use would work in Derry.

Mr. Sioras advised the Board has a handout that was provided by a resident, Janis DelPozzo, so that the Board can look at what the new building on Route 28 in Windham will look like.

### Public Hearing

#### **Stage Crossing, LLC PID 23016, 30 Brook Street Condition Compliance Hearing**

Mr. Granese noted this plan has been approved by a vote of the Board, and the applicant is here for a condition compliance hearing. Mr. Sioras advised the Planning Board approved the site plan for the townhouses in January. The purpose of the hearing tonight is not to reopen the application but for the applicant to come back to the Board so that the Board can look at the

revised driveway, landscape screening, lighting and utility updates. They have complied with what was asked and staff would recommend approval.

Brian Pratt, CLD Consulting Engineers, presented for the applicant. He advised the plan has been updated per the request of the Board in January. Sheet CI shows the revised site plan. The largest change is to Unit #9. They have changed the shape and reconfigured the unit. The access has been moved to the back. The Board had concerns with the awkward configuration of the garage doors and this unit will be a bit larger than the other units. They have added a retaining wall across the driveway from that unit. This does not affect the stormwater calculations.

He referred the Board to Sheet C3. They met with Richard Hirtle, the abutter to the rear, out in the field. He has arborvitae on his property and agreed to the configuration that is before the Board this evening. The wall will be made a little bit higher in the back. There will be a dense row of arborvitae on his side of the fence. The fence is 8 feet tall, and there is a five foot platform on top of the retaining wall with 8 foot tall trees on top of that. This is also shown on Sheet LS1. The trees will be planted five feet on center. The intent of the arborvitae is to screen the fence.

The other concern was for the abutter to the left. They have tightened up the grading and left the existing wooded area. They will supplement with additional trees and shrubs on that side and add landscaping on the corner between this lot and Mr. Hirtle's lot.

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

Joseph O'Donnell, 39 Fordway, had concerns for the water lines and the effect of heavy trucks going back and forth over the roadway when construction starts. How old are the water lines in this area? Mr. L'Heureux said the ductile iron main was put in about 12-15 years ago. Mr. O'Donnell stated he keeps receiving letters from the Town stating the water line is almost 100 years old. Mr. L'Heureux said that may be true of the line on Brook Street, but the main on Fordway is new. Mr. O'Donnell asked if construction starts and the water lines break, who is responsible. Mr. MacEachern said it would be the responsibility of the developer. Mr. O'Donnell asked who will be responsible for any damage to his home during construction. Mr. Pratt advised direct abutters will get a preconstruction survey of their homes; that was a condition of approval. Mr. O'Donnell's home is on that list.

There was no further public comment.

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

Mr. L'Heureux confirmed that all of his departments concerns and comments had been addressed.

Motion by MacEachern, seconded by Bartkiewicz to find the applicant, Stage Crossing, LLC, has satisfactorily completed and revised the plan and is in compliance with the Planning Board approval of January 7, 2015.

Davison, Osborne, Fairbanks, Flattes, MacEachern, Park, Bartkiewicz voted in favor; Granese voted no, stating this was because he voted against the plan at the original hearing. The motion passed.

### **Workshop #6, Route 28 South – discussion of potential zoning amendments**

Mr. Sioras advised this is a continuation of the discussion the Board has been having regarding potential zoning changes in the area of Route 28 south. The Board has a copy of the handout, which includes the changes discussed at the last workshop. He referred the Board to page 5 of the handout. There are questions the Board should answer this evening. The first is should the new zone stop at Berry Road and the zone not be continued south until such time as the infrastructure expands to the Windham town line. The second is should the Board consider a split zone using the centerline of Route 28 with a 200 foot swath being zoned for commercial uses. Staff is looking for feedback and direction on these questions. Many years ago, the town had split zones in different areas; the distance was 600 feet in some areas and 200 feet in others.

Mr. Granese asked with regard to stopping the zone at Berry Road. Mr. Sioras explained it had been suggested to stop the zones where the infrastructure improvements end near the Robert Frost Farm. There are water and sewer lines there now. There had been some discussion to not look to the town line because there is no infrastructure imminently planned for the remainder of Route 28. Alternatively should the Board look at the entire length of Route 28 to the town line as suggested by the Town Council? The Board should also look at the entire General Commercial zone because the character of general commercial on Crystal Avenue is different from the character at Birch Street, and it is also different at Webster's Corner. Mr. Granese stated he prefers to keep discussing General Commercial IV to keep it on track. Mr. Fairbanks recalled he had started the discussion about extending the new zone from Berry Road down to the town line. He still feels this is the right thing to do because at some point, five to ten years down the road, water and sewer will be to the town line. He does not see the validity of stopping the zone at Berry Road.

Mr. MacEachern asked if the zone ended at Berry Road, what difference does it have in the zone. The existing uses will still be in place and some of the proposed uses will not go into the lots that don't have water and sewer because they need water and sewer to operate. He feels the Board should do it all at once but not eliminate something that exists now that can get along utilizing septic. He would not want to negatively impact the existing businesses. Mr. Sioras did not feel it would. Housing, which had the most change, has already been eliminated from the zone and auto repair and sales have been added back in. There are three businesses near Webster's Corner that are going to benefit from the sewer improvements; they have been having issues with their septic systems and now they can expand. He noted many of the existing uses have been retained

in the proposed new zone. Mr. MacEachern added housing was taken out of the zone two years ago.

Mr. Sioras asked if the Board wanted to look at the width of the zone, or keep it at the lot lines which are a bit jagged. Or, should the Board create the zone from the centerline of Route 28? There are some properties in this proposed zone area that are very deep. Mr. MacEachern asked why the Board wouldn't follow the lot line. Mr. Flattes agreed with Mr. Fairbanks and stated that the Board should establish the zone to the town line and not go backwards. Mr. MacEachern thought the Board had consensus to bring the zone all the way to the town line. What else needs to be answered? Mr. Granese said the Board needed to review the proposed GC IV zone and see if there was anything the Board wanted changed. That's why there was a workshop scheduled tonight. Mrs. Robidoux said the other question is that with the creation of the GC IV zone, does the Board want to keep auto uses in the General Commercial zone along Crystal Avenue and on the other side of Route 111. Those areas are all zoned General Commercial, and her recollection was that the Board had pulled back and regrouped because that was an issue. She thought the Board did not want the auto uses on this side of town in the General Commercial; that question is included in the document this evening.

Mr. Sioras said currently, Route 28 is zoned General Commercial now; there is a break, and then the General Commercial zone is picked up at Birch Street. It transitions to the CBD and then turns into General Commercial again on Crystal Avenue. The question came up, did the Board want to see cars on Crystal Avenue; the answer was no. Should the General Commercial zone be changed as well? Mr. Fairbanks and Mr. MacEachern felt that was a discussion for another day.

Mr. Granese said the Board can move forward with the proposed changes to create the GC IV zone and then, as discussed with Town Council, the Board can look at the other individual zones later. Mr. Sioras said it was important to get that into the record as it had been discussed.

Mr. Fairbanks asked if there are any ramifications if the Board decided to create a split zone along Route 28 south. Mr. Sioras said staff recommends against it. When he began working for the town, there was a split zone of 600 feet starting at the centerline of Route 28 and Route 111, which resulted in a commercial district on residential lots. The consensus of the Board at that time was to bring the zone to the property lines. The split zone suggestion had been brought up during one of the workshops and staff was looking for direction. Mr. MacEachern said if the lot lines are followed, there are still buffer zones that would need to be in place if there was commercial development on these lots. There also needs to be buffers between zones. He assumes the concern was to go back so many feet but there is a requirement for a buffer between zones. The town runs into all kinds of problems when people try to pick a number. Mr. Sioras explained when Route 111 was zoned general commercial, there had been split zones. The lot which contains the recently approved commercial development at the corner of Island Pond had the split zone. Bringing the zone to the lot line allowed this lot to be developed commercially and Brookstone was able to develop commercially. Increasing the commercial zone was a positive change in those cases.

Mr. Flattes agreed that the zone should be kept at the lot line; splitting the lots would be complicated. He added he would like to see agriculture and assisted living taken out of the list of permitted uses, unless the agriculture was retail in nature. Mr. Granese recalled the Board had been polled on the permitted uses and those two uses had a majority vote to keep them in the list. Mr. Flattes believed those uses are tax negative. Mr. Sioras said a good example of assisted living is the Birch Heights development on Kendall Pond Road. That is for-profit and generates a tax base for the town. The thought was to perhaps have another one in town someday which would provide a place for the town's aging population.

Mr. Granese said he would open the floor to the public but he asked that only new comments or concerns be brought forth. The record is clear on the past comments.

Mary Eisner, 21R Derryfield Road, said she was opposed to the proposed changes because there is no provision for mixed residential use. The comments made by the Board, and a straw poll at the Town Council level, seem to indicate the minds of the Board members and Town Council are already made up against including mixed use. The reason being that property taxes in the town are too high and the town needs more commercial businesses. In coming to a decision regarding rezoning, consideration should be made to the fact that the current proposed budget includes several cuts to police, fire, and other town services. Given these cuts, would businesses even be attracted to Derry with our roads in disrepair due to lack of maintenance? With the reduction of police and fire personnel, the safety of our residents would be affected. The proposed budget results in a savings of approximately \$500.00 per homeowner. Looking at the potential development sites on Route 28, if any of the development is completed, based on the 6 million dollar cut, she would suggest many people would not see a reduction in taxes. From a citizen and property owner point of view, it is the Board's responsibility to promote the interest of the town and protect the interests of its citizens. For the current property owners in this zone, this proposed change has no protection for the landowner for land that they have owned, in some cases, for two hundred years. She can't see why there can't be a compromise with regard to housing in this zone. Additionally, it is the intangibles of any decision that affects the public that now comes into question. Property owners would like to see their taxes lowered, but at what cost? If a residential use is not included in this zone change, not only would the sense of community be negatively affected, but it would affect the public faith and trust in our public representatives to do the right thing for our residents.

Sheldon Wolff, 242 Rockingham Road, advised he owns land in Derry, but resides elsewhere. He asked why Mr. Osborne was now sitting on the Board. Mr. Granese explained Mr. Fairbanks is no longer a Council member and therefore not the Town Council liaison. Mr. Fairbanks was appointed a full member of the Board and Mr. Osborne is now the Town Council liaison.

Mr. Wolff said he liked some of the prior workshops where there was more back and forth between the residents and Board members. The last two workshops did not have that interaction; he would prefer to have more conversation so that he can understand the thought process of the Board. Mr. Granese had asked him what he would like to see for a permitted use in the zone and in response, he would like to see casinos. Mr. Chase is not present tonight but at the last meeting, Mr. Chase had discussed how residential buildings were constructed in industrial zones.



There is an opportunity to bring light industry to this area of town and those uses would need the water and sewer. This would bring tax base and people to spend money in town. With regard to the lot lines, he feels the zone should go to the lot lines. The Board does a good job with buffer zones. If the zone is limited to 200 feet or 600 feet, it would limit the uses a land owner could put on his property. Mr. Flattes had asked to have assisted living removed from the zone, but Mr. Wolff believed it is a great use; it is not like an apartment building. This would not be the type of residential use that would put a burden on the school system. He confirmed there is an assisted living (congregate care) facility in town, one adult day care and two nursing homes. Mr. Sioras commented assisted living may be a more common use in the future as the population ages.

Mr. Wolff asked for more of an explanation regarding radio broadcast that excludes cell towers. Mr. Granese explained cell towers are not allowed in this area of town now. Mr. Fairbanks added the town has an overlay zone for that type of use. Mr. MacEachern said those zones had been set up years ago. Cell towers are technically not allowed in any district but are allowed in the overlay district. He did not believe any were required in this area and that there was adequate cell coverage in this area of town. Mr. Granese noted there had been several approvals granted in this area of town, but the towers have never been constructed. Mr. MacEachern stressed there is a specific zone for cell towers. Mr. Wolff felt if this restriction went forward, it would eliminate the smaller units that can be placed on the sides of buildings. Mr. Fairbanks said part of the area Mr. Wolff is discussing is in the overlay district. Mr. Park believed the technology Mr. Wolff is discussing is microwave technology and the industry is not increasing that type of use.

Mr. Wolff stated he felt the Board should continue the zone to the town line because the town wants to bring in industry and business to help the tax base. Mr. Fairbanks asked if there was a definition in the Ordinance under which 'casino' might be considered. Mrs. Robidoux thought the closest analogous use would be 'indoor commercial recreational facility'. It would be up to the Code Enforcement Officer to see if he agreed with that interpretation. Mr. Fairbanks said the town might want to look into that if the legislation passes; it could allow something similar to what is in Manchester currently. Mr. Wolff finalized his statements by indicating he was a proponent of mixed use in an overlay.

Albert Dimmock, 42 High Street, asked why Mr. Granese asked those who came to speak where they were from. Mr. Granese explained he does this at every workshop. He always asks those who approach the Board to provide their name and address for the record. Mr. Dimmock stated there was a ruling made by the state, known as the Sunshine Law, that states anyone residing in New Hampshire can be allowed to speak, they don't have to be a taxpayer. He is not saying Mr. Granese has prohibited people from speaking if they were not a resident; he just wanted the Board to be aware of it. With regard to assisted living, if this use was run by a non-profit group, the Board should remember that non-profit development essentially means the town is letting people use the land tax free.

Attorney Morgan Hollis advised he is representing six landowners (Brown, Palmer, Siragusa, Smith, Taylor, Butterfield). He has been before the Board a number of times. It is difficult to

not repeat what the Board has heard before. His clients asked him to attend this meeting and request the Board to reconsider some of the uses, specifically housing. He has been to meetings and has read the minutes. He requests the Board not dismiss his client's concerns with regard to allowing housing in this zone. He knows the opinions of the Board members, but there are a lot of property owners in this area who have canvassed other property owners in the area. He is aware of the Board's and Town Council's belief that housing in an area where there is commercial development adversely affects the potential development of commercial uses. There is no proof of that. Any commercial use in any area near housing will create conflict. There will always be residents who do not want commercial development. This Board mitigates the issues such as traffic and noise. Those issues will exist whether the commercial uses are in the district or outside of the district. Eliminating housing in this zone will not eliminate the objections from residents who don't like commercial use. He believes it is time to dispel that myth.

If the Board looks at the history of the town, there is a reason why residential use was allowed to continue in this particular zone. It was because the majority of the lots contained a residential use. The two uses co-existed. A few years ago, it was decided, generated by the idea that the town needed to raise funds for taxes, that commercial development should be encouraged and that the residential component of this district discourages commercial use. He does not believe there is evidence of that, other than people complaining, but people will complain whether the commercial use is in the zone or outside the zone; those conflicts are inherent. The fact the Board is allowing the existing residences to remain as a continuing use means there will always be housing and commercial near each other. His clients have asked, since December of 2012, that the Board consider a residential component of some type in this zone. In December of 2012, the Board had on its agenda discussion of a mixed use overlay. His notes indicate the Board stated it would have further discussion on a mixed use component. In 2015 there is a mixed use subcommittee, asked for by the Chairman, but no one wants to listen to the subcommittee. The Board just wants to move forward, keep residential out and get the new zone in. His clients are frustrated. Other than the Board members, he has not heard other residents in town weighing in on options of use. The town has great mixed use in the downtown. He feels the Board should take the time to evaluate how these uses can be compatible in this area to establish a good comfortable living environment. The back page of the document provided tonight states that 18% of this proposed district is made up of residential use. This use will not go away. He does not hear other residents complaining. The Town Council has its own responsibilities. This is the Planning Board. The Town Council may have come up with an economic plan, but that does not mean the Planning Board has to adopt it. He is here because his clients are asking him to speak to the Board. The Board has taken the comments under consideration and auto uses were put back in the zone.

Other clients had other issues and the Board addressed those. His clients from day one have asked him to continue to request the Board to consider residential uses in this zone. He has explained to his clients that ship sailed and residential uses is no longer permitted, but no one has listed their reasons as to why this occurred. No one has listened to his client's reasons for wanting residential use in this zone. He asked the Board to listen to the report of the subcommittee and see how mixed use can work within this district. He did not understand why there was a rush to change the uses in this zone when the uses are already here. He referred in

2012 to *Belanger V. Nashua, 1981* which stated the zoning should reflect the current character of the existing neighborhood. This zone won't reflect that with housing removed. After 2012, it was more or less promised to his clients there would be a discussion about a mixed use overlay. That has not happened. They ask the Board to defer this. The Board has not yet heard the decision on mixed use and he believes they should see if there is anything to be worked out. He asks for the Board's consideration. Moving it on to public hearing is not fair to his clients.

There was no further public comment.

Mr. Granese asked how the Board would like to proceed. Mr. Park thought the Board should take a closer look at Performance Zoning to see what the impact might be and if the town can utilize it. The Board can stipulate any development has to be tax positive, which was the main goal of keeping housing out of the General Commercial zone. Mr. Granese said the subcommittee can continue to look at it. Mr. MacEachern agreed the Board should let the subcommittee do the research; some numbers need to be run. Town Council objectives are clearly stated in the document. Residential use is not allowed now and this does not negate the 18% that exists in the zone now. He would be curious to see what the numbers say about the tax impact. Mr. Fairbanks asked if the tax change would be the same as the assessed value change because that is where the distribution of taxes go. Mr. MacEachern said they also need to consider the residential component and the number of children. The tax impact can be determined based on that. He does not believe anyone has an issue with the housing that is there now; how many more single family houses would go there? The question is what would be the effect of apartments? Mr. Park thought a Performance Zones looks at commercial and residential development on a lot and determined the tax impact of that. Mr. MacEachern thought there might only be two or three parcels on Route 28 on which mixed use would work. Mr. Sioras thought more like 4-5 as there are some larger parcels in the area. Mr. Granese said the subcommittee can look at Performance Zones. Mr. MacEachern thought it might be good to look at it as an overlay district, as opposed to allowing it in the entire district. It should be fairly easy to look at the few parcels where it could fit, based on the current configuration of parcels. They could do something similar to what was done for the telecommunications overlay which would add additional controls. They are not lessening the impact on the residents who own those properties now, but then there is the added benefit of the control of future uses.

Mr. Sioras did not feel it would be difficult to determine which parcels could be in the overlay utilizing the town Geographic Information System. Mr. MacEachern said if the committee recommended putting mixed use everywhere so that people can combine parcels, that would be a different discussion.

Mr. Granese asked if the Board members had any changes to the proposed uses in the General Commercial IV zone. Mr. MacEachern said he still did not like manufacturing as a use, it is too broad. Mr. Sioras said at the least meeting, the Board elected to move forward with the proposed General Commercial IV zone. The direction at the last meeting was to move forward with it as it is, and if the Board is okay with the amended document, to bring it at the next meeting to schedule a public hearing. The subcommittee, separately, can move forward with its discussions

about performance zoning and mixed use overlay. It is really two separate issues. Does the Board like what is on the table today and would the Board like to move forward?

Mr. Flattes asked if medical marijuana growing and dispensing facilities (Alternative Treatment Centers) fall into this zone. Mr. Granese thought that might be Research and Development. Mr. Sioras said the Code Enforcement Officer made the decision that type of use is manufacturing with a retail component. In the Town of Epping, that type of use is permitted in the industrial zone.

Mr. Granese asked if the Board would like to continue with more workshops or move forward with the current draft. Mr. MacEachern suggested taking no action until the Board can hear from the subcommittee and see what they come up with. Mr. Wolff said in the current General Commercial zone, “clinic” and “office” are allowed but not proposed for the General Commercial IV zone. If the Board is considering changes, he suggests clinic and office should be allowed which would allow some other type of use on top of that. Also, can the public provide input on the subcommittee meetings or can information be disseminated to the public? Mr. Granese said information could be made available to the public.

Mr. Granese said he would like to poll the Board; a yes vote would be to move forward with the current document, a no vote would be to hold another workshop. Mr. MacEachern wanted to hear from the subcommittee, but it was unclear when the subcommittee would meet again.

Motion by MacEachern to table discussion of the proposed amendments until such time as the Board hears from the mixed use subcommittee, seconded by Bartkiewicz

Discussion followed.

Mr. Granese asked if Mr. MacEachern knew how long the discussion should be tabled; it could take the subcommittee four months to come to a conclusion. He was concerned about the time frame. Mr. MacEachern asked if there was a rush to get it done and passed; there is already a district in place. He knows the Board has been working on this for a long time. Mr. Granese explained the subcommittee is in place because the Board decided not to include mixed use in the proposed General Commercial IV zone. He could ask the Board again if they wanted to include mixed use in the GCIV and if the answer is yes, he agrees this document should be tabled until the subcommittee comes to a conclusion. He thought when Mr. MacEachern mentioned a mixed use overlay zone that Mr. MacEachern meant town wide, not GCIV. Mr. MacEachern said a town wide overlay would add significantly more properties, although it would not make sense on the east side of Derry. Mr. Sioras said any discussion about mixed use has been up to now, about having it in the General Commercial zones. What is now on the table is General Commercial IV with a list of permitted uses. The Board took mixed use out of the proposed General Commercial IV zone. The question is, does the Board move forward with the General Commercial IV and schedule a public hearing? Separately, the subcommittee is working on a potential overlay zone and will make a report and recommendation to the Board at a later date. The subcommittee only had one meeting, so will continue to work on this; there is

no way to know where that is going to go. It was noted not all members of the subcommittee had been able to attend that meeting.

Mr. MacEachern said this has expanded beyond his initial thought for an overlay. It makes sense to have mixed use in the General Commercial I, II and III zones depending on parcel size. He felt the Board could move the proposed General Commercial IV forward and talk about a mixed use overlay. Mr. Fairbanks said the information provided by David Preece lends itself more to an overlay. Mr. Sioras asked if the Board wanted to move forward with what is on the table or not move forward which is what Mr. Granese was trying to determine with the poll. If not moving forward, the Board should provide direction for a date certain for the next workshop, once the subcommittee has had a chance to look at the performance zone. Mr. MacEachern thought the subcommittee should look in all the General Commercial zones. Mr. Fairbanks suggested in all the zones. Mr. MacEachern agreed an overlay could be town wide and the subcommittee could be tasked with that duty; that is a significant additional amount of work. Mr. Sioras cautioned it cannot all be done in one subcommittee meeting.

Mrs. Robidoux reminded there was a motion on the table.

Mr. MacEachern withdrew his motion and Mr. Bartkiewicz withdrew his second.

Mr. Granese polled the Board to see if they wanted to hold additional workshops, or move forward to schedule a public hearing. A yes vote would be to schedule a public hearing; a no vote would be to hold additional workshops.

*Davison, Osborne, Fairbanks, Flattes, Bartkiewicz and Granese voted yes, with Mr. Fairbanks noting he has listened to every word the public has spoken. Park and MacEachern voted no.*

Mr. Sioras said the final form of the document will be presented to the Board at the next meeting and a date provided for a public hearing. Separately, the subcommittee will continue its work.

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 8:31 p.m.

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

\_\_\_\_\_  
Secretary

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