

# *Town of Derry*

*"Derry, New Hampshire's Place to Be"*

## **LEGAL NOTICE**

The Planning Board for the Town of Derry will hold a public hearing on **Wednesday, July 17, 2019 at 7:00 p.m.** at the Derry Municipal Center (3<sup>rd</sup> Floor), 14 Manning Street, to review the following proposed amendments to the Town of Derry Zoning Ordinance.

To AMEND Article IV, Districts, Section 165-29, Enumeration of Districts, to add Number 24, West Running Brook District; and Article V, Zoning Map and District Boundaries, to AMEND Section 165-30, Zoning Map, to add the West Running Brook District, and to AMEND Article VI, District Provisions to add a new Section 165-32.4, West Running Brook District.

For the lots affected the amendments are COMPREHENSIVE IN NATURE.

Full text and a map of the proposed amendment is available at the Office of the Town Clerk, 14 Manning Street, the Derry Public Library at 64 East Broadway, and the Planning Department at 14 Manning Street. The proposed amendment may also be viewed on line at <http://www.derrynh.org/planning-board>

POSTED: JULY 02, 2019

Derry Municipal Center

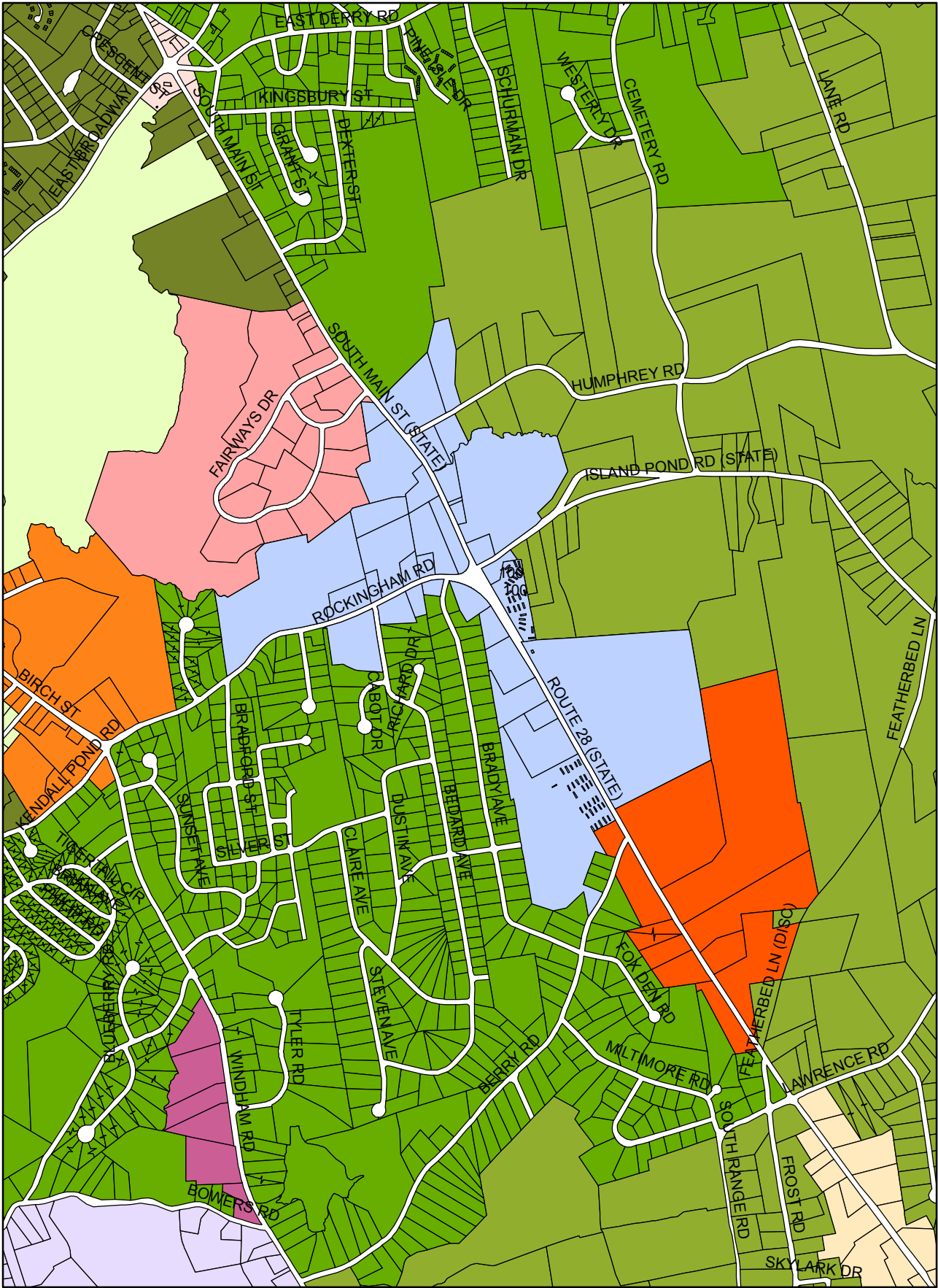
Derry Public Library & Taylor Library (by e-mail)

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# Proposed WRB District



## **Proposed West Running Brook District**

### **ARTICLE IV - DISTRICTS**

#### **Section 165-29 Enumeration of Districts**

For the purpose of this chapter, the Town of Derry is divided into zoning districts as follows —

- 1 GC, General Commercial District
- 2 CBD, Central Business District
- 3 OBD, Office Business District
- 4 OMB, Office Medical/Business District
- 5 ORD, Office Research & Development District
- 6 NC, Neighborhood Commercial District
- 7 MHPD, Manufactured Housing Park District
- 8 I-I, Industrial District-I
- 9 I-II, Industrial District-II (~~Deleted 7/15/04~~)
- 10 I-III, Industrial District-III
- 11 I-IV, Industrial District-IV
- 12 MFR, Multi-Family Residential District
- 13 I-V, Industrial District-V
- 14 I-VI, Industrial District VI (**Effective 3/17/04**)
- 15 MHDR, Medium-High Density Residential District
- 16 MDR, Medium Density Residential District
- 17 LMDR, Low-Medium Density Residential District
- 18 LDR, Low Density Residential District
- 19 TBOD, Traditional Business Overlay District
- 20 GC-II, General Commercial District-II (**Effective 7/15/04**)
21. Medium High Density Residential District II (MHDR-II) (**Effective 12/2/05**)
22. General Commercial III District (GCIII) (**Effective 01/07/2011**)
23. General Commercial IV District (GCIV) (**Effective 08/06/2015**)
24. West Running Brook District (WRB)

In addition, the Floodplain Development Overlay District, the Conservation Corridor Overlay District, and the Wetlands Conservation Overlay District and the Groundwater Resource Conservation District shall be considered as overlayments of all zoning districts, and, pursuant to Section 165-142, shall be deemed to be applicable if conflicting with the requirements of any underlying zoning district.

## ARTICLE V ZONING MAP AND DISTRICT BOUNDARIES

### Section 165-30 Zoning Map (Repealed and replaced 12/17/09, rev 06/16/2018, rev 04/19/2019)

The locations of the Derry zoning districts are as shown on the Official Zoning Map of the Town of Derry, New Hampshire which consists of the tax map overlays updated to ~~April 19, 2019~~insert new date here, which is hereby declared to be a part of this Article. Included with these are the Flood Insurance Rate Maps and the Floodway and Flood Boundary Maps of the Flood Insurance Study of the County of Rockingham, NH dated May 17, 2005 or as amended, as well as the Flood Insurance Study, both of which were prepared by the Federal Emergency Management Agency; and the Prime Wetlands Maps and the Prime Wetlands Report dated November 11, 1986 which are incorporated herein by reference. Reference is also made to the maps described in Article VIII, Groundwater Resource Conservation District. Any change in the location of boundaries of the Zoning District hereafter made through amendments of this article shall be indicated by alteration of the Zoning Map and Tax Map, and the maps as altered, are declared to be a part of this article.

## ARTICLE VI DISTRICT PROVISIONS

### Section 165-32.4 West Running Brook District

A. Purpose: To retain the unique character that differs from the other commercial districts within the Town of Derry, given the district's location in the historic West Running Brook area. It is intended the character of the area be retained through judicial use of strict architectural design regulations and lot sizing requirements. The district encourages a mix of land uses, including residential, small scale retail/commercial, recreation and conservation in close proximity to one another in a neighborhood. This preserves the working landscape and protects environmental resources.

#### B. Permitted Uses

1. Bank
2. Commercial Performing and Fine Arts Schools and Studios
3. Conference Center
4. Day Care
5. Hotel
6. Inn
7. Indoor Commercial Recreation
8. Manufacturing

9. Medical Office

10. Movie and Recording Studios

11. Multi-family Residential per Section 165-32.4.J

12. Professional Office

13. Publishing

14. Restaurant

15. Retail Sales Establishment

16. Warehouse – only as an accessory use, not to exceed 5,000 square feet in size

17. Manufactured housing units in existence as of [insert effective date] shall be considered legal, permitted uses. No additional manufactured housing units are allowed after this date.

18. Retail uses, professional offices, and personal or professional services in one- and one-half story buildings of 1,500 square feet or less, and up to 5,000 square feet when in buildings of two or more stories. Buildings in this type of area may contain other compatible uses, such as civic and institutional uses of community importance, specifically including second-floor residential uses.

19. Any use not listed in this section is deemed prohibited, and cannot be permitted without a variance from the Zoning Board of Adjustment. The Zoning Board of Adjustment, before considering any application for a variance under this section, shall refer such application to the Planning Board to seek the Board's advice and comment as to the suitability of the use for the lot in question, taking into consideration the effect of the variance upon the character of the zoning district and any other pertinent data in respect to the Master Plan. The Zoning Board of adjustment may also request such further information that it deems the Planning Board could supply. The Planning Board's advice and comment, and report on any further requested information, shall in all cases be considered informational and non-binding on the decision of the Zoning Board of Adjustment. The Planning Board's advice and comments shall be delivered to the Zoning Board of Adjustment in writing within thirty (30) days of such referral.

C. Area and Dimensional Requirements

1. Minimum Lot Area - None

2. Minimum Frontage Requirement – 50 feet

3. Minimum Yard Depths – front, side, and rear yard depths shall be as agreed upon by the Planning Board and the applicant. In no case shall the setback be less than 10 feet. Building setbacks to structures on an adjacent lot shall be a minimum distance of thirty (30) feet.

4. Maximum Building Height – The Planning Board will determine the height restriction based on the scale of the development and the topography of the land. The intent is to maintain the character of the District and to not have buildings that are excessively taller than those in the district.

5. Flag lots are not permitted.

D. Buffer zones shall be established in accordance with the provisions of Chapter 170, Land Development Control Regulations. Any development adjacent to the Robert Frost Farm shall

be required to retain a fifty (50) foot naturally vegetated buffer along the property line. This buffer may be augmented by additional plantings based upon the uses in the development as determined by the Planning Board so as to best protect the historic character of the Farm.

- E. The Planning Board shall determine whether the proposed development is appropriate for the area by considering the following additional factors:
  - 1. Pre-existing development near the proposed site
  - 2. Environmental resources that may be detrimentally impacted by the development
  - 3. Consistency with the development of the Master Plan
  - 4. Consistency with the Architectural Design Regulations specific to this District
  - 5. Any other relevant factors to protect the health, safety, and welfare of town residents.
- F. Developments in this district are allowed by Conditional Use Permit. Any provision of this ordinance may be waived, when upon application by the applicant to the Planning Board, the Board determines in its sole discretion:
  - 1. That requiring compliance with the particular provision for the granting of a Conditional Use Permit would create an unnecessary hardship, and
  - 2. That the application would still be consistent with the spirit and intent of this ordinance.
  - 3. Requests for waivers must be written and the Planning Board must vote on each waiver request at a properly noticed public hearing.
- G. Residential/Non-Residential Phasing. In approving a development in this district, the Planning Board shall ensure by approval of a condition, phasing schedule, or other measure that the non-residential portions of the development are occupied in accordance with a schedule that relates occupancy of such non-residential portions of the development to the completion of a specified percentage or specified number of phases or sections of the residential portions.
- H. Dimensional Standards/Density Determinations
  - 1. Housing – The Planning Board shall determine the allowable number of dwelling units on a case-by-case basis, and based upon the scope of the overall project, in order to provide enough dwelling units in the development to support the accompanying small-scale retail, and to allow the town to better plan for and provide for the increase in local services that accompanies population growth within a town.
  - 2. Density Determination –The average density shall vary dependent upon soil conditions, water and sewer connections, wetlands, topography, and other features of the land. In no case shall the average density be lower than that of a conventional subdivision found in the Low Density Residential District.
  - 3. Density Bonus – A density bonus of one unit per five acres shall be granted where applicants provide for full public access to community amenities such as trails, ballfields or playgrounds. The Board may grant other density bonuses based on provisions of market rate housing, protection of sensitive environmental resources, or the provision of other amenities.
- I. Design Standards for All Areas
  - 1. Overall Form and Spatial Relationships
    - a. Overall Form. Areas of new construction shall be sited so as to best preserve natural vistas and existing topography.
      - i. In all areas, peripheral greenbelt open space shall be designed to follow the natural features whenever possible and to maintain an agricultural, woodland, or countryside character.

- ii. The village shall be distinguished from the peripheral, greenbelt open space by a well-defined line or edge so that developed areas will transition very quickly to rural, undeveloped lands.
  - b. Village Layout
    - i. Overall Layout. Villages shall be designed in a pattern of interconnecting streets and alleys, defined by buildings, street furniture, landscaping, pedestrian ways, and sidewalks. The layout should be suited to the existing topography and other natural features of the area to minimize cut-and-fill and grading throughout the site.
    - ii. Pedestrian Connections. No less than one eight-foot pedestrian alley or way must be provided for every 250 feet of street frontage in retail areas, connecting with rear parking lots.
    - iii. Building Orientation. Houses shall be oriented to maximize passive solar energy, natural shade and windbreaks, and to orient rooms such as kitchens and bedrooms based on light and heat requirements at different times of the day. The use of energy-efficient appliances and materials is encouraged.
- 2. Street and Sidewalk Network
  - a. Sidewalks. Sidewalks are required along all road frontages of new development. The width of the sidewalk shall be consistent with the prevailing pattern in the immediate neighborhood, provided that no new sidewalk shall be less than four feet wide.
  - b. Curbs. Where curbing is used, it shall be granite curbing for durability.
  - c. Overall Street Layout. Each development should have at least two points of entry and egress and should be connected to other existing streets to provide for the future extension of the community's street network whenever possible. Main roads should not cut through the center of the development, but instead should provide access to secondary roads that begin at the periphery of the street layout.
  - d. Cul-de-sacs. Cul-de-sacs are prohibited, unless conducive to a harmonious village pattern due to topographic constraints.
  - e. Traffic calming. In order to calm traffic speeds and to provide for pedestrian safety, the use of "T" intersections, small roundabouts, and four-ways stops shall be used.
- 3. Pedestrian and Bicycle Access
  - a. Connections between uses. Pedestrian and bicycle connections between mixed-use development and residential areas are required.
  - b. Bicycle parking. Small-scale retail areas shall provide areas for parking and locking of bicycles.
- 4. Streetscape
  - a. Trees. Any new development must be accompanied by a landscape plan that will address the location, suitability, and species of trees, shrubs, or other plantings within the development. In new developments, street trees shall be planted every 50 linear feet of street right of way. Street trees shall be planted not closer than 25 feet to one another.
  - b. Buffer zones. A vegetated buffer of at least 100 feet shall be provided between Residential Areas and adjacent industrial zones.

- c. Public Space. Each retail area shall contain one or more public spaces such as a green, pocket park, gazebo, or picnic area. These spaces should be designed to encourage community interaction.
- d. Lighting. Lighting shall be provided in all developed areas, both commercial and residential.

J. Multifamily Dwelling Requirements

- 1. Must be part of a mixed use development
- 2. Multifamily dwellings are limited to 1 and 2 bedroom units
- 3. The maximum number of dwelling units allowed per building will depend upon factors including, but not limited to, density considerations for the lot, the number of buildings being proposed for the lot, and whether the proposal will be consistent with the purpose of the ordinance and the overall character of the surrounding area within the zoning district.

K. Application Process

- 1. The applicant shall request an informal consultation with the Planning Board, pursuant to RSA 676:4,III (a), to discuss the proposal and preliminary concepts associated with the proposed development, and provide the Board an opportunity to provide its input prior to full engineering design of the project.
- 2. Following consultation with the Planning Board, the applicant shall submit the project to the Technical Review Committee (TRC) process.
- 3. No project shall be accepted for Final Application to the Planning Board without conceptual consultation or TRC review of the plan.