

The Planning Board for the Town of Derry held a public meeting on Wednesday, May 03, 2023, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room.

Members present: John O'Connor, Chairman; David Nelson, Vice Chairman; Andy Myers, Secretary; Randy Chase, Town Administrative Representative; Jim MacEachern, Town Council Liaison (Alternate); Mark Connors, Chris Feinauer, Members

Absent: John Morrison, Rich Malaby, Dave Granese, Dan Healey

\*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning and Economic Development Assistant; Mark L'Heureux, Engineering Coordinator; Beverly Donovan, Economic Development Director

Mr. O'Connor opened the meeting at 7:00 p.m. The meeting began with a salute to the flag.

### **Escrow**

None.

### **Minutes**

The Board reviewed the minutes of the April 19, 2023, meeting.

Motion by MacEachern, seconded by Nelson to approve the minutes of the April 19, 2023, meeting as written.

Chase, MacEachern Nelson, Feinauer, Connors, Myers, and O'Connor voted in favor and the motion passed.

### **Correspondence**

Mr. Myers read the following memo into the record, which was prepared by Mrs. Robidoux.

The Planning Department received the attached information from Michael Appolo, owner of Appolo Vineyards during a staff meeting with him on April 25, 2023. Mr. Appolo reviewed the Land Development Control Regulations of Derry and noted there are no regulations in the document specific to Agricultural uses. His review of the Master Plan 2020 identified Goals related to agricultural uses. He is requesting the Planning Board review the Master Plan Goals and create regulations specific to agricultural

uses, incorporating into the regulations more relaxed standards that would preserve existing farms, allow them to expand, and encourage establishment of future farms.

Mr. O'Connor stated he would meet with Mr. Appolo and inquire further about specific concerns Mr. Appolo might have. He will also reach out to Mrs. Donovan, who is cited in the Master Plan as the lead on implementation for that particular Master Plan Goal, to discuss agriculture and farming. The Town does have an ordinance in place in the Zoning Ordinance, which is Article XX.

### **Other Business**

Schedule a public hearing to discuss proposed amendments to the Town of Derry Zoning Ordinance, Article V, Zoning Map and District Boundaries, Section 165-30, to redistrict parcels from the TBOD back to the CBD

Mr. Sioras explained the zoning change is a reflection of the February site walk by the Board of the downtown area. During the site walk, the Board looked at the existing setbacks. The Zoning Subcommittee also reviewed the requirements in the TBOD. The recommendation at this time is to rezone several of the lots on the north side of Broadway back to the Central Business District. The parcels to be moved are represented on the map before the Board in the darker blue color. The current Traditional Business Overlay District setbacks are not working for the property owners once one moves off of Broadway itself. The Board will review the remainder of the TBOD at a later date. Mr. O'Connor added the subcommittee is working with legal counsel on a proposed zoning change to create a Traditional Business Overlay District II and will bring that to the Board in the future. Mr. Sioras stated the request this evening is to schedule the public hearing to move the properties to back to their original zone.

Motion by Connors, seconded by Myers to schedule a public hearing for June 07, 2023, to discuss proposed changes to the Town of Derry Zoning Ordinance, Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to redistrict the attached list of properties from the Traditional Business Overlay District to the Central Business District.

Chase, MacEachern Nelson, Feinauer, Connors, Myers, and O'Connor voted in favor and the motion passed.

Conceptual Discussion, West Running Brook District, PID 05007, 133 Rockingham Road, 133 Rockingham Road Realty, LLC

Mr. Sioras explained Cabinet Depot is located on this lot, which is on the right as one travels south on Route 28. It is the former Dollar Bill's site. The owner would like to redevelop the property and has requested a conceptual discussion.

Ben Osgood, Ranger Engineering Group, Inc., represented the owner, Phil St. Cyr, the owner and operator of Cabinet Depot. The property is located on Route 28, heading toward the Robert Frost Farm. There is an existing 26,420 square foot building on 5.49 acres of land. The site

currently has 132 parking spaces. In 2010, the site received site plan amendment approval for its current form. The property is located in the West Running Brook District, which does offer mixed use. Currently, the retail portion of Cabinet Depot is located to the front of the building, with the warehousing portion to the rear. There are three loading docks located in the rear of the building.

The owner is proposing to square off the existing building and add two additional buildings to the site. The existing building would be increased to 29,000 square feet, with three retail units to the front with warehouse space for those uses located to the rear, so that the three units can utilize the loading docks. The owner anticipates the units will be occupied by similar uses that sell retail but need warehouse space, such as a plumbing or lighting supply company. The proposal adds two mixed use buildings. The one on the left side of the property will be a 10,800 square foot footprint with retail and office on the first floor, and six, 3 bedroom apartments on the second floor. The rear building will be a 7,200 square foot footprint, with retail and office on the first floor, and six, 2 bedroom apartments on the second floor. The addition of the proposed uses increased the parking calculation to 162 required spaces. A new parking lot has been added to the northwest corner of the lot. When the lot was developed for Dollar Bills, a stormwater management pond was created on the west side of the property. In addition to the existing pond, there is a stormwater pond to the northeast side of the site and they intend to add one more to handle the slight increase in stormwater and drainage.

Landscaping in the parking lot meets the 5% requirement. They are adding handicapped spaces, internal site sidewalks along the buildings, and will add green and recreation space near the residential buildings. The owner wants to add business and retail uses, but the rear building will more likely be business space on the first floor. The site currently has a septic system and well on it, but the owner intends to connect to town water and sewer. There are no architectural renderings yet for the buildings but the vision of the owner is to add stone wainscoting to the existing building and colonial looking siding on the upper portion. The rear building will have a similar style with stone elements and perhaps some residential balconies. The buildings will have a more traditional colonial look.

Mr. O'Connor inquired if the additional number of apartments can be accommodated with regard to sewer volume. Mr. L'Heureux stated that will not be an issue as the system is underutilized. Mr. Osgood added they will have to connect to town sewer as the existing septic system could not handle the proposed additional load.

Mr. Connors stated he looks forward to seeing the updated architectural rendering and would want to see things like a peaked roofline. The existing building will need to be dressed up. For the warehouse to the back, would there be roll up doors? He wants to make sure that they don't lose parking to accommodate the trucks. Mr. Osgood explained currently there are three loading docks. There is no truck access to get into the building other than the garage door on the side of the building that exists now. The units would be "L" shaped to accommodate utilization of the loading docks by the three businesses. The intent would be to not interfere with the uses in the new buildings. Mr. Connors noted the proposed three bedroom units. The project appears to meet the intent and goals of the West Running Brook district, so long as the first floor does not change in later iterations to all residential, or the three bedroom units don't change to 1 bedroom

or studio units. Mr. Osgood stated his client is very firm on including three bedroom units in the project.

Mr. Connors commented the property to the rear is wedge shaped and will need a good residential buffer, as will the mobile home park located adjacent to the lot. Mr. Osgood stated the intent is to place the left hand building into the slope with patios for the residents, so that the residential uses will abut each other. Mr. Connors stated the establishment of a residential buffer will be important to the neighbors.

Mr. O'Connor asked Mr. Osgood to keep in mind the West Running Brook was intended to be more of a village type concept with an emphasis on high quality. Square, block-like buildings would not meet the intent. Mr. Nelson stated there is traditional mixed use and then the concept of a village. The intent in this district is to have residents that could patronize the dining, entertainment, and commercial uses within walking distance. The centerpiece of this lot is a retail/warehouse building which will be retained. Retail and professional office on the periphery seems fine. He suggests some thought be given to how the residents will find this walkable. They can walk to the plaza, but he is not sure that lines up with the original vision. Part of the story to be told, is how this project fits the walkable vision.

Mr. MacEachern thought it would be difficult to be walkable for a development on one lot. He recalled the premise was more for the contiguous lots with more acreage that might be developed on the lots near the school, such as what has been proposed by the Siragusa's or Dr. Butterfield. In this case, there is an existing structure on the lot and they should do the best they can to fit the criteria. He would like to know how the parking spots would be designated for the 12 residential units. The residents will want to be assured they have spaces near their building. He can see the residents in the rear building utilizing the lot to the back right; but the residents in the building on the left hand side will not want to have to go out at night to move their vehicles. Mr. Osgood explained the parking calculation requires that a three bedroom unit have 5 parking spaces. Mr. MacEachern said he just wanted some thought given to where the residents will park for those units.

Mr. Connors spoke again about walkability. The Robert Frost Farm is nearby. The Board would like to see connectivity through the district. Perhaps the applicant could think about options for people to cross the street. The town does not seem to want to put in sidewalks, but there needs to be consideration for how people and children from the development would move on the street which has no sidewalks or buffer from traffic. He feels sidewalks should be part of the project. This is two lots down from the shopping plaza. The development needs to be considered with regard to how it fits in the district.

Mr. L'Heureux stated staff have had substantial discussions with regard to sidewalks in this district. The Town does not want them where they don't connect to anything; maintenance becomes problematic. This project is on a State highway, and NH DOT is opposed to sidewalks in their right of way. If the Town does require sidewalks for developments in this district, the Town will need to maintain the sidewalks, not the State.

Mr. Sioras advised Mr. Osgood the applicant will need to speak with the NH DOT with regard to an amended driveway permit for the proposed uses. Mr. Osgood said they will discuss this with NH DOT and he has discussed with his client the possibility they would need to add a turning lane. Mr. Sioras noted the Town did conduct a corridor traffic study in this district and a copy can be forwarded to Mr. Osgood.

### **Chairman and Planning Director Updates**

None.

### **Public Hearing**

#### **Ashleigh Development, LLC PID 08017, 37 Scobie Pond Road Acceptance/Review, 2 Lot Subdivision Extension of cul de sac and associated drainage**

Mr. O'Connor stepped down and recused himself from this application. Mr. Nelson assumed the role of Chair.

Mr. Sioras provided the following staff report. The purpose of the plan is for a two lot subdivision located in the Industrial III district for the above referenced parcel as well as the extension of the Ashleigh Drive cul de sac and associated drainage. Future site plans will be submitted to the Planning Board for development of the properties. All Town departments have reviewed and signed the plans. There are no waivers requested, nor are any State permits required. Staff recommends approval of the subdivision application.

Chris and Sharon McCarthy presented. Mr. McCarthy advised he recently purchased the property at 37 Scobie Pond Road. He had been looking for two years for replacement property for property he owed at 9 Madden Road, which has been affected by the proposed construction of Exit 4A. The intent this evening is to seek approval for a two lot subdivision of the 62 acre parcel. One lot will be 7.5 acres, located on the southwest side of the property at Scobie Pond. They will also extend the existing Ashleigh Drive cul de sac. Once that has been accomplished, they will come back and work with the Town staff and abutters on the development of the properties. The Scobie Pond parcel will likely be developed sooner. He is working with the Conservation Commission and has retained the services of Gove Associates to create a residential buffer and conservation easement area. He plans to give up development rights to the land near the residents at the rear of the property. There is an intended easement to connect Ashleigh Drive with Scobie Pond Road, but that would be for emergency access by EMS only.

Karl Dubay, of The Dubay Group, provided the details of the plan. Also present was Tim LaPorte, engineer on the project. The existing cul de sac is a temporary cul de sac with an easement on both sides for the properties it abuts. The plan shows the extension of the cul de sac, the design of the two driveways, the drainage, and the circulation. The cul de sac will be located under the power lines. They have worked with Eversource on that. There are no wetland

impacts for the subdivision, and they have added drainage facilities. They will deed rights to the drainage to the Town of Derry. Gas, sewer, and water will be extended into the two parcels. Sewer will be extended from Ashleigh Drive to Scobie Pond Road, and an easement has been provided for emergency services. The plan complies with all of the staff requests. State subdivision approval is not required as the lots are larger than 5 acres and there are no wetland impacts. A sewer permit will be required for the future extension, but that has been pre-designed.

Motion by MacEachern, seconded by Myers, to accept jurisdiction of the two lot subdivision plan before the Board for Ashleigh Development, LLC, PID 08017, 37 Scobie Pond Road.

Chase, MacEachern, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

Motion by MacEachern, seconded by Myers pursuant to RSA 36:56, the Board finds the application as presented at this time meets the definition of a development of regional impact.

Chase voted no, stating the application does not meet the standard for regional impact; MacEachern voted no, as this is a subdivision with no proposed development; Feinauer voted no. Connors voted no after confirming the property is not near the Londonderry town line. Myers voted no for the reasons stated by MacEachern, and Nelson voted no, there is no regional impact, and the motion failed.

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

There was no public comment.

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

Mr. MacEachern felt this was a straightforward subdivision.

Mr. Connors asked for clarification with regard to the extension of the cul de sac into the powerline easement. Is there any issue with that and why did the cul de sac not extend beyond that easement? Mr. L'Heureux explained there will not be an issue so long as the project maintains the necessary clearances required by Eversource for its utilities and structures.

Mr. L'Heureux asked that the Board consider for a condition of approval the completion of an easement and maintenance agreement for the drainage ponds that are being constructed for the road and Ashleigh Drive cul de sac. There will be shared drainage facilities between the Town and the developer. The drainage features will be to the left of the cul de sac and will be part of the road extension and site development.

Mr. Dubay stated they support that request and are working on the documentation. The agreement will be that the developer will maintain the cul de sac so that the Town does not have to perform the maintenance.

Mr. Connors asked for an explanation of the two driveways off the cul de sac. The subdivision for the larger lot does not connect to the proposed lot on Scobie Pond, so does that mean there will be future subdivision of the larger parcel? Mr. Dubay said there will be no further subdivision of the larger parcel. The two driveways are intended as a safety feature and will loop the traffic in the future. They wanted the ability to circulate traffic through the site. He noted North Point Outdoors has more than one driveway. Mr. Connors asked about the conservation easement near the neighbors to the rear. Mr. Dubay stated they had a good discussion with the abutters attending the meeting this evening prior to the start of the public hearing. The abutters expressed their concern with regard to appropriate buffers. Mr. and Mrs. McCarthy expressed they do not want any connections from the neighborhood into the two lots. The proposal will meet the buffering requirements and likely exceed them and the intent is to put some of the land into a conservation easement. Mr. McCarthy said they will come back to the Board with plans once a tenant has been secured. He has some interested parties and wants to meet the needs of the tenants before coming back to the Board. He will work with the Town further on the predesign of the larger lot as more work will need to be done for that development.

Motion by MacEachern, seconded by Myers to find the proposed plan provides safe and efficient vehicular access, and the design and construction of the cul de sac extension meets the Town of Derry regulatory standards.

Chase, MacEachern, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

Motion by MacEachern, seconded by Myers to approve, pursuant to RSA 676:4, III, Expedited Review, with the following conditions.

1. Comply with the Vanasse Hangen Brustlin report
2. Subject to owner's signature
3. Subject to on-site inspection by the Town's engineer
4. Establish escrow for the setting of bounds or certify the bounds have been set
5. Establish appropriate escrow as required to complete the project
6. Submission of the 11 x 17 sheet, confirming Fire Prevention and the Assessing Department have assigned the Parcel IDs and Addresses
7. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and it complies with LDCR Section 170-24.C
8. Confirmation from Eversource Energy that they do not consider the extension of the cul de sac to be a permanent structure located in their easement area.
9. Remove the Planning Board signature block from all sheets with the exception of Sheet 3
10. Subject to receipt of applicable state or local permits relating to the project
11. Conditions precedent shall be met within 6 months

12. Submission of the appropriate recording fees, payable to the Rockingham County Registry of Deeds. [This includes the \$25.00 LCHIP fee, recording fees for the mylar, and the Notice of Decision.]
13. Establishment of escrow and easement agreements between the Town and the Developer for the ponds.

Chase, MacEachern, Feinauer, Connors, Myers, and Nelson voted in favor and the motion passed.

Mr. O'Connor resumed his seat.

Board Member Comments

None.

There was no further business before the Board.

Motion by MacEachern, seconded by Nelson to adjourn. The motion passed with all in favor and the meeting stood adjourned at 7:52 p.m.

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

\_\_\_\_\_  
Secretary

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