

The Planning Board for the Town of Derry held a public meeting on Wednesday, January 20, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with several members of the Board and public present.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Richard Tripp, Town Council Liaison; Jim MacEachern (7:08 p.m.), Mark Connors, Mark Grabowski\*, Doug Danzey\*, Jennifer Carrier\*, Members; Dave Granese\*, Alternate

Absent: Randy Chase

\*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. Mr. O'Connor advised that although the Stay at Home order has expired, Emergency Order #12 as issued by Governor Sununu waives the requirement that all members be physically present. Members can attend the meeting electronically. He provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

### **Escrow**

None.

### **Minutes**

The Board reviewed the minutes of the January 06, 2021, meeting.

Motion by Connors, seconded by Davison to approve the minutes of the January 06, 2021, meeting as written.

Carrier, Tripp, Davison, Connors, and O'Connor voted in favor; Danzey and Grabowski abstained, and the motion passed.

### **Correspondence**

The Board is in receipt of the most recent edition of *Town and City*.

Mr. O'Connor advised an issue came up at the last meeting with regard to the General Commercial zone and other areas. Mr. Mackey, the Code Enforcement Director, has responded to the Board with a letter. That will be discussed during the first public hearing this evening.

**Other Business**

None.

Mr. Granese was seated for Mr. MacEachern.

**Public Hearing**

**Lauralei, LLC  
PID 36067-012, 4 Peabody Road Annex  
Review, Site Plan  
Addition of 17,820 SF commercial building  
(Continued from January 06, 2021)**

Mr. O'Connor noted the plan set before the Board this evening has been revised; therefore, the Board will need to accept the revised plans. He noted the following changes: the use on the plan has changed from "contractor bays" to "commercial service building"; sheet 9 notes the emergency exits have been added to the design of the building; sheet 13 shows the additional stormwater design; sheet 14 adds the hydrant installation; sheet 15 shows the additional catch basin; and sheet 16 now includes the site lighting detail. The purpose of the plan is to construct a 17,820 square foot commercial service building which is allowed in the GC district.

*Mr. MacEachern entered the meeting.*

Mr. Sioras provided the following staff report. The plan has been revised since the last meeting. The owner has decided to call the building a commercial service building, which is a permitted use in the zone. The individual tenants will come to the Planning Department and complete a Change in Use application. Mr. Mackey has provided his opinion with regard to "contractor" as a permitted use. His memo, dated January 15, 2021 to Mr. Sioras, is as follows:

"As we discussed, currently the only place in the Zoning Ordinance where it lists "contractor" as a specific permitted use is in the Central Business District (CBD). It appears that in 2015, the definition of commercial service establishment was modified so as to not include contractors. That being said, contractor type uses have historically been permitted in the General Commercial, GC IV and IND IV Zoning Districts and are one of the more common uses located in the mixed use type buildings such as what is being proposed.

Another example is the plumbing contracting business that was approved by the Planning Board in 2019, located on Franklin Street Extension in the IND IV Zoning District. Based on this information, I believe contracting type uses are allowed in these districts.

In order to avoid confusion in the future, I would suggest that “contractor” be added to the permitted uses in the GC, GC IV, and IND IV Zoning Districts.”

Mr. Sioras said the owner of the building, based on discussion at the last Planning Board hearing, changed the plan to indicate this would be a commercial building. As such, the Board does need to vote to accept the revised plans.

Mr. O’Connor noted precedent has been set in other areas of town where contractors are located. To make everything above board, the use should be included in the General Commercial zone, as recommended.

Mr. Connors noted the building itself is a bay type building. The building did not change, just the naming of the type of building. He does not feel the uses in the building will change. If they do, will this come back to the Board? Mr. Sioras explained commercial service establishment is a permitted use in the General Commercial zone. The owner has been advised that tenants would have to go to staff for review of the use to ensure the type of use is permitted in the zone. Down the road, the Board can amend the zoning to include contractors. Mr. Mackey had opined that contractor is an allowed use in the zone. Mr. Connors felt, based on Mr. Mackey’s memo, the Board will soon be adding language to the Zoning Ordinance.

Mr. Sioras explained Mr. Mackey has made an interpretation to allow contractor as a permitted use. In order to make this clean, the zoning ordinance will need to be amended. In the suggested motion for conditional approval, it states tenants of the individual units will need to go to staff for review. That is a normal practice when a business changes in a unit or storefront. Staff looks at the use in terms of intensity of use, parking, etc. Mr. Connors noted the public does not see that information. Mr. Sioras agreed normally it is an internal staff review but if one of the tenants wanted to take over 5 units, that type of change would require Planning Board review.

Motion by Connors, seconded by Granese to accept jurisdiction of the revised plans.

Grabowski, Granese, Tripp, Connors, Davison, and O’Connor voted yes; Carrier abstained and Danzey voted no. The motion passed with the majority in favor.

Mr. Sioras noted there is a waiver request for the buffer requirement for the existing building. Staff recommends approval of both the waiver and the site plan. All departments have reviewed and signed the plan. The president of the abutting condominium association has requested the landscape buffer have additional plantings.

Doug MacGuire of The Dubai Group, presented for the applicant. The summary provided by Mr. O’Connor and Mr. Sioras explained what has been done in the two weeks since the last meeting. Attracting contractors is problematic because it is not explicitly listed in the regulations. His client has advised in reality, contractor is not the best term to use as the building is not being constructed for a set number of exclusive contractors. The building is being constructed because it is believed it will be versatile and fits the zone. The building is being built on spec, so there are no signed leases at this time. The owner sees a need in the community. One example of a potential tenant is a sign company that needs space to fabricate

and store materials, which cannot be done in an office building. They have clarified on the plan that the building is intended for commercial uses; there are no set planned users. Mr. MacGuire felt the requirement for Change in Use applications made sense as a step to securing occupancy permits. The plan before the Board this evening is very similar to that from the last meeting. He had already made changes to address DPW and Wright-Pierce comments.

Motion by Davison, seconded by Granese to open the public hearing.

Grabowski, Carrier, Granese, Danzey, Tripp, Connors, Davison, and O'Connor voted in favor and the floor was open to the public.

Kevin Curran, 2E and 4E Misty Morning Drive, advised he is the condominium board's President. He provided a written request for the buffer zone. A copy of the request was retained in the file. Their annual meeting was held last week, and this project was a topic of conversation. They understand the building will likely happen but the residents fear seeing the building, the lighting, and the people who may look toward their units. They would request more of a tree line, specifically arborvitae, to provide privacy and comfort for the people in the 66 units that will be affected.

Robert Weigand, 8B Sundown Drive, was still concerned with potential hours of operation and noise. Is there any ordinance in town to keep the noise in check? Mr. L'Heureux advised the Town does not have a noise ordinance.

Noel Thomas, 7B Sundown Drive, said she had been hoping the trees would be taller than 5 feet. She is concerned with the type of business that may go into these units. The existing ranch building has an Asian spa that is open until 11 p.m. She walks her dog in the area and has seen pots and pans, clothes and intimates on clothes racks behind the building. She is very concerned with regard to this type of business and is not sure why they are open so late when the lights in the parking lot are off. Mr. O'Connor suggested Ms. Thomas contact the Code Enforcement Office or the owner with her concerns about the existing building; the Board does not have purview over the existing building. Mr. Sioras agreed the Code Enforcement should be informed of her concerns. Ms. Thomas had an additional question about the potential sign company that might locate in the new building. Will there be pollution and smells from chemicals? Mr. O'Connor explained companies have to follow OSHA regulations for painting, and any business that involves fumes needs to have special ventilation that does not expel outside. Ms. Thomas said it was a shame she would have to look at this building. Mr. O'Connor noted the owner has been trying to address the concerns of the abutters.

Cody Richards\*, 2D Misty Morning Drive, agrees with what has been said. The shrubs should be taller than five feet. At the last meeting there had been discussion of a fence. He would like to see a fence taller than six feet and sound deadening. There must be some way to prevent noise at night and privacy would be nice.

Gina Shannon, 10C Misty Morning Drive, is concerned with property values decreasing. She is concerned the buffer might not be enough and more shrubs will be needed to fill in the buffer. Noise, light, and the potential uses are a concern. Will the Town or the owner protect the

residents from these things? Flooding is also a problem there. Do the abutters have the right to sue the owner and get the Town to help them if their basements flood? Everyone is concerned about the existing building and what is there now. Their property values will decrease and she feels the owner owes them a good buffer.

Peter Sinclair, 2C Misty Morning Drive, would like to see a 4 foot berm created from structural fill to encase the lot and protect the abutters from stormwater runoff. A six foot fence should be placed on top of the berm and that will help with privacy and the noise issue; that would be better than just trees. With regard to the windows on the proposed building – were those added to the plan? Mr. O'Connor explained they were included for Board review at the last meeting and have officially been added to the plan set. There are emergency exits to the rear that were added at the request of the Fire Department. The addition of a mezzanine is an option for each unit.

Mr. Sinclair suggested using privacy glass in the windows to the rear so that sunlight can come in, but no one can see out. Mr. O'Connor noted a fence had been mentioned at the last meeting, but that was more to keep the kids off the property; he commented that the area the kids use as a cut through is closer to Hood School. It is hard to keep kids off the property. People leaned toward landscaping rather than a fence at the last meeting.

Mr. Sinclair felt his suggestion would offer more privacy and a berm would keep runoff off their property. Mr. O'Connor commented the applicant submitted a fairly intense stormwater plan and believed Mr. MacGuire and Mr. L'Heureux could speak to that in more detail.

Mr. Sinclair summarized hours of operation, the windows, and lack of privacy glass are a concern. Once the units are purchased, people like to make alterations. If someone puts in exhaust fans to the rear wall, it would blow right on the abutting residents. He is concerned that the building might be altered with exhaust fans or A/C units.

There was no further public comment.

Motion by Connors to close the public hearing, seconded by Grabowski.

Danzey, Grabowski, Carrier, Granese, Tripp, Connors, Davison, and O'Connor voted in favor and review of the plan came back to the Board.

Mr. MacGuire said he could relate to the concerns of the abutters. He is confident that the drainage plan will handle the associate increase in drainage and will improve the existing site conditions because it will capture and divert the runoff that was going to the condominiums. The buildings will be a natural buffer for sound and light. They did that intentionally. Any potential noisy activity was focused inward. There should not be any noise pollution coming from the rear of the building. The doors on the rear are for emergency egress only. They put in low light to light the entrances and parking for safety, but the poles themselves will be blocked by the building. The buffer follows the regulations. They are proposing arborvitae in staggered rows, 12 feet on center, which will infill the existing vegetation. The arborvitae will be six feet in height. That plant grows fairly quickly and should grow together to create a wall of green. They

will create a natural buffer from the building and maintain the existing vegetation and add to that. They are proposing a closed drainage system where there was no drainage before, and they will gather, drain and direct the runoff to the detention system. There will be no runoff to the rear. The roof structures will collect the roof runoff into the closed drainage system. There are some drainage issues at the existing access because there is no drainage on site and Peabody Road Annex is very flat so the water temporarily ponds. They will put the low point on their property, pick up that drainage, and bring it to their detention system. Their stormwater plans improve the existing condition.

Mr. O'Connor added the Highway Safety Committee noted during their meeting this plan would improve the condition.

Mr. Sioras spoke to the buffer regulations found in the LDCR. They state, "An applicant may create a treed buffer through the planting of a minimum of two staggered rows of coniferous trees spaced not further than 12-feet on center and not less than eight feet in height at the time of planting."

Mr. L'Heureux said he would like a condition added to any approval that the roof leaders on the corners of the commercial building be shown on the plan, and show they lead to the catch basins in the parking lot; additionally, the plan should properly locate and show the existing water service to the existing building. The wall issue discussed at the last meeting has been inserted as a condition.

Mr. Connors clarified the existing tree buffer is fairly robust and will not be removed. The proposed arborvitae will be added to the existing vegetation in that area. He did question the small two pad dumpster area. Is that sufficient for the units? Mr. L'Heureux said they may need to alter that, depending on the uses. Mr. O'Connor recalled the owner stating they would schedule more than one pick up a week. Mr. Connors asked for clarification of the parking calculation. Mr. MacGuire explained they calculated spaces based on the use and then the aggregate. The 14,256 open bay area requires 12 spaces; the 3564 office space (mezzanine area at 300± sf per), requires 12 spaces, the existing commercial building requires 25 spaces. Based on that, the required number of spaces is 49; they are providing 57.

Mr. Connors recalled Mr. Trefethen stating the units would not be air conditioned. When the new uses change, it may be that people will add air conditioners or exhaust fans; has that been taken into account?

Mr. MacGuire said they are not showing large commercial A/C units for this building. The owner has said the uses will not lend itself to office space. He could not justify office space based on the parking calculation; they can't fit additional parking on site. That is not a feasible use. He is not aware of any plans to provide air conditioning to the whole building. Mr. Connors noted if they tried to use wall mounted units, would the units stick out into the rear setback? Mr. L'Heureux said there is nothing to prevent someone from using an A/C unit that sticks out 4 inches. Mr. Connors felt there may be additional impacts but was not sure that fell under the Board's purview. Mr. L'Heureux said he was not sure; that would fall under Code Enforcement.

Mr. Connors asked with regard to utility service on site. Mr. L'Heureux said if they can obtain natural gas – sometimes it is not available – that does not preclude them from using propane on site. Gas metering could be done as one meter for the building, or there could be meters for each of the units. They are fairly low to the ground and should not interfere with the aesthetic. They don't make noise.

Mr. Connors confirmed the arborvitae will be to the rear of the building where there is existing vegetation; no planting will be placed on the cul de sac side. Mr. MacGuire advised they are focusing the buffer on the back and side of the proposed building. He did not see an issue if the mezzanine was finished as an accounting room and someone put a mini-split in that space. Those are small, economical, and would be done on a per unit basis. The owner would need to follow the applicable building codes for any exhaust units. Any user would pull a fit up permit with the Building Department and the plans would be reviewed by the code enforcement officials.

Mr. O'Connor asked if the owner would contemplate privacy windows. Mr. MacGuire did not feel the owner would be interested in that. The mezzanine areas would be about 300 square feet and the windows are intended to let in light beyond what comes from the front door. It would not be heavily used office space given the proposed layout.

Ms. Davison asked if each tenant would fill out a Change in Use? If the individual tenant altered the back of the building and there is potential to impact the abutters, who makes sure the conditions are met and the abutters are not affected? Mr. Sioras explained staff reviews the applications. Change in Use applications are reviewed by Fire, Code, Police, Health, Planning and DPW. Staff would look at those things. If the exterior of the building was to be altered, that would require Planning Board review.

Mr. Tripp asked about the swale behind the building. Mr. MacGuire said that is a channeled area to make sure water does not flood. The intent is to have the roof gutters collect runoff and direct it to the closed drainage system, which leads to the detention system. The 8" leader pipe will come down and outlet into the closed drainage system. Mr. Tripp asked how the units will be heated if there is no gas. Mr. MacGuire said the plan is to bring natural gas in from the street. They will tie into the existing utility. Mr. L'Heureux was saying that is not a sure thing until the gas company agrees and they have finished negotiations with the gas company. He can't see the gas company saying no to a new commercial customer when the utility is nearby in the street. They will have multiple utilities on site such as water, sewer and natural gas. This will necessitate a cut in the street and they will overlay a portion of Peabody Road Annex.

Mr. Tripp inquired as to what happens if one of the buffer trees dies. Is there a future plan to replace trees if a gap is created in the buffer? There is not a lot of space between the building and the edge of the property. Mr. MacGuire said the current owner intends to maintain ownership of the building and will not condo the units. He has a vested interest in maintaining the project. If a tree dies, he will replace it. The town requires the landscaping grows. Mr. L'Heureux added the town requires surety for utilities and trees. The town holds surety for one difficult growing season (winter or summer) to assure that if anything dies, it is replaced. Once

the plan is approved, there is a mechanism through Code Enforcement if an abutter feels the landowner is not following the approved site plan. Mr. Tripp asked about tree growth. Mr. MacGuire said the trees are shown at 6 feet tall, but as the regulation requires 8 feet, that will be amended. Once the trees are established, they can grow fairly quickly; it will take a year or two for the roots to fully establish. They could get to 15-20 feet in height.

Mr. Danzey said buildings of this type attract businesses like Cross-Fit, dance classes, karate studios, and virtual golf. Are those types of uses allowed and would those uses work there? Mr. MacGuire said they are, but in the case of a karate studio, there would not be enough parking on site to support the use. That would be a mechanism of the occupancy permit. Staff would review the use and parking. Mr. Danzey said he had a concern with that type of use when there is no noise ordinance as those types of uses could negatively impact the neighbors.

Mr. Granese noted it appeared the concerns had been addressed.

Motion by Granese, seconded by Grabowski to grant a waiver from LDCR Section 170-64 B.2, Landscaping, 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 the waiver will properly carry out the spirit and intent of the regulations. Discussion followed.

Mr. Sioras explained this is a waiver from the requirement that a buffer for the existing building be installed to buffer the residential use. That area has existing vegetation.

Davison, Connors, Tripp, Danzey, Carrier, Granese, Grabowski, and O'Connor voted in favor and the motion passed.

Motion by Granese, seconded by Grabowski to approve pursuant to RSA 676:4, I, Completed application with the following conditions: Comply with the Wright-Pierce report dated December 29, 2020 or later; subject to owner's signature; subject to on-site inspection by the Town's Engineer; establish appropriate escrow as required to complete the project; note approved waiver on the plan; add an engineered (PE stamped) retaining wall with profile elevations, cross sections, and construction details for the substantial grade change proposed for the easterly side of the proposed building (closest to the access driveway entrance) to accommodate adequate cover for service utilities entering into the building; if blasting occurs, the applicant shall conduct a pre-blast survey, per the Derry Fire Department and State of NH blasting protocols, which may include photographing of abutting properties (interior and exterior) as well as the placement of seismic recording instruments; all tenants shall complete a change in use application and submit it to the Planning Department prior to occupancy of any unit; obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24.C or 170-61.C; subject to receipt of applicable state or local permits relating to the project (i.e., AoT, Wetland, Building Department, Fire Department, Water/Wastewater, Driveways, etc.); snow and ice removal shall be performed by a "Green-Sno Pro Certified" contractor following Best Management Practices for the application of de-icing materials; conditions precedent shall be met within 6 months; the leaders for the roof drains shall be shown on the plan and shall lead to the underground detention system; ensure the final plans include water shut off and water service line layout across the site to the existing building; trees



planted in the buffer shall be a minimum of 8 feet tall; if there is alteration to the exterior of the building, the applicant is required to present those changes to the Planning Board for administrative review.

Davison, Connors, Tripp, Grabowski, Danzey, Carrier, Granese and O'Connor voted in favor and the motion passed.

Mr. O'Connor noted the applicant appears to want to be a good neighbor. Mr. Connors reminded the abutters that the pre-blast survey is intended to protect them, and it is in their best interest to allow the inspections.

**Public hearing regarding proposed changes to the following section of the Town of Derry Zoning Ordinance, Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map to expand the boundary of the Traditional Business Overlay District.**

*Mr. Granese stepped down and Mr. MacEachern was seated.*

Mr. Sioras provided the following staff report. The Board has discussed the proposed change during workshops. The purpose is to expand the Traditional Business Overlay District. Currently the district is composed of lots fronting on East and West Broadway beginning at Crystal Ave near the First Baptist Church and Lucky Panda, down to Storer Court and Maple Street. The proposed expansion does not change the permitted uses.

Motion by MacEachern, seconded by Davison to open the public hearing.

Tripp, Connors, Davison, MacEachern, Grabowski, Carrier, Danzey, and O'Connor voted in favor and the floor was open to the public.

Dr. Charles Banister, 1 Birch Street, had questions. The information provided to the affected property owners stated the existing use can continue, but what happens when a property is sold? Many of the buildings included in the proposed district change are old, wood frame homes. His building at 1 Birch Street was originally a two family residence. The dental office is now on the first floor in the front, there is an apartment to the back. He does not feel he will have an opportunity for a retail use on the first floor. He is concerned that at resale, the value will be affected and if a business is required to be on the first floor, that will limit the pool of potential buyers. He feels the building is better suited as a two family. What happens when he sells the building? Mr. Sioras explained a sale of the property won't change the fact that a commercial use can be on the first floor with residential on the second. The existing use would continue as pre-existing, non-conforming, so the apartment to the rear can continue and the building could be sold that way. Dr. Banister felt any new owner would want to have residential for the entire first floor. Mr. Sioras said that would require approval from the Zoning Board of Adjustment.

Dr. Banister advised he had purchased the former Broadway Pets lot as he wanted the opportunity to expand parking opportunities for 1 Birch Street. He did not see a lot of businesses

included in the lots that are proposed to be added to the TBOD. Mr. Sioras said if the use today is residential, that use can continue. The boundary change means there is now potential to reinvest on the side streets. The Board is planning for the future. The existing owners can continue the existing residential uses no matter what the zoning is. Dr. Banister recalled there had been a plan proposed for Rite Aid on the corner of Broadway and Birch that would have encompassed a block of buildings. It is possible a developer could purchase all the buildings in one block. Mr. Sioras agreed. He noted the homes south of Dr. Banister's property were updated. He could see people preserving the residential uses. Dr. Banister confirmed that if he wanted to replace the dental office with a residential use, he has the potential to do that with ZBA approval. Mr. Connors noted if a building was taken down, the next building would have to comply with the current zoning regulations. Mr. O'Connor is aware there are many towns with redevelopment occurring on multiple lots.

Cheryl Paradis, 3 Sawyer Court, lives next to a vacant lot. She is concerned about what will go there. Five years ago, the Halcyon Club was approved for a parking lot at that location. The approval included a fence and trees. The only thing the Halcyon Club did was put up a chain link fence, which is not what they were supposed to do. Where to they go to get this fixed? Mr. O'Connor state Code Enforcement is the office to contact. Ms. Paradis said the parking lot was never put in, but they had been told they would get a stockade fence between the parking lot and their property five years ago. She wants to see what the town will be doing with its empty lot behind them.

Mr. Sioras explained the Halcyon Club did receive an approval for a parking lot site plan several years ago. The plan expired and is no longer valid; there are no approvals for a parking lot in place today, that is why there is no stockade fence. If anything were to be done on that lot, there would be a public hearing and she would be notified as an abutter for any project near her property.

Donna Lato, 3 Sawyer Court, inquired why 17 South Main Street, 2 Central Court Extension and 4 Central Court Extension were not included in the boundary expansion if the Board was using the streets as the district boundary. Mr. Sioras said there is development on those properties already. Ms. Lato asked if their home were sold, would the use have to change? Mr. Sioras said the property could remain residential upon a sale if the new owners chose to keep it that way. If someone purchased the lot and wanted to remove the building and construct something commercial, they could do that. The taxes are not affected by this proposed change. The lot is being used for residential use and so it is being taxed at the residential rate. If the use changed to commercial, then it would be taxed at the commercial rate.

Kevin Eyring\*, 12 Wall Street, said when he read the requirements for the TBOD, there was a historical feel to it, and it appeared that some of the stipulations in the zone deal with aesthetics. How would that affect him if he wanted to change the color of his siding on his house? Mr. Sioras explained all that is in the zone today can remain. There are no requirements for architectural design for existing buildings. A new building would have to comply and show the Board the type of materials and what the building would look like. Properties can remain as residential and there are no requirements as far as the type of window that would have to be installed if the home were renovated. Mr. Eyring asked if he would have to follow any special

requirements if he renovated? Mr. Sioras said no. The zoning does not change anything and there are no special permits required by the town for renovations. Mrs. Robidoux said it sounded as though Mr. Eyring was concerned that there were regulations in place for this district such as one would find in an historic district. There are no requirements of that type for the TBOD.

There was no further public comment.

Motion by MacEachern, seconded by Connors to close the public hearing.

Connors, Tripp, Davison, MacEachern, Danzey, Carrier, Grabowski, and O'Connor voted in favor and review of the proposal came back to the Board.

Mr. MacEachern stated the Board has discussed this proposed change multiple times and he feels that it makes sense to use the streets as the boundary for consistency.

Motion by MacEachern, seconded by Connors to recommend the following amendment to the Town of Derry Zoning Ordinance and to forward the same to Town Council for consideration and approval: Amend Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to expand the boundary of the Traditional Business Overlay District by adding 63 properties, noted on the attached spreadsheet, into the Overlay District. The underlying zoning of the parcels will remain Central Business District.

Connors, Tripp, Davison, MacEachern, Danzey, Carrier, Grabowski, and O'Connor voted in favor and the motion passed.

## Workshop

### **Workshop #2: Planning Board discussion of potential changes to Article, V, Definitions, to add definitions, and Article VI, District Provisions, Section 165-42, Industrial IV District (IND IV), permitted uses.**

Mr. Sioras stated the Board discussed potential changes to the permitted uses at the last workshop. Code Enforcement, Economic Development and Planning staff have all looked at the proposed changes for the permitted uses. The district is encompassed by Ashleigh Drive, Manchester Road, and Folsom Road to the Londonderry town line. The list of permitted uses has been updated and the order restructured and renumbered. Mrs. Robidoux and Mr. Mackey worked on the definitions for hydroponic agriculture and the Chairman requested the addition of aquaponics.

Mrs. Robidoux explained following the last meeting, staff worked on the definitions that needed to be created and upon suggestion of the Chairman, added a definition for aquaponics, which is another growing industry. Mr. Mackey has forwarded a request that contractor and the sale of new automobiles, similar to the General Commercial II zone be included as permitted uses. Used cars would only be allowed as an accessory use to the new auto sales. All of the changes have been incorporated and the hope is to open this up for discussion and maybe move it forward.

Mr. MacEachern felt this was a fairly complete and concise change and that it should be moved along. Mr. O'Connor noted "hydroponic agriculture" needs to be added to the list of permitted uses. Mr. Connors advised he had forwarded a suggestion to the Board to add Indoor Agriculture as a definition which would encompass hydroponic and aquaponic growth which are similar but do not cover the other eight types of indoor agriculture. He felt it would be a good idea to add a definition for indoor agriculture to include "airponics". What is proposed may be too narrow for the future. The Board does not allow Outdoor Agriculture in this area. Mr. MacEachern said that was a good suggestion and that could be included in the next draft. Mrs. Robidoux confirmed the Board did not want to include "nursery" in the definition for Indoor Agriculture.

Mr. Sioras confirmed with the Board the suggested change should be made to the document and it could be brought to the Board at its next meeting to schedule a public hearing.

**Workshop #5: Planning Board discussion of potential changes to Article XII, Signs, specifically the regulations concerning Electronic Message Center Signs and sign requirements for the West Running Brook district.**

Mr. Sioras advised the Board held several discussions about changes to the sign ordinance. Good input was obtained from Code Enforcement. The sign subcommittee met, and the proposed changes are as follows.

A definition for Banner Sign was added, as well as one for On Premise Sign. Off Premise Signs were clarified to not be permitted on an on premise sign. The sign requirements for the West Running Brook district were cleaned up based on the sign subcommittee input and Board comments.

Mr. MacEachern believed there was still some confusion over the use of off premise signs for advertising purposes. Per this section of the Ordinance (Section 170-65.101.8), Off Premise signs are permitted if one has an easement from the landowner to place a sign at that location. They can go anywhere. But, in the next subsection, it states that an on premise sign can't be used to advertise off premise businesses – what if the person obtained permission? Then it would be an off premise sign. Mr. Sioras said an example of an off premise sign is the Walmart sign on Woof Meow's property for which there is an easement. Mr. Connors said off premise signs are defined as one sign and the business is not on the same property as the sign. In the second section (b), that deals with on premise signs.

Mrs. Robidoux said subsection A is the Walmart sign. That is one piece of property where an easement is granted on the property for the sign. That is one sign, for one business. For subsection B, she offered the following analogy. If she owned a lot of land that had a business, Jingles and Jangles, there would be a sign for the business on the lot. If Mr. Tripp wanted to advertise his business, Bibbles and Bobs on her sign, he could not do that because there is already an On Premise sign, advertising the on premise business. That is the intent, but it appears there is a problem with the wording.

Mr. Tripp said it seemed a permit for a sign would have to identify the request as for an on or off premise sign which is defined as the advertisement of goods not produced or sold on the property on which the sign is located. The off premise sign can only be used if it is advertising off premise businesses.

Mr. MacEachern suggested working on the wording for this section a bit more. It is still confusing and is not expressing the intent of what the sign subcommittee wanted to portray. The current wording does not preclude someone from putting a sandwich board on someone else's property to advertise their business.

Ms. Davison said the issue seems to be more with the definitions and subsection A may need to include language to explain the differences between sandwich boards, informational or directional signs. The Walmart sign is directional in that it lets people know the store is located nearby.

Mr. MacEachern said the intent seems to be to not allow off premise business to be advertised on an on premise sign. He agreed with Ms. Davison the wording needs to be clarified.

Mr. Danzey felt there needed to be more detail added to the fixed sign within a certain proximity of a business because it is a directional sign in the case of Walmart.

Mr. MacEachern suggested referring this amendment back to the sign subcommittee. Mr. Sioras said the subcommittee will work on it and bring it back to the Board for one more workshop.

There was no further business before the Board.

Motion by MacEachern, seconded by Davison to adjourn. The motion passed with all in favor and the meeting stood adjourned at 9:13 p.m.

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

\_\_\_\_\_  
Secretary

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