

The Planning Board for the Town of Derry held a public meeting on Wednesday, February 16, 2022, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with the Board members physically present.

Members present: John O'Connor, Chairman; Jim MacEachern, Vice Chair; David Nelson, Secretary; Brian Chirichiello, Town Council Liaison, David Granese, Mark Connors, Members; Joe Tremper, Alternate

Absent: Randy Chase, James Hultgren, David Clapp, Andy Myers

\*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux, Planning & Economic Development Assistant; Beverly Donovan, Economic Development Director\*; David Caron, Town Administrator; Mark Fleischer, Chief Financial Officer

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

Mr. Tremper was seated for Mr. Hultgren

### **Escrow**

None.

### **Minutes**

The Board reviewed the minutes of the February 02, 2022, meeting.

Motion by MacEachern, seconded by Nelson to approve the minutes of the February 02, 2022, meeting as written.

MacEachern, Tremper, Connors, Nelson and O'Connor voted in favor; Granese and Chirichiello abstained, and the motion passed.

The remaining Administrative Business was held to follow the CIP Presentation.

**Other Business**Presentation of the FY 2023 through FY 2028 Capital Improvement Plan

Mr. Sioras advised the presentation of the Capital Improvement Plan (CIP) kicks off the start of the budget season. The CIP is presented to the Planning Board prior to being submitted to the Town Council. Mr. O'Connor reminded the Board this is a formal presentation to the Board but does not require a vote by the Board members.

Mr. Caron, Town Administrator, and Mr. Fleischer, Chief Financial Officer, presented. Mr. Caron advised the Town Administrator, per Section 9.8 of the Town Charter, first presents the CIP to the Planning Board for review and comment and then presents it to the Town Council. RSA 674:5 provides the statutory authority for the Planning Board and notes the sole purpose of the CIP is to aid the Town Council in its consideration of the annual budget. Per the Charter, the responsibility for the CIP is transferred to the Administrator. The process is the same as in prior years. The Departments submit capital need requests to the Finance Department, outlining needs for the next six years. The requests are reviewed in relation to exiting services and available revenue. The Town Administrator reviews the requests with the CFO and staff. The Plan is then presented to the Planning Board for review and consultation. Per the Town Charter, the Town Council adopts the plan with or without modification prior to June 1 of each year. There are different funding mechanisms depending on the Department. Water and Wastewater projects are ultimately funded by customers with some State aid. Cable projects are funded through the franchise fees paid by cable customers. The majority of General Fund capital projects are funded through various capital reserve funds or trusts, which are replenished with a transfer from the Unallocated Fund Balance (UFB).

For the General Fund Projects, the Town Council adopted a policy to fund the Capital Reserve Fund up to \$1.5 million annually; currently the plan presumes an annual funding of \$1.25 million, which has been the current trend. Over the long term, this is insufficient to meet the capital needs of the community. The fiscal 2022 budget included a \$267,000 appropriation to the Capital Reserve Funds to reduce the reliance upon the UFB. Several years ago, economic conditions and policy decisions severely impacted capital investments and the Town has been aggressively replacing its equipment over the past six years, trying to catch up. The Town cannot continue to do so. The program will be reset to ensure financial viability into the future.

Capital Reserve Projections into the FY 2027 year show that there is a concern if the current investment schedule is followed. Police, Fire, Public Works, and IT would be at a deficit. The department most affected would be the Fire Department which would have a projected deficit in FY32 of over 2 million.

Mr. Caron stated he has been working with Mr. Fleischer to rework the priorities. They have come up with a recommended strategy that should have all the funds in balance by Fiscal 27; the Fire Department would continue to have a deficit into Fiscal 34. The reason for that is that the Fire Department does not often purchase equipment, but when it does, the equipment is expensive. For example, the recently purchased Quint (a dual purpose truck) cost \$1.2 million.

For Fiscal 21 and 22, the CIP was based on the \$1.25 to 1.5 million transfer as it was very unclear what the impact COVID would have on the revenues. The Town has received the American Rescue Plan Act of 2021 (ARPA) funds which stabilized the budget into 2025, and the town expects to implement 63 of the 75 projects proposed over the last two years. There are supply chain issues that continue to impact acquisition of equipment, which is frustratingly felt in the Department of Public Works. Vendors have cancelled promised orders as they can't obtain product from the manufacturer.

For the Fiscal 23-28 CIP, the largest expenditures are in DPW and Water/Wastewater. A separate workshop will be held to discuss the threshold for Water/Wastewater projects for next year. Capital Improvement project limits for each department are as follows:

DPW	\$15,105,000 (1.5 M for roads)
Fire	\$6,826,819
Police	\$2,537,323
Library	\$155,000
Expendable Trust	\$4,540,001
IT	\$388,000
Water	\$18,480,002
Wastewater	\$17,220,000
Cable	\$945,000

The Town has a statutory debt limit and per RSA 33:4-a, it is capped at 3% of the Town's value as equalized by the State. Currently, the Town's limitation is \$115.1 million. With the current General Fund Dept at \$6.5 million, the percentage of debt capacity used is at 5.7%.

Mr. Caron reviewed the current outstanding debt service by type: General Fund Bond (Principal), Derry Commerce Corridor (recently refinanced at 1.6%), Water Fund Bond (Principal), and Wastewater Fund Bond (Principal). The Water Department is in good shape with regard to debt. The Town Council will look at projects this year, but they will not affect the debt capacity. The Derry Commerce Corridor debt as a percentage of Assessment base is at 6.85%. The Commerce Corridor was implemented and encompassed the area from the Police Department to the Londonderry town line. It was expanded three years ago to cover Crystal Ave, portions of East and West Broadway, and a portion of Birch Street. This allows the application of resources and provides continuity in the downtown area.

Major projects planned for FY2023 include replacement of ten of the seventeen Police Marked Cruisers. Those leases are funded through the operating budget. In three years, the other seven will be replaced. The Fire Department will be replacing a 1991 pumper tanker with a new dual purpose unit which allows the town to reduce its fleet by one. An upgrade to the Fire Computer Aided Dispatch is planned, as well as the purchase of several DPW vehicles that are between ten and sixteen years old. DPW will be replacing culverts at Sunset Avenue and Franklin Street and upgrading several traffic signals.

Mr. Caron advised citizens had met last year and looked at Hood Park as an economic development tool. Renovations for the Park are planned for this upcoming year. Active recreation utilizes 40% of the park area. The playground will be upgraded. Other renovations include new boards at the hockey rink, and the installation of a splash pad and cameras. The backland, which takes up 60% of the park is where the passive recreation takes place. Marc Brassard is working with staff and students at Pinkerton Academy to create improvements to the backland. There will be renovations performed at Alexander Carr Park, and lighting will be upgraded at the various fields. A pickle ball court will be constructed in place of the old batting cage at O'Hare. The skateboard park will be renovated. With regard to Hood Pond, the water quality cannot be upgraded because it is cost prohibitive, so there will be no swimming at that location. The Town encourages residents to utilize Gallien's Beach.

DerryCAM will work this year on Opera House integrations, a media lab, outdoor camera replacement, media storage, and an intercom system. Cable is well financed for the next ten years even with the projected 2.5% decrease in revenue over that time.

In the Water/Wastewater Department, water main upgrades, wastewater generators, lagoon rehabilitation and the Rand-Sheppard water quality are on the list of projects for FY23.

The tax impact of the projects planned for FY23 – 28 is steady for three years and then drops off the last three years, which is expected.

Mr. O'Connor asked if the improvements for the Rail Trail will be funded through the UFB or Gateway TIF? Mr. Caron explained there are three options for funding the project. Senator Pappas has included \$792,000 in the Federal Fiscal Budget and if that is approved by Congress, the project will be fully funded through the Federal Budget. The Council has expanded the Gateway TIF District; \$750,000 has been included. With the TAP funding, the town would only use \$250,000. Mr. O'Connor asked if the Town would accept a Payment in Lieu of Taxes (PILOT) for the solar project at the landfill. Mr. Caron said the fee there is modest PILOT at \$20,000 per year. The Town could have assessed the developer the full tax value, but that would have created an increase in the kW purchase fee. The Town felt the PILOT was appropriate and Town Council will discuss the funding during the budget process. Mr. O'Connor asked why Wi-Fi was not considered for the Fire Alarm upgrades. Mr. Caron indicated Fire Alarm wanted to make sure any improvements are transferable to another location if there are facility changes and confirmed they are moving away from hardwiring the infrastructure. Mr. O'Connor asked since the Department is upgrading Dispatch, would it look at a combined dispatch for Police and Fire? Mr. Caron said they did look at that. If they combined the dispatch offices, they would need two staff members, which is what they have currently. A public safety building would cost in the area of \$40 million, which is a significant cost to the Town. If a public safety facility was constructed the Town would look at combining the dispatch centers, but currently, the Town feels it is most efficient to keep them separate. Mr. O'Connor inquired if there were any IT security upgrades planned. Mr. Caron said those types of expenditures are in the operating budget. The IT Department does a very good job of making sure the town is not subject to ransomware.

Mr. Connors asked if the Town receives any cable revenue that is not generated directly from the television viewing. There is a trend that moves people to streaming rather than cable. Mr. Caron said by Federal law, the Town can only receive funds related to cable tv. He also confirmed the “1” and “0” in the spreadsheets are placeholders. Mr. Fleischer added sometimes the projects are moved to a different year and they maintain the place with a zero.

There were no further questions from the Board. Mr. O’Connor thanked Mr. Caron and Mr. Fleischer for the presentation.

### **Correspondence**

Mr. Nelson advised the Hampstead Planning Board has forwarded information about a lot line adjustment that crosses municipal boundaries and inquired if the Derry Planning Board was aware of any facts or requirements that would preclude Hampstead from granting approval. Hampstead Planning Board will meet on March 07, 2022, to discuss the application. The Tax Collector has forwarded information on two parcels that are tax deeded: 46 Sheldon Road and 55 Chester Road. She is looking for recommendation as to what the Town should do with the properties and would like to hear from the Board before March 31. The Board is in receipt of a copy of email correspondence between Board members and town staff with regard to housing.

### **Chairman Updates**

Mr. O’Connor stated he requested the email conversation be moved to the public and also asked staff to see if SNHPC can provide the Board with a future workshop to discuss Census numbers and workforce housing. This will be an opportunity to discuss how terms are defined, and how workforce housing is addressed in Derry. He noted tomorrow, BEA will hold a webinar between noon and 1 PM to review current housing trends and incentives in New Hampshire.

Mr. Chirichiello noted people have their own definitions of “workforce housing” and “affordable housing”. Those terms do not necessarily mean Section VIII housing. Board members need to be mindful of their wording and sensitive to how things are phrased. The affordable index in New Hampshire is low right now. The average home in Rockingham County is selling for \$525,000; that could be termed an affordable home.

Following up on Correspondence, Mr. Sioras stated the Planning Department has not yet received an application for the lot line adjustment between the property in Hampstead and in Derry (63.5 Drew Road). With regard to the tax deeded properties, staff will place this item on the agenda for discussion on March 02. The property on Chester Road is located on Beaver Lake near the boat dock and is a very small sliver of land. The second property abuts Weber Forest and is very wet. It is a nice piece of land, and it is possible the Conservation Commission might have an interest. Mr. Connors asked if the land on Chester Road was the parcel that went unidentified for many years. Mr. Sioras was not certain.

**Policy & Procedure, Amendment to Address Regional Impact**

Mr. Sioras advised the Regional Impact recommendation has been provided in proposed changes to the Board's Policy and Procedures. There will need to be two readings on those proposed changes. Tonight, is the first reading by the Board. Mr. Nelson advised he was hoping to have the process outlined in the Regional Impact staff memo inserted into the Policy & Procedures. Mrs. Robidoux stated she would do that and then the document can come back for another first reading at the next meeting.

**Planning Director Updates**

Mr. Sioras explained the first Regional Impact recommendation has been provided this evening following the newer process. Staff has reviewed the criteria used to determine Regional Impact and feels the site plan application for Starbucks at 68 Crystal Avenue does not meet the criteria. Staff recommends the Board find the project does not have Regional Impact. The Board would formally vote on the matter during the public hearing later this evening.

**Schedule Public Hearing - Amend the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-32.4.1.B, Design Standards for all Areas, Buffer Zones**

Motion by MacEachern, seconded by Granese to schedule a public hearing on March 16, 2022, to discuss proposed amendments to the Town of Derry Zoning Ordinance, Article VI, District Provisions, Section 165-32.4.1.B, Design Standards for All Areas, Buffer Zones.

Granese, Chirichiello, MacEachern, Tremper, Connors, Nelson, and O'Connor voted in favor and the motion passed. Mr. Granese noted he would discuss his concerns and comments at the public hearing.

**Public Hearing****Alrig, USA****(Owner: Blue Seal Feeds, Inc.)****PID 35018, 68 Crystal Avenue****Acceptance/Review, Site Plan****2,100 SF retail building – Starbucks**

Mr. Sioras provided the following staff report. The owner of the property is Blue Seal Feeds, Inc. and is being purchased by Alrig, USA. The purpose of the plan is to redevelop the property to construct a Starbucks restaurant with a drive-through. The existing Blue Seal Feed store will be demolished. The property is located in the General Commercial District. All town departments have reviewed and signed the plan. There is a waiver request letter dated February

01, 2022, from Jones & Beach Engineers regarding the USGS datum. The NH DES sewer connection permit is pending at this time. Staff recommends approval of both the waiver and the site plan application.

Paige Libbey, PE, of Jones & Beach Engineers presented for the applicant. Rachel Miller\* and Max Nathan\* of Alrig, USA, were also in attendance. The property is located at 68 Crystal Avenue and was the former Blue Seal Feeds. Alrig USA is purchasing the property for a proposed Starbucks. The property is located between USA Subs and Monster Gas, and fronts on Crystal Avenue and Laconia Avenue. The dedicated entrance to the site will be off Crystal Avenue. The main entrance has been shifted 100 feet south which helps with traffic flow and sight distance. Customers will enter off Crystal Avenue and drive around. The drive-through is near Laconia Avenue. A bypass lane is available that goes to Laconia Avenue – this is mostly intended to be an emergency lane and for deliveries. It is in place in the event someone does not want to go through the drive through. The majority of the existing facilities will remain in place and come off Laconia Avenue. They will increase the size of the water and gas lines and add a grease trap. The landscaping is located on the southwest property line adjacent to Laconia Avenue to shield those neighbors from the headlights in the drive through. They did not want the lights to shine across the street into the residential windows. Ms. Libbey advised she was able to speak with the owner of the property located directly across the street from the drive-through and he has requested a little more landscaping to buffer his windows. She advised they can add more landscaping to beef up that area and protect that neighbor. They need to be cognizant of the stormwater area when they are planning the landscaping in that area.

Motion by MacEachern, seconded by Granese to accept jurisdiction of the site plan application before the Board for Alrig, USA (Owner: Blue Seal Feed), PID 35018, 68 Crystal Avenue. Discussion followed.

Mr. Nelson confirmed all of the TRC comments have been addressed and the checklist is complete. Mr. Sioras said they have, and it is.

Granese, Chirichiello, MacEachern, Tremper, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern to agree with the staff recommendation that the project is not of Regional Impact and does not meet the criteria for making a regional impact determination based on the staff report dated February 16, 2022, seconded by Granese.

Granese, Chirichiello, MacEachern, Tremper, Connors, Nelson, and O'Connor voted in favor and the motion passed.

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

Mr. Nelson asked Ms. Libbey to explain the waiver request. Ms. Libbey stated there is a conflict in the regulations with regard to which datum to use. She does not want to change the datum, because it would affect how the topography is shown in the plan. To avoid that, they are requesting a waiver from one of the two datum requirements. Wright-Pierce reviewed the plan and agreed with her reasoning. One of the datum is outdated and not generally used. Mr. O'Connor stated he would have the Board look at that.

Mr. Connors noted the exit to Laconia had been made wider to accommodate the fire trucks. Will there be a sign to keep traffic from entering there? Ms. Libbey stated there will be a One Way Exit sign and a Do Not Enter sign. Mr. Connors asked if the light pole issue had been addressed. Ms. Libbey stated that was a Fire Department comment and the latest revision of the plan had been signed off by Fire Prevention. The pole that was in the way of the fire truck was removed.

Mr. Chiricheillo asked Ms. Libbey to point out the trash receptacle location. Ms. Libbey identified the area on sheet C2. It is near the first row of parking near the handicap spaces as one enters the drive through. Mr. Chiricheillo asked for the snow storage locations. Ms. Libbey said they were identified on the plan with a cloud symbol. They are along the front parking spaces at Crystal Avenue, and along the drive-through.

Mr. Granese noted the walk up window. He feels this is a good idea for Derry and this is a good plan. He is glad Ms. Libbey spoke to the abutters. Is there any granite in the architectural rendering? Mr. O'Connor noted the Concord facility has granite.

Mr. MacEachern stated he was also glad Ms. Libbey met with the neighbors. Why is the trash receptacle in that particular location and not on the other side of the drive-through? Ms. Libbey explained they positioned it to make the pickup easier. Rather than backing up in front of the drive-through, the truck can just drive in. Mr. MacEachern felt the new entrance might be positioned too close to USA Subs' entrance. What is the distance between the two? The current entrance seems to line up better with the drive-through. Ms. Libbey said customers exiting the drive-through will need to line up so that they don't interfere with customers coming onto the site. The cars entering the site go to the right, while those exiting stay straight. The plan makes the entrance between this site and USA Subs look closer than it is. She is not sure of the exact distance between the two. The entrance to Starbucks is centered between the two intersections. There are two curb cuts for the bank across the street. Mr. MacEachern said he was aware the majority of the traffic on site will be for the drive-through but wanted to make sure the Town Engineer is comfortable with the distance to the abutting driveway cut. Mr. O'Connor noted the Highway Safety Committee signed off on the plan.

Mr. O'Connor inquired as to the dumpster enclosure. It is to be chain link at the opening but the wall for the enclosure will be brick. Mr. O'Connor also wondered if there were any legal issues with the paper street (Dover Street) noted on the plan. Ms. Libbey advised if a paper street is not built, the land goes back to the landowners on either side of the centerline. They would legally



own the land. Mr. Chiricheillo asked if it had been discontinued by the town. She believed it had been. Mr. Chirichiello asked that be confirmed. Mr. MacEachern noted that the road will never be constructed, but legally, it has to be noted on the plan.

Mr. Chiricheillo noted one of the abutters had expressed concerns about lighting. Will that area of the site plan be supplemented with landscaping to address that concern, and did he want natural vegetation or a fence? Ms. Libbey said they will supplement the area with arbor vitae which can be staggered to prevent light from shining into his front windows.

Mr. Nelson stated there are Architectural Design Regulations in this area which require a medium-high level of compliance. Can Ms. Libbey summarize the materials to be used for the proposed building and was the surrounding architecture taken into consideration? Ms. Libbey explained there will be brick on the lower half of the building with wood siding above and EFIS to the rear. They did try to comply to the town regulations while maintaining the style of the other Starbucks in New England.

Mr. Tremper asked with regard to the drive through, does anyone in town monitor the traffic, or does it not have a heavy weight as there are other businesses with drive throughs in the area. Mr. L'Heureux stated the traffic study was well done and the traffic engineer recommended the addition of a dedicated left and right turn out onto Crystal Avenue to create a good traffic flow. The movement of the existing access was to accommodate the larger opening and to keep traffic off the road. He believes they addressed everything brought up during the TRC discussions. Overall, the lighting on the site was reduced and the TRC discussed screening of the neighbors. The water and sewer notes were addressed, and the Wright-Pierce review unveiled some stormwater issues but those are being discussed and can be worked out.

Mr. O'Connor noted the rendering provided shows a flat grade at the street level where the existing site has a difference in grade from the road to the building. Ms. Libbey explained the architectural rendering does not reflect the conditions on the site. The site will not look flat as depicted in the rendering. The grading shown on Sheet C3 indicates there will be a 5% grade at the entrance which is the same grade that exists today.

Mr. Connors stated the plan shows 8 trees in a double row to the rear of the property. On the curve near the drive through, two trees are shown because of the detention pond. The middle Autumn Ginko does not have foliage all year. He suggested getting rid of that and adding arbor vitae. Mr. MacEachern advised part of an upcoming motion would be to add more trees. Mr. Connors asked with regard to snow removal. Can snow be pushed into the pond? Mr. O'Connor said the snow storage locations are noted on the plan and snow can be removed off site. Mr. Connors had a concern that there might be a queue in Crystal Avenue caused by vehicles wanting to turn left into the lot.

The Chairman granted permission for an abutter to ask a question outside of the public hearing. Mr. Brad Carson, 8 Laconia Avenue, asked if the stop bar shown on sheet C2 was an actual bar that would prevent traffic entering and existing the site. It was confirmed the stop bar is a painted line and will not obstruct traffic that wants to by-pass the drive through.

Motion by MacEachern, seconded by Nelson to grant a waiver from LDCR Section 170-65 (j) to not require topographical survey data referencing the USGS datum, as after review of the waiver request, the Board finds that specific circumstances relative to the plan, or conditions in the land of such plan, indicate the waiver will properly carry out the spirit and intent of the regulations.

Granese, Chiricheillo, MacEachern, Tremper, Connors, Nelson, and O'Connor voted in favor and the motion passed.

Motion by MacEachern, seconded by Granese to approve, pursuant to RSA 676:4, I, Completed Application, with the following conditions:

1. Comply with the Wright-Pierce report dated February 09, 2022, or later
2. Subject to owner's signature
3. Subject to on-site inspection by the Town's Engineer
4. Establish appropriate escrow as required to complete the project
5. Note approved waiver on the plan
6. Obtain written approval from the Planning Director/designee that the GIS disk is received, operable, and complies with LDCR Section 170-61.C
7. Subject to receipt of State or local permits relating to the project
8. Conditions precedent to be met within 6 months
9. Addition of arbor vitae or fencing to block the lights from vehicles in the drive-through to be worked out with the Town Engineer and abutters

Granese, Chiricheillo, MacEachern, Tremper, Connors, Nelson, and O'Connor voted in favor and the motion passed.

### **Board Member Comments**

Mr. Nelson advised he has spoken to Mr. Sioras and has asked if staff and workshop time allows, that staff provide an overview of how the Architectural Design Regulations are applied during TRC discussions, and what the expectations of the Board would be with regard to applications. Mr. Sioras said this will be scheduled in April or May after the Board has held its Annual meeting.

There was no further business before the Board.

Motion by MacEachern, seconded by Granese to adjourn.

All members voted in favor and the meeting stood adjourned at 8:26 p.m.

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

\_\_\_\_\_  
Secretary

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