

The Planning Board for the Town of Derry held a public meeting on Wednesday, July 19, 2017, at 7:00 p.m., at the Derry Municipal Center (3<sup>rd</sup> Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Jim MacEachern, Secretary Pro-Temp; Lori Davison; Mirjam Ijtsma, Members

Absent: Michael Fairbanks, Brian Chirichiello, Randy Chase, Frank Bartkiewicz, Mark Connors, Elizabeth Carver

Also present: Elizabeth Robidoux, Planning Assistant

Mr. Granese called the meeting to order at 7:03 p.m. The meeting began with a salute to the flag. Mr. Granese then noted the emergency exits, the location of meeting materials, and introduced the Board members and staff.

Mr. MacEachern was appointed Secretary Pro-Temp in Mr. Fairbanks' absence.

## **Escrow**

### **#17-21**

**Project Name: Highland Place Condos**

**Developer: Extended Realty, LLC**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 26232, 37 Highland Avenue**

The request is to approve a release in the amount of \$165,724.70 and request a replacement Letter of Credit in the amount of \$97,425.51 for the above noted project. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit #27279, drawn on Enterprise Bank, in the amount of \$263,150.21. Mrs. Robidoux confirmed the work has been completed that was attached to the funds to be released.

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

### **#17-22**

**Project Name: Tupelo Music Hall**

**Developer: Tupelo Music Hall, LLC**

**Escrow Account: Same**

**Escrow Type: Letter of Credit**

**Parcel ID/Location: 08001-002004, 10 A Street**

The request is to approve Release #2 in the amount of \$34,795.01 for the above noted project. The amount to retain is zero. This is the final release.

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

**#17-23****Project Name: 17-27 Ashleigh Drive, Self Storage****Developer: Yvon Cormier Construction Corp.****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 08280-004, 23 Ashleigh Drive**

The request is to approve a release in the amount of \$171,376.56 and request a replacement Letter of Credit in the amount of \$9,590.41 for the above noted project. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit #091501 drawn on Salem Five Bank, in the amount of \$180,966.96.

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

**#17-24****Project Name: 154 Hampstead Road****Developer: New Wave Diversified, LLC****Escrow Account: Same****Escrow Type: Cash****Parcel ID/Location: 09081, 154 Hampstead Road**

The request is to establish cash escrow in the amount of \$9,428.40 for the above noted project. This is a non-interest bearing account.

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

**#17-25****Project Name: Kendall Pond Apartments****Developer: DJ Development LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 24037, 19 Kendall Pond Road**

The request is to establish Letter of Credit #82248751 in the amount of \$99,435.60, drawn on Haverhill Bank for the above noted project. The expiration date will be June 28, 2018. Mrs. Robidoux confirmed the developer is establishing a new letter of credit as he has secured a different bank. The current letter of credit will be released.

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

**#17-26****Project Name: Kendall Pond Apartments****Developer: DJ Development LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 24037, 19 Kendall Pond Road**

The request is to approve a release of Letter of Credit #2505311601 in the amount of \$99,435.60, drawn on Merrimack Valley Federal Credit Union for the above noted project. This is the final release; the letter of credit has been replaced.

Mr. O'Connor asked if the Treasurer or Chief Financial Officer was reviewing new banks to ensure financial solvency per the escrow policy. Mrs. Robidoux advised the policy was being followed. The verification is typically done when a letter of credit is established, and then occasionally as letters of credit are renewed.

Motion by O'Connor, seconded by Davison to approve as presented. The motion passed with MacEachern abstained.

**#17-27****Project Name: BR-10 Subdivision, Steele Road****Developer: BR-10, LLC****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 04084, 1 Bartlett Road**

The request is to approve a release in the amount of \$123,463.44 and request a replacement Letter of Credit in the amount of \$361,739.52 for the above noted project. Upon receipt of the replacement Letter of Credit, the Board will release the Letter of Credit in the amount of \$485,202.96.

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

**Minutes**

The Board reviewed the minutes of the June 21, 2017, meeting.

Motion by O'Connor, seconded by MacEachern to approve the minutes of the June 21, 2017 meeting as written. The motion passed with all in favor.

## Correspondence

Mr. MacEachern advised the Board is in receipt of information from the Town of Salem indicating the Salem Planning Board has determined the Tuscan Village Project is a project of regional impact. Copies of meeting minutes were included as well as a link to the webpage containing project material which can be found on the Town of Salem website. The Board has also received a letter concerning the Scobie Pond Line Reactor Project. Mr. MacEachern read the letter into the record. DES has forwarded the latest newsletter; it was noted contact information for the Derry Planning Board needs to be updated with DES. The Board also received the July/August edition of Town and City.

## Other Business

### Summer Schedule

Mrs. Robidoux reminded the Board the next meeting will be August 16<sup>th</sup> as the Board is still on summer schedule.

### Request to Amend Fire Protection Note

Mrs. Robidoux explained this request is similar to two others the Board has approved. The Board approved a subdivision in 2008 on Stark and Lawrence Roads. At that time, the regulations required residential sprinklers as the source of fire protection if the home was not located near a hydrant. The Town since has run water by this lot and there will be a hydrant located within 500 feet of the new residence that will be constructed. The new property owner is requesting that the Board amend the plan note for this particular lot. When the Board approved a similar amendment on Frost Road, the Board required \$5,000.00 escrow held in the event the connection to town water was not made; at the time the Town was not sure when the water line would go live. She did speak with Public Works and the water line will be going live within the next few weeks. Escrow would not need to be held for this request and a public hearing is not required. The Fire Department has agreed it is okay to do this and there will be sufficient fire protection. This does require a vote of the Board.

Motion by MacEachern, seconded by O'Connor to accept the Affidavit – Plan Note Change with regard to the subdivision plan approved for Kevin and Mark Cooper Development, LLC and Jane Palmer, on August 20, 2008 (recorded at the Rockingham County Registry of Deeds as Plan D-36014) and to have the affidavit recorded at the Registry.

Ijtsma, O'Connor, MacEachern, Davison, and Granese voted in favor and the motion passed.

Clarify Recommendation for Acceptance of Willow Road

Mr. Granese noted the Town Council voted on this last evening. Why does the Planning Board need to discuss it this evening? Mrs. Robidoux explained it is a matter of timing. This is a housekeeping/technicality. When the Board recommended acceptance of Willow and Lilac, this stub should have been part of that recommendation. There was an oversight that was caught when they were doing the title research. Mr. Granese asked if the Council had made their vote contingent upon the Planning Board action this evening. Mrs. Robidoux said she did not get an opportunity to view the Council meeting but believed that was how they worded the vote.

Mr. MacEachern noted for legal purposes, he would ask Mrs. Robidoux to review the Town Council meeting and verify the Town Council included that caveat in their approval. Legally, Town Council cannot approve this until the Planning Board recommends acceptance. If not, he would respectfully request the Board approve it tonight, but then Town Council should revote this section.

Motion by MacEachern, seconded by O'Connor to clarify the recommendation made to the Derry Town Council on April 5, 2017 that the acceptance of Willow Street and Lilac Court as Class V town roads include the dedicated access stub leading to Map 2, Lot 70, also known as Lot 0270 and 02070.

Ijtsma, O'Connor, MacEachern, Davison, and Granese voted in favor and the motion passed.

**Public Hearing****A & C Realty, LLC****PID 30142, 19 Birch Street****Acceptance/Plan Review****Site Plan Determination****Addition of showroom for Green Mountain Stove Shoppe**

Mrs. Robidoux provided the following staff report. The lot is located between Casa Java and Blue House of Pizza (21 Birch Street). The owner of Blue House also owns the property, but under two different legal entities which is why the lots cannot be combined. The intent is to create a showroom for Green Mountain Stove Shoppe which would be by appointment only. Parking is required for the use and the owner has reconfigured the entrance and exit for Blue House of Pizza which has improved the traffic circulation on that site. Mr. Peloquin will further explain the changes made on the site. There are several waiver requests: two foot contours, HISS mapping and wetland mapping. Based on the site, staff would recommend approval of the waivers and the site plan determination.

Tim Peloquin, of Promised Land Survey, presented for the applicant. The two lots are under the same ownership, but under two different legal entities. The owner purchased the 19 Birch Street property which is adjacent to Blue House of Pizza. The lot has 2 rental apartments and a 900

square foot commercial space which is proposed for the Stove Shoppe. Green Mountain Stove Shoppe has a warehouse on Tinkham Avenue and would like to have a showroom presence in downtown Derry. The vacant commercial space has not been in use for some time; it was a candy store at one time. The owner has improved the traffic circulation, repaved, created one way circulation, and added some angled striping. This takes some of the stress off Birch Street and funnels traffic onto South Avenue.

There were some concerns raised during the TRC discussion, the first is that there should be no backing out onto Birch Street. A note will be added to the plan to that effect. The owner will police this. The other issue was the hours for delivery trucks. In the past, deliveries to Blue House would clog up the parking lot at 3 p.m. This caused issues on Birch Street and South Avenue. Some of the trucks parked on South Avenue facing oncoming traffic which also caused a further strain on that intersection. His client has agreed to restricted delivery hours (see Note 8) and has already begun that practice.

The parking lot is owned in unison for both properties, and the parking for Green Mountain Stove Shoppe will be by appointment only. This should be a very low stress use. The sign will be on the building. Snow will be trucked off site. Promised Land Survey crews surveyed the lot to define the boundary as the lot is very old. This plan will provide a good definition of the bounds of the property.

Mr. O'Connor asked if an easement is required for the parking. Mr. Peloquin said the parking plan is addressed in Note 9. The owner is the same for both properties. If an easement is required, they can do that, but only because the ownership entities are different; one cannot have an easement for oneself.

Mr. MacEachern suggested that Note 9 be amended. Where currently it is the same owner under two entities, that could change in the future. If one of the properties is sold in the future, that might create an issue. It is better to request an easement or amend Note 9 so that the parking arrangement carries on to any future owners. Mr. Peloquin advised at this time, the lots cannot be merged because there is an apartment over Blue House and there are two apartments at 19 Birch Street. A merger would create a multifamily development. Mr. MacEachern said he would recommend making sure it is very clear where parking is available. Mr. Peloquin said he could add an easement line and put the plan on record so there is no question about parking in the future.

Mr. O'Connor asked how the parking calculation is handled if there is an apartment over Blue House and there are two apartments at 19 Birch Street. Mr. Granese pointed out the parking on 19 Birch Street for the tenants. Mr. Peloquin added the entire frontage of 19 Birch is paved.

Ms. Ijtsma was concerned that patrons of Blue House would park in the front of 19 Birch, taking up spaces that should be utilized for the Stove Shoppe. Mr. Granese said as the intent is to have customers there by appointment only, there may only be one customer there at a time. Mr. Peloquin understood the point that Ms. Ijtsma was making. The parking easement will be on 21 Birch Street (Blue House) and not in front of the building at 19 Birch Street.

Mr. MacEachern stated it was clear what the owners have done and it is a much improved situation. Mr. O'Connor confirmed the employees at Blue House park to the rear; those spaces can still be part of the density. There are also ADA spaces. Mr. Peloquin stated prior to finalizing the plan, he will add any missing striping.

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

There was no public comment.

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

Mr. Granese advised Mr. Fairbanks had forwarded a comment that he was concerned about the parking on these lots. Mr. Granese stated it appears as though the parking situation has been improved as the new configuration keeps traffic from backing up onto Birch Street. Mr. O'Connor added the town has also striped spaces on the west side of the street, all the way to the funeral home.

Mr. Granese asked if Mr. L'Heureux had forwarded any comments or issues with this plan from Public Works. Mrs. Robidoux stated issues raised by Public Works were addressed after the TRC meeting.

Motion by MacEachern, seconded by O'Connor to accept jurisdiction of the Site Plan Determination application before the Board for A & C Realty, LLC, PID 30142, 19 Birch Street.

Ijstma, O'Connor, MacEachern, Davison, and Granese voted in favor and the motion passed.

Mr. MacEachern said he did not see an issue with the waiver requests. These are well known lots, and there are no significant changes proposed other than adding a showroom in an existing building.

Motion by MacEachern, seconded by O'Connor to grant waivers from the following sections of the LDCR, Section 170-61.A.11, Two Foot Contours; Section 170-61.A.12, High Intensity Soils Mapping, Section 170-61.A.13, Jurisdictional Wetland Delineation and Mapping; Section 170-63.C. Parking Requirements, Dimensional Requirements as after review of the waiver requests, the Board finds that strict conformity to the regulation would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the ordinance. Discussion followed.

Mrs. Robidoux advised the parking waiver was to reduce the striping from the required 9 x 20 to 9 x 18 feet.

Ijtsma, O'Connor, MacEachern, Davison, and Granese voted in favor and the motion passed.

Mr. Peloquin stated the cross easement would be for Blue House on the other property. That is why the owner purchased 19 Birch; so he could extend the parking lot. Up to 3 parking spaces at a time for any given appointment will be denoted in the cross easement for the 900 square foot store. Ms. Davison asked if signage will be on the site so that people will know the show room is only open by appointment only. If people see the sign on the building, they may pull in. Mr. Peloquin advised the showroom will not be manned, so it is likely there will be a sign on the door or window.

Motion by MacEachern, seconded by O'Connor to approve, pursuant to RSA 676:4, III, Expedited Review with the following conditions: subject to owner's signature, subject to on-site inspection by the Town's Engineer, establish appropriate escrow as required to complete the project; obtain written approval from the IT Director that the GIS disk is received, is operable and complies with LDCR Section 170-24/170-61, add note to the plan that backing out onto Birch Street is prohibited, note approved waivers on the plan, conditions precedent shall be met within 6 months, 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; a cross easement be granted denoting up to 3 spaces to be provided for 19 Birch Street, which will be by appointment only.

Ijtsma, O'Connor, MacEachern, Davison and Granese voted in favor and the motion passed.

There was no further business before the Board.

Motion by MacEachern, seconded by Davison to adjourn. The motion passed and the meeting was adjourned at 7:42 p.m.

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

\_\_\_\_\_  
Secretary

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