

The Planning Board for the Town of Derry held a public meeting on Wednesday, August 18, 2021, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room with a majority of the members of the Board physically present.

Members present: John O'Connor, Chairman; Jim MacEachern (7:05 p.m.), Vice Chair; David Nelson, Secretary; Brian Chirichiello, Town Council Liaison; Randy Chase, Town Administrative Representative; Mark Connors, David Clapp, Members; Dave Granese*, Alternate

Absent: James Hultgren

*Denotes virtual attendance.

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

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 Emergency Order #12, as issued by Governor Sununu has expired, Board members are allowed to attend the meeting remotely, provided there is a quorum of members physically present in the meeting room. 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. Granese was seated for the member position vacated by Mr. Danzey.

Escrow

#21-10

Project Name: Subdivision of Map 04, Lot 37

Developer: Lake Realty Trust

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: 04037, 124 Gulf Road

The request is to approve a final release of cash escrow in the amount of \$2,203.20 for the above noted project. The amount to retain is zero.

Motion by Nelson, seconded by Connors to approve as presented.

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

#21-11**Project Name: Subdivision Plan Map 9, Lot 139****Developer: Kevin Coyle****Escrow Account: Same****Escrow Type: Cash Escrow****Parcel ID/Location: 09139, 40 Old Chester Road**

The request is to approve Release #3 in the amount of \$10,594.80 for the above noted project. The amount to retain is \$5,572.80.

Motion by Nelson, seconded by Chirichiello to approve as presented.

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

Mr. MacEachern entered the meeting.

Minutes

The Board reviewed the minutes of the July 21, 2021, meeting.

Motion by Chiricheillo, seconded by MacEachern to approve the minutes of the July 21, 2021, meeting as written.

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

Mr. Connors inquired if requests he made following the meeting should be included in the minutes or noted. Mr. O'Connor advised the request can be noted but would not be part of record as the request did not take place during the meeting.

Correspondence

None.

Other Business

Architectural Design Review, Traditional Business Overlay District, PID 29191, 15 West Broadway, Unit 2, Backmann Florist – review of proposed sign

Mrs. Robidoux advised the Backmann Florist business has been sold. Tom and Mary Hankins have retired, and staff wished them well. The new owner is updating the current sign and the

proposal is before the Board for review. The proposal is to reface the existing signs. The sign is matt black aluminum with gold letters. Sign 1, the hanging sign over the sidewalk, is 24" high x 48" wide. Sign 2, on the side of the building is 32" high by 76" wide. Sign 3, located on the front of the building is 36" high and 16' wide.

Board members had no issues with the proposal and confirmed it is a refacing of the existing sign, black background, gold letters. There are no changes to the proposed lighting.

Motion by MacEachern, seconded by Nelson to accept the proposed signs as presented for PID 29191, 15 West Broadway, Unit 2, Backmann Florist.

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

Architectural Design Review, Traditional Business Overlay District, PID 30162, 43 East Broadway, Compare Ristorante– façade improvements

Mr. Sioras advised per the Architectural Design Regulations, any aesthetic changes to the exterior of a building in the Traditional Business Overlay District requires review by the Board. The applicant, Anthony Cristallo, is changing the exterior color of Compare Ristorante. He applied for the Derry Commerce Corridor Downtown Façade Improvement Grant and the Review Committee did not feel the selected color was in keeping with the Regulations. Staff felt a blue color would be acceptable, but not the Holiday Turquoise purchased by the applicant. The applicant has already started to paint the building and had a stop work order issued in July for the painting until the Board could discuss it and make comment. There were conditions placed upon the award of the façade grant that included appearance before the Planning Board so that the Board could determine if the selected color was appropriate for the downtown, the building is to be suitably prepared for painting, the sign for Mr. B's should be removed as Code Enforcement believed that to be a vacant unit; and if the Board does not agree with the color, the grant would be adjusted to accommodate any extra expense, however the applicant would not be reimbursed for the Holiday Turquoise. The Board will need to make findings of fact that the color does or does not meet the intent of the Regulations and provide input. Internally, staff is happy that the building is being utilized and is being fixed up. Collectively, the departments did not like the Holiday Turquoise.

Mr. O'Connor inquired as to the process for a façade grant. Mrs. Robidoux explained an applicant would send the application to the Planning Department for review. Planning staff ensures that the checklist requirements have been met and the application is complete. There is a Façade Review Committee made up of Planning, Code, and Economic Development staff. The committee reviews the application and makes a recommendation to approve or not approve to the Town Administrator, Mr. Caron, who has final approval on the award of the grant. Mr. Connors inquired as to the timeline. Mrs. Robidoux explained painting began while the application was in process and a final determination on the application had not yet been made. She stated not all projects in the Façade Improvement Program come to the Planning Board for review; only those in the TBOD with changes to the exterior of the building.

Mr. Connors stated he felt the Holiday Turquoise color was bright and questioned what the French Gray looked like. Mr. Cristallo advised it is the light gray color on the porch. Mr. Connors noted the side of the building is open to the street and inquired if the Arts Council had considered this wall for a mural?

Mr. Nelson commented on the process. In ~~the Design Criteria for the grant~~Land Development Control Regulations, Section 170-85.J, it states ~~under Subsection D that~~ “Modifications and additions to existing buildings shall be harmonious with the character of the building.” ~~Subsection F.h~~Section 170-86.F.8 states, “Subtle colors are appropriate on larger, plain buildings, where smaller buildings with more detailing can more effectively incorporate brighter colors. Bright colors should be limited to accent areas. High intensity colors, metallic colors, or fluorescent colors should not be used.” The TBOD has Architectural Design Regulations and repainting the building would fall under Planning Board review. Even if there was not a grant application, this change would fall under the Board’s purview.

Mr. Cristallo advised he chose the color as it was the original color of the building and is in Sherman Williams line of historic colors. He wanted to point out Mr. B still rents the unit adjacent to the restaurant, and it is possible Mr. B will apply for a grant for a new sign.

Mr. Connor asked if the Board has any authority over someone who rents space in the downtown. Mr. Sioras said staff was under the impression the unit was vacant as no one is ever in the unit.

Mr. MacEachern advised if the sign currently in the window meets the regulations, then the Board cannot do anything about it. He inquired if Mr. Cristallo inquired of the review committee about the color before he began painting. If Mr. Cristallo did not know he had to come before the Board before beginning work, then there may be a gap in the process. Mr. O’Connor noted the façade program application itself states clearly under General Provisions, Item 5, “It is expressly understood and agreed the applicant is responsible for verifying if the proposed changes require Town of Derry Planning Board review prior to undertaking the work”. Mr. MacEachern pointed out people in the district need to know that they are supposed to have the proposal reviewed before they begin work. Mr. Clapp agreed that it would be important for landowners in the TBOD to know there are guidelines to follow. When guidelines are put in place the property owners should be notified. Mr. Connors said anyone applying for the grant would be aware there were guidelines, but anyone in the district who is not applying for the grant needs to know to come to the Planning Board. He suggested sending letters to the landowners in the TBOD to let them know of the requirement. Mrs. Robidoux stated she sent a copy of the TBOD regulations to the affected landowners when the district was expanded.

Mr. Nelson suggested holding a workshop to review the regulations and see if there is anything to be addressed at the process level. He believed reviews should be at the TRC level. For this evening, he believes the Holiday Turquoise is the wrong color for the location. He did review it on site and looked at the building details in this area. Based on the colors and design schemes in the downtown, this color sticks out. It is a bright color where all the other colors have a warmer tone. In keeping with spirit of the regulations, the color needs to be toned down.

Mr. O'Connor concurred. He walked the downtown area near the business and noted many of the buildings have red brick or are a beige color; MaryAnn's Diner is blue. He felt the color of the building on the corner of Manning Street and East Broadway, which is a muted maroon, would blend and fit nicely with the décor of the area.

Mr. MacEachern said he would defer to the TRC to come up with a color palette for the applicant. He felt this could be addressed at the TRC level and did not need to come to the Planning Board. If there is no color palette for the downtown, one can be created.

Motion by MacEachern to refer this matter to the TRC to have the Technical Review Committee determine the appropriate color for the business. Nelson seconded the motion and discussion followed.

Mr. Chirichiello felt the TRC should provide at least three color choices for Mr. Cristallo. Mr. Nelson stated the intent of the Architectural Design Regulations is to have the applicant suggest or present a cohesive theme that met the goals of the regulations. There was no intent when they were written to have a template or design to follow. He would not want the regulations to be so narrow that there is only one color palette for the downtown.

Mr. Chase said he was not sure how much paint the applicant has purchased, but perhaps the TRC could consider a darker blue so that the paint the applicant has already purchased can be retinted and he can use it.

Mr. Granese felt the proposed color was off base and suggested since this is an Italian restaurant that grays, burgundy, or greens might be more appropriate.

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

Discussion, Field Change, PID 36067-012, 4 Peabody Road Annex, Building B, Laurelei, LLC, Revision to rear of the building

Mr. Sioras provided the following summary. The owner of the property, Steve Trefethen, made a request to amend the existing site layout to the rear of the building where the sidewalk is to be located. He would like to increase the size of the sidewalk from four feet to eight feet. The request was discussed amongst staff and the determination made this should be discussed by the Planning Board to see if the level of change required a public hearing. In the interim, Public Works and The Dubay Group, have been discussing the drainage and site changes. Representatives from Code, Fire, and Planning (Mackey, Sioras, Garone, Eastman) met on site with Mr. Trefethen to review the area of the proposed change and on the face of it, the request seemed reasonable. Public Works has concerns over increased drainage. The Board will need to decide if this request to amend the walkway is a large enough change to require a secondary public hearing before the Board, or if it can be handled administratively. The LDCR allows field changes to be reviewed by DPW and the Planning Director, who can approve changes at his

discretion. For this proposal, it was felt the changes may need Planning Board discussion and additional review; the Board may determine this can be handled administratively.

Mr. Nelson recalled there had been an instance when a field change approved by staff was later overruled by the Planning Board.

Mr. Trefethen stated the building has been approved with emergency access doors to the rear. There is a good sized canopy that runs over the rear doors which will create a lot of shade. The approved plan shows a four foot walkway. His concern is the area will ice over in the winter because it will not get a lot of sun. He feels it would be better to plow the area to avoid that. He asked Planning and Fire Prevention to take a look at it. He would like to add 4 feet of additional width to the walkway. There is a 20 foot setback to the rear property line. He did not feel there would be any impact to the drainage and landscaping. Mr. Trefethen advised he had suggested adding rock to the area between the path and the landscape buffer to assist with any additional runoff. They are running a pipe along the building for the roof gutters. That was on the approved plan. His engineer is working with Mr. L'Heureux who questioned the depth of cover over that pipe. The contractor said the depth would be adjusted and they are using appropriate fill. Mr. L'Heureux had also said the pipe needed to be able to handle an H2O load. Mr. Trefethen felt that a truck can't get that close to the building and that should be a nonissue. His contractor had said if necessary, they can put the pipe in concrete. Mr. L'Heureux had also said they can run the pipe down the building and just drop it once, rather than having multiple roof drains going under the walkway. The rear access will be gated so that no one can drive cars behind the building. His crew will make sure the area is clear in the winter.

Mr. L'Heureux advised the first item of note is that the abutters were very concerned that there be no activity at the rear of the building and the buffer not be disturbed. This proposal doubles the width of the pathway. That could add traffic to the rear of the building because it will be wide enough to accommodate a pickup truck. The abutters wanted no activity back there. The other concern is, does this affect drainage because of the runoff from the long, flat building and the additional pavement? He observed the drainage for the roof runoff was 6" below the surface and it should be a foot to a foot and a half below the ground. The proposed underdrain will not work as proposed. There needs to be a finalized design. The wider path creates crowding on the proposed landscaping. Snowfall off the building will create windrows and the snow will be plowed against the building and the landscaping. He does not feel this is a good idea based on the length and width of the building.

Mr. Connors recalled the number of abutters who attended the public hearings. He agrees this is a big building and the building can be seen from a few spots even with the leaves on the trees. This will be worse once the leaves fall. The question tonight is do the proposed changes require a public hearing, or can it be a field change. He feels the applicant needs to come back for a hearing so the proposed changes can be seen by the abutters. The Board did guarantee the public that people would not be accessing the rear of the building. With a snowblower, the snow is thrown where a plow will just push the snow in each direction off the path. Anywhere else in town this might not be an issue, but he echoes Mr. L'Heureux's concerns and feels the abutters need to hear this.

Mr. O'Connor advised he is aware Director Eastman of Fire Prevention, will require an updated site plan, and access to the proposed gate via a Knox Box. Mr. Chase explained the key in the Knox Box is not for general access and would be proprietary to Derry Fire. The gate could be set up so that it can be accessed by the owner or his staff. Mr. L'Heureux added the drainage plan was designed for the 4' access way; the roof drains needs to be deeper in the ground.

Mr. Nelson recommended the walkway remain at four feet because of the abutters and would recommend the use of a snowblower. With respect to the depth of the drainage pipe, was that on the prior plan? Mr. L'Heureux advised that part of the building did not have a detail on the plan, which is not unusual as it would be tied to the building construction plan which was not complete at the time of the public hearing. There were drainage designs for the front of the building on the site plan. Mr. Trefethen said the plan has always shown drainage as they did not want to flood the abutters with the roof drain. Mr. L'Heureux advised he observed the drains but did not approve them. Mr. Trefethen advised if the Board wants this to go to public hearing, he will withdraw his request as he does not have the time for the hearing process; there are business owners being affected by the Exit 4A project that need to move into this space and they can't afford the delays the hearing process would involve.

Mr. MacEachern said it seems clear the applicant will stay with the approved plan to include 4 foot wide walkways to the rear. The site plan will be kept as is.

Motion by MacEachern to augment the approved plan to include drainage for the rear of the building, which is now completed; documentation should be added with regard to the depth of cover, seconded by Connors.

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

Planning Director/Chairman Updates

Mr. O'Connor stated there are three open positions on the Planning Board; interested persons should apply via the Town Website. He also reminded the Board members of the NHMA online training opportunities that have been forwarded to them.

Mr. Sioras advised there will be no meeting on September 01, 2021. The next meeting of the Planning Board will be on September 15, 2021.

Workshop

Workshop #1 - Gateway District – to discuss proposed changes to Article V, Zoning Map and District Boundaries, Section 165-30, Zoning Map, to move 30 properties from the Medium High Density Residential II District to the Industrial IV District (18 properties) and the Industrial VI District (12 properties).

Mr. Sioras advised the Planning Board walked the area where Exit 4A will be constructed a few years ago. They looked at the area to see which lots are residential, and which are commercial. This area has Industrial IV zoning. Lots in this zone will be affected by the construction of Exit 4A. The Industrial VI zone will also be affected. Staff has provided the Board members with a map that shows the proposed lots to be moved from Medium High Density Residential II to Industrial VI. Those twelve properties are identified in yellow on the map provided to the Board. To the right of those properties are eighteen lots, also MHDR II that are proposed to be moved to the Industrial IV zone. In May of 2020, Mr. Sioras wrote a memo to the Board suggesting the rezoning in the Gateway Corridor be handled in two parts: the first being the movement of the parcels into the new zones. The second part would be to look at the residential properties on the south side of Folsom Road for potential re-zoning. That will need to be a careful discussion and it may be that the neighborhood is retained as is. This is a traditional neighborhood, and it may be best to retain that character.

Mr. MacEachern is the Chairman of the Gateway Corridor Zoning Subcommittee. He advised the committee is also comprised of Mr. Chiricheillo, and Mr. Chase. He felt it would be a good first step to move the twelve parcels into the Industrial VI zone and move this forward to public hearing.

Mr. MacEachern acknowledged there will need to be a lot of discussion about the rezoning of the other lots and what can be done with the neighborhood and the area near the Police Station. Perhaps the area is rezoned as Industrial IV on one side and Industrial VI on the other. The Board needs to look carefully at the single family residential, as well as the General Commercial lots along Crystal Avenue in this area. He would like to examine the lots on the corner of Folsom and Crystal, in particular, Parcels 35016, 35017, 35018, and 35020. Normally, the Board tries to use roads as the boundary for zones if it makes sense. The Subcommittee will begin its work again and Mr. Clapp will join as a member. Any feedback and comment from the other Board members is welcome. He supports moving the 12 parcels noted in yellow to the Industrial VI zone. He would prefer to table the discussion about moving the other 18 parcels into the Industrial IV zone.

Mr. Connors inquired if a developer purchased a whole block for redevelopment does the town have the ability to discontinue roads. He asked if in the long term it made sense to bring the Industrial VI zone back to the intersection of Maple and Ash Street. Mr. MacEachern said not at this time.

Mr. Connors questioned the way the rail trail was depicted on the map. In the future, the rail trail will be depicted as one color so that it is not confused with other properties.

Mr. Sioras noted the discussion about rezoning the Gateway district is consistent with Goal 3 of the updated Master Plan. The hope would be to have commercial or industrial uses along the gateway and to keep multifamily in the other zones.

Mr. Chirichiello believed the Board will want to take a look at the MHDR II lots along Franklin Street; Mr. MacEachern felt that was a discussion that can take place later.

Motion by MacEachern to move forward with the rezoning of the parcels denoted in yellow on the map before the Board this evening from MHDR II to IND VI. Connors seconded the motion and discussion followed.

Mr. Sioras said the rail trail will look like a straight line once the improvements associated with Exit 4A have been completed. It will not have the same configuration as shown on this map.

Mr. Nelson felt the rezoning needs to be business plan driven and not theoretical urban planning driven. The uses in the zone should be uses that will happen. He supports moving the twelve parcels into the new zone and hopes the subcommittee will update the Board frequently on its progress.

Mr. O'Connor suggested reviewing the Master Plan prior to making any decision and to also review the uses in the Industrial VI zone. Mr. Sioras reminded the Board it just made amendments to the uses allowed in the Industrial IV zone last year. Mr. O'Connor said he would prefer to look at and amend a zone once.

Mr. Nelson felt it would be best to have business demand side data; what does the town forecast as a demand based on the acres of land abutting the exit. Mr. Sioras said the Board can obtain that information from Mrs. Donovan.

Mr. MacEachern indicated the Board is looking at this area because of Exit 4A, what is going on in Londonderry just adjacent to this area, input from Economic Development, and the wish to be proactive. When the construction is complete, the Town wants to be ready for it. The Board should be looking at the potential in this area. This is being driven based on the work done by Mr. Sioras, Mrs. Robidoux and Mrs. Donovan.

Mr. O'Connor commented the land in Londonderry adjacent to this zone allows a 300 bed hospital, hotel, retail, and medical supply centers. That data can be used to help create Derry's plan. Mr. Sioras agreed Derry will get spillover from the Londonderry development; the land in Londonderry adjacent to the town line was the area proposed for Amazon. This will open up the north side and Tinkham Avenue.

Mr. Connors asked why the Board was not moving all the properties at once. Mr. Chiricheillo explained the Board wants to lessen the impact on the neighbors.

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

There was no further business before the Board.

Motion by MacEachern, seconded by Chirichiello to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:31 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____