

The Planning Board for the Town of Derry held a public meeting on Wednesday, September 19, 2018 at 7:00 p.m., at the Derry Municipal Center (3rd Floor Meeting Room) located at 14 Manning Street in Derry, New Hampshire.

Members present: David Granese, Chairman; John O'Connor, Vice Chairman; Lori Davison, Secretary; Randy Chase, Town Administrative Representative; Brian Chirichiello, Town Council Representative; Frank Bartkiewicz, Jim MacEachern, Maya Levin, Mark Connors, Members; Elizabeth Carver (7:02 p.m.), Alternate

Absent: Matt Leavitt

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

Mr. Granese called the meeting to order at 7:00 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.

Escrow

#18-19

Project Name: Site Plan Redevelopment Crystal Plaza

Developer: 23 Crystal Avenue, LLC

Escrow Account: A W Rose Construction

Escrow Type: Performance Bond

Parcel ID/Location: 32030, 23 Crystal Avenue

The request is to establish a performance bond in the amount of \$233,237.23 for the above noted project. Bond #9981191 – Westfield Insurance Company.

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

Minutes

The Board reviewed the minutes of the September 05, 2018, meeting.

Motion by MacEachern, seconded by Bartkiewicz to approve the minutes of the September 05, 2018, meeting as written. The motion passed with Chase abstained.

Ms. Carver entered the meeting.

Correspondence

Ms. Davison advised the Board has a notice from the Town of Salem regarding upcoming public hearings concerning roadway and utility plans for Tuscan Village. The meetings will be held at the Salem Town Hall, 33 Geremonty Drive. The Board also has been forwarded the most recent edition of *Supply Lines with the Source*.

Other Business

Mr. Sioras reported the Town Council held a public hearing last evening and approved the addition of the proposed uses in the General Commercial II district. Mr. Granese added he was present at the meeting and provided an update to the Council on what the Board has been working on; the Board received accolades from the Town Council for its work. Mr. Chirichiello stated the Town Council was made aware of what the Board has been working on for the past six to eight months and the Council is pleased with the progress the Board is making. At the Town Council meeting there was discussion about bringing water south to Salem and Windham which will benefit the lots in the General Commercial zone.

Lorden Commons

Mr. L’Heureux explained Lorden Commons is a development in the Town of Londonderry, located off Scobie Pond Road and Old Derry Road. The subdivision is about 1600 feet from the town line. The PUC has been petitioned to allow a franchise in the Town of Derry, and the Departments of Public Works in both towns have been working to secure the franchise. The water expansion will service 83 lots. The Town of Derry will funnel water down Old Derry Road to feed the new lots. The plan is before the Board this evening for informational purposes as escrow will need to be secured for the project. That number has yet to be determined. Mr. L’Heureux is working with Keach Nordstrom and the Town of Londonderry on finalizing the amount. The escrow will come before the Board for approval. The bulk of the work is slated to be performed in 2019.

Mr. Granese noted this project will bring revenue to the Town of Derry. Mr. O’Connor asked if there is sufficient water pressure available. Mr. L’Heureux stated there is adequate pressure. Mr. Connors confirmed water will be extended to Londonderry, not sewer for this project.

Project Security Workbook – Amendment

Mr. Sioras stated the Board discussed accepting performance bonds in addition to Letters of Credit and cash for the purpose of establishing escrow. Staff has worked with the Town Administrator, Chief Financial Officer and the Treasurer to make changes to the policy. Proposed changes to the Development Project Security Workbook are presented for the Board to review. The proposed change is the addition of the following language, “Performance bonds must be posted by a town approved surety company with a Best rating of A- or better and listed

in the Department of Treasury Circular 570 as authorized to do business in the State of New Hampshire” and also adds a performance bond as a form of escrow.

Mr. O’Connor requested an amendment to the wording. He noted Westford Insurance, which holds the bond approved this evening, meets these criteria. He would like to add the following wording, “The Chief Financial Officer or Treasurer shall verify the surety insurance contract,” and in the following paragraph add the wording, “and must be renewed annually.”

Mr. Connors recalled he had asked previously if the Planning Board had the right to choose the form of surety for projects, or does the Board have to accept what is presented to it. Mr. Sioras said the Board in theory could vote to not approve a specific form of surety. The RSA states the towns shall accept three forms of surety; the town now complies with that. The Board can vote to not approve an escrow if it wanted to. The paperwork would not get to the Board if there was an issue with the escrow provided by the developer. Staff would not move it forward. Mr. MacEachern stated the wording suggested by Mr. O’Connor should be added to the appendix. Can this be voted upon tonight? Mr. Sioras advised this is an internal document and no public hearing is required. Mr. MacEachern commented the town has always been in compliance with the RSA because it allowed two of the forms of surety noted in the RSA.

Motion by MacEachern, seconded by Bartkiewicz to approve the proposed changes as outlined to include Performance Bonds as a type of security in the Development Project Security Workbook and to include the changes suggested by Mr. O’Connor this evening.

Chase, Levin, Chirichiello, O’Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Subcommittee Update

Mr. MacEachern advised the subcommittee has met several times and done a decent amount of work. The subcommittee will continue to meet on a smaller scale. There is the Master Plan updating coming this year. The Economic Development team is still formulating plans for the downtown. He feels the committee should proceed cautiously. He does not want to do a lot of work and then be opposite of the Master Plan and Economic Development vision. There are several changes that should be done. The first is for the Elm Street project. An RFP went out and the result was people want to include condominiums as a use in that area. Mr. Chirichiello and the Economic Development Director had suggested this. He recommends Town Council sends out an RFP stating the town is considering changing the zoning back to allow residential condominiums, and then see what the result of the RFP is before making changes. There are four to five properties that would be contiguous that could be changed. If there is not any positive feedback, then there is no reason to change the zoning in this area. The second item is to look at the two different zones between the Londonderry town line and the Derry Public Library. He would want to look at that as one zone and define the line. There may not be many drastic changes in the permitted uses. The Economic Development team had more changes to suggest, and he would also like to receive feedback through the Master Plan process. Mr. Chirichiello was asked to bring feedback to the Town Administrator with regard to establishing an RFP. Mr. Granese asked how long does it take to receive the results of an RFP. The Planning

Board amendment process takes about three to four months. Mr. Chirichiello said RFPS are usually received back within a month or so. The town needs to maximize the use on the Elm Street lot and recoup the money spent on it. He will keep the Board posted. Mr. Granese thanked the subcommittee for its work.

Public Hearing

Lifestyle Homes of NH, Inc.

Owner: David and Mary Ann Fraser

42 Tsienneto Road, PID 08039

40 Tsienneto Road, PID 08039-004

15 Eastgate Road, PID 08039-005

Acceptance/Review

Lot Line Adjustment and Lot Consolidation

Mr. Sioras provided the following staff report. This is a straightforward application. The intent is to adjust the lot line and combine two lots. There will be a site plan to follow this application. Staff recommends approval of the application.

Eric Mitchell, of Eric C. Mitchell and Associates, presented for the applicant. The purpose of the plan is for a lot line adjustment and a consolidation of land. They are proposing an age restricted adult community on the consolidated lot. There is an existing home on 11 acres of land with 30 acres behind that. There is also a small strip of land that leads to Eastgate Road. The lot line adjustment is proposed so that the existing home can remain on one acre of land. They will consolidate the balance into one lot and present a separate site plan on that lot. This first application is fairly basic.

Mr. Connors asked if the consolidation results in legally conforming setbacks. Mr. Mitchell said it would.

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

Sam Saad, 44 Tsienneto Road, had concerns with the project. He was not available to attend the ZBA meeting. His house is adjacent to these parcels. His back yard will now have 30 homes. This will add too many cars and this development is very close to his lot.

William Kummer, owner of 24 Eastgate Road, was not sure what the function of the Eastgate portion was. Having a road that ties into Eastgate does not seem to add value to the project. Why do they need access to the elementary school driveway if this is an age restricted project? He will bring up other concerns when the Board opens the public hearing for the age restricted development.

Mr. Mitchell explained the Eastgate development left a 30-foot strip of land deeded to the piece next to it to provide access. There is no vehicular access here, but it will be used to bring the

water and sewer to the project. This is not a road and is intended for utilities only. There are no plans to make this accessible to vehicles. Currently, there is nothing there now. The next plan the Board will see will show the existing plantings along the property line.

There was no further public comment.

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

Motion by MacEachern, seconded by Bartkiewicz to accept jurisdiction of the lot line adjustment and lot consolidation plan before the Board for Lifestyle Homes of NH, Inc. (owner: David and Mary Ann Fraser), PID 08039, 42 Tsienneto Road; 08039-004, 40 Tsienneto Road, and 08039-005, 15 Eastgate Road. Discussion followed.

Mr. Connors asked for more information about the 30-foot-wide parcel leading to Eastgate. There is a lot of land left to the rear. The 30-foot strip is being used for the utility easement. What are the assurances this can't become an access for further development of the rear of larger lot? Mr. Mitchell advised the strip of land is currently owned by the Frasers. The density calculation for the development precludes further subdivision of the land to the rear. The Board could place a condition that no vehicle traffic is allowed at that location. There may be extra land to the rear, but it will not be developed. Mr. Sioras added the strip of land is only 30 feet and would therefore not meet the 50-foot requirement for a right of way. Mr. Connors asked why the parcel known as 15 Eastgate could not be kept separate until the utilities are in, and then deeded to the property owners on either side. Mr. Sioras explained the land is privately owned and is not a town road; therefore, it cannot revert to the abutters.

Chase, Levin, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Motion by MacEachern, seconded by Bartkiewicz 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 escrow for the setting of bounds, or certify the bounds have been set, obtain written approval from the IT Director that the GIS disk is received and is operable and complies with LDCR Section 170-24, conditions precedent shall be met within 6 months, a \$25.00 check payable to the Rockingham County Registry of Deeds should be submitted with the mylar in accordance with the LCHIP requirement, and submission of the appropriate recording fees, payable to the Town of Derry.

Chase, Levin, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Lifestyle Homes of NH, Inc.**Owner: David and Mary Ann Fraser****42 Tsienneto Road, PID 08039****40 Tsienneto Road, PID 08039-004****Acceptance/Review****30 Unit Independent Adult Condominium Community**

Mr. Sioras provided the following staff report. The purpose of the plan is for a 30-unit independent adult condominium community which will be 55 and older, age restricted. The property is located in the Medium Density Residential District. The homes will be single family, detached and connected to Town water and sewer. The road will be private. All town departments have reviewed and signed the plan. There are several waiver requests. The State AoT permit is pending. Staff recommends the Board hear the plan, take input from abutters, schedule a site walk, and continue the plan to October 03, 2018.

Eric Mitchell, of Eric C. Mitchell and Associates, presented for the applicant. The lots total over 31 acres. The intent is to construct 30 units on a private road with a posted speed limit of 25 miles per hour. There will be sidewalks on one side of the road. The homes are about 1400 square feet with a two car garage. The homes will be condominiumized so that the road and landscaping is taken care of by the condo association. The lots will be serviced by town water and sewer. The LP gas tanks will be between the homes to meet the required setbacks. There are three waiver requests. The first is to allow cape code berm rather than the required vertical granite curbing. The second waiver is to allow the road grade to be at 8%. The plan meets the conditions to allow that as set out in the LDCR. The third waiver is to allow a hammerhead turnaround for the five units at the end of Myles Drive rather than a cul de sac.

This parcel had been approved in 2007 for 50 units. The approval lapsed, and the ordinance changed. For this project, they have enough density for 31 ½ units; they are proposing 30 units. The existing house will be on its own lot and not part of the condominium association.

Mr. O'Connor asked about the stub from Barkland Acres to this lot; it appears to be blocked off near parcels 54005 and 54006. Mr. Sioras said it was left as access to the Town's right of way. It is owned by the Town.

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

Gerard Krajenka, 13 Eastgate Road, stated his lot abuts the drive off Eastgate. He shares the concerns noted previously. This access is used by people walking to the powerlines. He proposes an inconspicuous gate placed about 50 feet inside the access to deter people from walking there.

Sam Saad, 44 Tsienneto Road, has the same concerns as he noted for the lot line adjustment plan. The proposed homes will be close to his home as will the proposed private road. His backyard has seven homes that will look into his home. He would like them moved back so they are not as close to the road and his backyard. Board members noted an area that looked like a wet hole in the ground between Mr. Saad's property and 42 Tsienneto. Mr. Saad stated he has concerns with traffic, cars, and noise from the 30 units that will be brought into his backyard.

Lisa Bono, 19 Eastgate Road, said she had hoped there would be a PowerPoint presentation describing the project so that she could understand it and how far away it will be from her property. Mr. MacEachern said the homes will be on the other side of the powerlines from Ms. Bono. Mr. Michell explained they are building on the front half of the property, closer to Tsienneto Road. The water and sewer will come through Eastgate. There is nothing proposed on the other side of the wetland area, other than utilities. On the Tsienneto Road side, there is a field. The soccer field abuts it. The development will be in the field area. Once the utilities are installed, there will be no activity adjacent to Eastgate. Ms. Bono confirmed the access point for water and sewer is between 13 and 17 Eastgate Road. How will construction happen for the utilities? Mr. Mitchell advised staff had requested that there be a restriction so that there is no traffic or trucks on Eastgate. The only reason to work in that area is if they have work in the road. Otherwise the trucks will come in off Tsienneto. Ms. Bono commented on the amount of bus and other traffic on Eastgate relating to the school. Has there any been any study on the impact on water and sewer services, drainage, or effects on water pressure? Mr. Mitchell said Mr. L'Heureux could speak to the impact of the proposed utilities. With regard to stormwater, they are proposing two detention ponds on site to take care of any drainage issues. One pond will be near Tsienneto and one pond will be near the wetland area near the proposed hammerhead. This will contain the surface water; there will be no additional runoff as a result of the development. He believed there was enough water and sewer capacity.

Mr. L'Heureux said there is adequate water pressure and sewer capacity to accommodate this project. The developer is proposing a pump station to force sewer through a forced main in the valley and then over the hill until it reaches the gravity system on Eastgate where it will flow to the Town's treatment system. The project will take care of its own storm drainage and he does not foresee a situation where the utilities won't have enough capacity.

With regard to project timelines, Mr. Mitchell said they would anticipate state approvals this fall on the project. Some construction may take place this winter. The roads would not be paved until the spring and the homes will begin to be constructed in the late spring, early summer because the infrastructure has to be in place first. Some construction may take place this winter, depending on the conditions. Ms. Bono asked if anyone had looked at the ledge in the area and would there be any jackhammering. Mr. Mitchell explained his office had conducted test pits on the high area back in 2007 and there is some ledge in the middle of the field. Any blasting would require a pre-blast survey. There may be some hammering of the ledge which is noisy but would not have the same effect as blasting.

Mr. Kummer, owner of 24 Eastgate, confirmed the sewer and water will be connected to Eastgate and that there is sufficient capacity. He recalled when Liberty Utilities was installing the gas line they ran into ledge on Eastgate and had to tear up a considerable amount of property.

He is concerned with the noise the construction will cause and with utility interruptions. His main concern overall is the effect to the community with regard to the lot size in general. Many of the abutting parcels are one acre in size. This changes the dynamic of the neighborhood. There are also environmental concerns. He has woods and wetland behind his property. One of the reasons they moved here is because of all the amenities to include the land and wildlife. Is there any thought to reducing the number of units? Mr. Connors noted the zoning in MDR allows this density. Mr. Mitchell said the approval in 2007 was for 50 units; they are proposing 30. For independent adult communities, they have to prepare a yield plan which shows what they could achieve with a conventional subdivision. They are allowed 1 ½ times that because they are connecting to water and sewer. They are allowed 22 lots based on the yield plan. Part of the ordinance relating to age restricted limits the units to no more than 2 bedrooms and a minimum age of 55 years. This is a different type of community than one with children; this is more low key. The state allows this because the state sees a need for this type of housing. There is a limit on the total number of age restricted units in the town. The town has not come close to meeting that maximum number.

Mr. O'Connor asked Mr. Mitchell to calculate the distance from the hammerhead to the homes on Eastgate. Mr. Mitchell said it was about 1200 feet. Mr. Sioras asked if Mr. Mitchell could provide a rough idea as to the acreage of the open space between the development and Eastgate. Mr. Mitchell believed it to be about 16 acres between the proposed homes and the homes on Eastgate.

Mr. Kummer asked if there is any way to guarantee there will be no further development on the Eastgate side of the lot. Mr. Granese pointed out there is a lot of wetland and there is also an easement in place for Eversource. Mr. Mitchell stated the number of units allowed is based on the entire tract, this precludes the remainder of the land from being developed. The whole 32 acres has been used up so there can be no development near Eastgate. They had proposed a borrow area near Eastgate, but staff had concerns about the effect on the residents of Eastgate, so they removed the borrow area. The only activity near Eastgate will be related to the installation of the utilities. Mr. Kummer asked if there is any ruling or zoning that can be put in place that will assure there is no development near Eastgate in the event zoning changes. Mr. Chirichiello reiterated the land is part of the calculation, so is not able to be used for a subdivision. Mr. Mitchell added the regulations preclude the development of the remainder of the parcel. They are happy to have it as a condition of approval because in their view, the land has been used up. Mr. Sioras indicated Note 7 which states 50% of the parcel needs to remain as open space. Mr. Chirichiello said the Board has heard the concern and it can become a condition of any approval.

Mr. Saad noted the people with concerns live on Eastgate. The development will be far away from them with 16 acres in between. The homes will be too close to him and his lot.

There was no further public comment.

Motion by MacEachern to close the public hearing, seconded by Bartkiewicz. The motion passed with all in favor and review of the plan returned to the Board.
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Mr. MacEachern stated he would like the Board to hold a site walk of the area to review the following: the impacts of this development on the area, the lots adjacent to Pinkerton's Ombudsman program; and the land adjacent to the auto dealership and the area proposed for Exit 4A. He believed the Board needed to understand the impacts. Pinkerton Academy should be invited to attend the site walk to see what they will be doing in the future. He wants to understand what is happening in the area.

Mr. Connors said there is 16 acres of land to the rear; is there any reason the homes were clustered so close to Tsienneto Road. Can they be pushed back away from Mr. Saad's property? Mr. Mitchell explained the first house is about 100 feet from the property line. Some of the homes are closer because of the grade change to the rear for the sewer line. Mr. Connors asked if one of the reasons they could not push the homes back was because of the wetlands. Mr. Mitchell said it is more because of the slope at the inside of the loop. They can't build all the houses on the hill. On the outside of the loop the land drops off. The houses fit better here with walk out basements and for the utilities. There are large arborvitaes near the lot line, planted on what he believed was Mr. Saad's property, adjacent to the road. The growth to the rear has been cut out; he will speak with the abutter about potential screening.

The Board discussed potential dates for a site walk.

Mr. MacEachern asked with regard to the utilities. Why can't utilities come off of Tsienneto? He believed water and sewer went to the animal hospital. Mr. O'Connor said it ended at the Irving station. Mr. Mitchell added the distance to come in from Eastgate and to extend from the Irving station is similar and it is more cost effective to go cross country rather than digging up and repaving Tsienneto Road. The water will come to Tsienneto Road from this development so that in the future there will be a connection between Eastgate and Tsienneto. Mr. MacEachern asked if there was any consideration to using the dirt road adjacent to the Upper Room as the main road into the development. Mr. Mitchell said that is Town property and meant for the access to the soccer field; it is not meant to be improved as a roadway. Mr. MacEachern thought it might be possible to pave the access to the Rider Field and have a private road come off that into this development. This would alleviate a curb cut on Tsienneto. He is trying to mitigate the amount of curb cuts on Tsienneto that carry a lot of traffic. Mr. Mitchell said they would have to look at the sight distance and can perhaps look at that during the site walk. Mr. MacEachern added it might involve shifting a few houses. Mr. Mitchell did not think the Town would want them adding to the traffic to the soccer field. Mr. MacEachern said he wanted to look at this as it might help this developer out and give the Town better access to Rider Field.

Mr. Chirichiello confirmed the intent is to have LP gas tanks for the homes. There is natural gas on Eastgate. Mr. Mitchell explained they did approach Liberty Utilities to see if they could create a connection and were told Liberty can't provide adequate pressure from Eastgate. The only alternative is to come in from the Bypass and that also tears up Tsienneto Road. Mr. Chase reviewed the location of the natural gas lines in the area.

Mr. Chirichiello asked with regard to the age restriction on this development. Mr. Mitchell said at least one person in residence needs to be 55 years old; there can be no children under the age of 18. Mr. Chirichiello asked if any units will be set aside with no restriction. Mr. Sioras said

that would be included in the condo documents, which will be reviewed by the Town's legal counsel to ensure compliance with federal law. Mr. Chirichiello thought a certain amount could be set aside as not age restricted. Mr. Sioras said typically 80% is age restricted and 20% is market rate per the Federal housing rules. Sometimes the developments are 100% age restricted. Mr. Chirichiello said this could be discussed later but he wondered if the Board could mandate that none of the lots are set aside. Mr. Sioras did not believe so but would check with Town Counsel. Mr. Chirichiello thought with the 55 and older, the town might have some authority to dictate there would be no set asides. He would like it to be a true 55 and older. Mr. Connors questioned what happened when grandchildren lived with their grandparents. Mr. Mitchell believed there was a time limit such that anyone 18 years of age or younger could live there but not longer than 90 days. Mr. Chirichiello noted the Homeowners Association will have someone plow the road; will there be a mandatory maintenance agreement in place, or will it be the obligation of the condominium owners to repair the roads? Mr. Mitchell said condo fees will be collected and a kitty set aside for future maintenance of the roads.

Motion by MacEachern, seconded by Bartkiewicz to hold a site walk on Saturday, September 29, 2018, beginning at 10:00 a.m.

Chase, Levin, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. Granese noted the public is welcome to attend the site walk. For Planning Board members who cannot attend on that date, Mr. Mitchell will stake out the property. Permission from the property owner will need to be obtained before the Board members can walk on it, separate from the site walk. Mr. MacEachern suggested those members who could not attend on Saturday arrange to go together. Mr. Sioras suggested the Board park and meet at the soccer field.

Mr. Granese said in the event of inclement weather, the site walk may be rescheduled.

Motion by MacEachern to continue the public hearing to October 03, 2018, seconded by O'Connor.

Chase, Levin, Chirichiello, O'Connor, MacEachern, Davison, Connors, Bartkiewicz and Granese voted in favor and the motion passed.

Mr. O'Connor asked Mr. Mitchell to please stake out the town's road to Barkland, the hammerhead, the inner side of the proposed utilities and the pathway where the utilities will come in. Mr. Mitchell said he would do that and would also stake the roadway out every 100 feet; flags will be hung so the Board members can see where the utilities will be placed.

Mr. MacEachern asked Planning staff to invite a representative from Pinkerton to attend the site walk.

There was no further business before the Board.

Motion by MacEachern, seconded by Bartkiewicz to adjourn. The motion passed with all in favor and the meeting stood adjourned at 8:23 p.m.

Approved by: _____
Chairman/Vice Chairman

Secretary

Approval date: _____