

The Planning Board for the Town of Derry held a public meeting on Wednesday, November 18, 2020, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room.

Members present: John O'Connor, Chairman; Lori Davison, Vice Chair; Mark Grabowski\* Secretary, Jim MacEachern (Secretary Pro-Temp), Doug Danzey\*, Members

Absent: Richard Tripp, Randy Chase, Jennifer Carrier, Mark Connors, Dave Granese

\*Denotes virtual attendance.

Also present: George Sioras, Planning Director; Elizabeth Robidoux\*, Planning and Economic Development Assistant; Mark L'Heureux, Engineering Coordinator; Robert Mackey, Code Enforcement Officer; Beverly Donovan, Economic Development Director\*

Mr. O'Connor opened the meeting at 7:03 p.m. The meeting began with a salute to the flag. Mr. O'Connor advised that although the Stay at Home order has expired, Emergency Order #12 as issued by Governor Sununu waives the requirement that all members be physically present. Members can attend the meeting electronically. He provided the appropriate links for members of the public to join the meeting virtually via a MAC, PC, or by phone. He then introduced the staff and Board members.

## **Escrow**

### **#20-28**

**Project Name: Subdivision of Map 04, Lot 037**

**Developer: Lake Realty Trust**

**Escrow Account: Same**

**Escrow Type: Cash Escrow**

**Parcel ID/Location: 04037, 124 Gulf Road**

The request is to approve Release #1 in the amount of \$13,284.00 for the above noted project. The amount to retain is \$2,203.20.

Motion by Davison, seconded by Danzey to approve as presented.

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

**#20-29****Project Name: Grandview Farm Site Plan****Developer: B & H Oil****Escrow Account: Same****Escrow Type: Letter of Credit****Parcel ID/Location: 05053, 36 South Main Street**

The request is to approve Release #1 in the amount of \$189,482.98 on Letter of Credit #44535-2 drawn on Enterprise Bank. Upon receipt of the replacement Letter of Credit in the amount of \$23,976.00, the Planning Board authorizes release of the original Letter of Credit in the amount of \$213,458.98.

Motion by MacEachern, seconded by Danzey to approve as presented.

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

**Minutes**

The Board reviewed the minutes of the November 04, 2020, meeting.

Motion by MacEachern, seconded by Davison to approve the minutes of the November 04, 2020, meeting as written.

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

**Correspondence**

Mr. O'Connor appointed Mr. MacEachern Secretary Pro-Temp for the purpose of signing documents as Mr. Grabowski was not physically present at the meeting this evening.

Mr. MacEachern advised the Board is in receipt of the most recent editions of *Town and City* and the NH DES newsletter, *Supply Lines with the Source*.

**Other Business**

49 South Main Street Derry, LLC, 49 South Main Street, PID 05048  
Conceptual Discussion (#2), Change in Use Site Plan

Mr. Sioras noted the owners of the project had been before the Board a few months ago to present a concept for a master plan of their property in the West Running Brook District. The owners have had recent discussions with Mr. Sioras, Mr. Mackey, and Lt. Stanhope of the Fire Department to utilize the existing school building as a new Phase I of the project.

Marc Siragusa presented. Jerry Siragusa was also present. Mr. Siragusa advised they also own 45 South Main Street. On August 5, 2020, they were before the Planning Board to present their initial master plan vision for the 9-acre property. They received the feedback from the Board and have since spoken with NH DOT and Town of Derry staff about the driveways and parking. The new Phase I concept is to convert the home and school building to a hospitality use because this is the best use for the character of the buildings and land. The use will preserve the history and create a destination in Derry. COVID-19 has had an impact on event and restaurant uses. It may be another year or two before restaurant uses come back to full capacity, so they shifted from the core restaurant use in these buildings to event use.

In looking at the recent Town of Derry Master Plan update (2020), the some of those goals are Destination, Economic Activity, and a Place to Live. This meets their focus for Phase I. Events will create a draw for the town and property, bring people to the area, celebrate the history of the oldest home in Derry, the Robert Frost Farm, and the recreational amenities in the area. Goals for the West Running Brook District include maintaining the historic character of the area and promoting mixed use. Allowed uses in the zone include a conference center, hotel and inn. The executive summary of their business plan states, "Create a regional destination in Derry's historic commercial corridor for travelers and Derry residents to experience food and beverage, events, festivals, and parks and recreation in a village that features historical characteristics from the 1719 Nutfield Settlement."

Goals for Phase I specifically focus on the creation of an inn, lodging, weddings, destination, history, connectivity, walkability, and heritage tourism. People will likely stay on site for one to two nights, which creates a destination. The type of events planned include weddings, corporate and social events. They have hosted weddings on the site before and the property offers a lot, even in a post-COVID world. Corporate events would include business luncheons, meetings, seminars, holiday parties, workshops, training, awards, and retreats. Social events include rehearsal dinners, showers, anniversary parties, birthday parties, graduation parties, holiday gatherings, seasonal events, reunions, and things of that nature. They have hosted these on site before.

Mr. Siragusa described the two existing buildings. The long building is the school. The house is the current Siragusa residence. Also included in the project is 45 South Main Street, which is a 200+ year old building. The original house was the Gregg family home and was constructed in 1720. The home has had a few additions, but it has been preserved and the character of the building maintained. The property abuts the West Running Brook which is to the south of their lot and they want to celebrate the proximity. This is why they have named their project West Brook. They have hosted outdoor events on the property and have erected large sail cloth tents, dance floors, accessory tents for catering, offered horse and carriage amenities, cigar bars and other things. They believe the property offers the flexibility to host a variety of event styles.

An existing conditions survey was performed. In the middle of the plan, the former playground area is shown. That is the proposed location for tent space. A patio would be put underneath to use for dancing and other events. They are not contemplating adding a new building but would add the patio and tent space. The former school would become lodging space and offer a

smaller, indoor event venue. They can provide parking on site and place overflow on their property at 45 South Main Street.

The existing home will not be changed or used for events at this time but will be incorporated once the experience has been proven. A small portion of the first floor of the school and the upstairs will be utilized for lodging. There is space on the first floor that will be used as a commercial kitchen for events so that caterers can come on site. The decks will be utilized as well. The intent is to maintain the existing exterior aesthetics. The interior will be converted.

The benefits of Phase I include creating a destination, new business opportunities on site and off, increased economic activity, and a diverse demographic. They will offer 7 rooms available for an overnight stay, indoor event space for 100 to 125 people, and anticipate about 200 people outdoors in the tent space. This will bring people to town for several days and they will spend money in Derry while they are here. The closest lodging currently is in Manchester or Salem. Seven rooms is not a lot, but they anticipate this use will quickly create a draw to the property.

Mr. O'Connor asked if this plan replaces the original master plan for the property. Mr. Siragusa said no. This plays into what they originally presented to the Board. Instead of the school becoming a restaurant or tavern, they will replace it with the event component. Because of COVID, restaurants are not interested in expanding to new locations now. The Siragusas will create an event space first. Events were always a part of the master plan; the question had been in what phase would the events occur. They still want to build out the rest of the master plan but with this use, they can activate the property now. The restaurant and larger hospitality arm will build off the events. They are not doing anything to the home at this time. They want to prove the event concept is successful and then will plan to convert the existing home to suites and use it as part of the inn concept. They have five to six bedrooms, several living rooms, several dining rooms and a large kitchen in the existing home. Mr. O'Connor said he heard this evening that they plan to have up to 200 people at the events. At the last meeting in August, there had been mention of a three-part concert series which would involve up to 1000 guests. He does not see parking on this plan to accommodate that number of people. Will they add a parking lot? Do they still plan to work out an agreement with the school district to park people at West Running Brook School? Mr. Siragusa said they did look at that. They were working toward securing an agreement for the concert series, but there is no agreement signed. Parking has been a question. He has spoken with the school but needs to continue those collaborative discussions. There is an agreement in place with a local business to provide off site parking for wedding events if overflow is needed. The events to include up to 1000+ people are on hold for now. If they scheduled one, it would require a day of parking permit and they would work to secure that. They have parked between 300-500 people on site before. They will expand the existing parking lot slightly to accommodate additional parking, and there is a parking available at 49 South Main Street.

Mr. O'Connor said this reminds him of a commercial agricultural use. His concerns include the appropriate local and state permitting, parking, police details, hours of operation and noise control. This site is very close to The Fairways which is a dense residential use. Music in the late evening hours might be an issue. Mr. Siragusa said for wedding events, they would hire staffing companies who handle the licensing and permitting of the event.

Mr. O'Connor asked Mr. L'Heureux how escrow would be handled for a phased project. Mr. L'Heureux explained the town likes to encourage phasing of large projects. The applicant can come to the Board for the portion of the project that is to be built out and that portion is escrowed. The town does not encourage over-escrowing of a project that might take ten years to complete build out. In the initial planning stage, the portion of the project to be constructed is identified and the concentrated construction portion is escrowed. The town does not want to hold escrow for a long time, and it is not beneficial to the applicant to tie up their assets.

Mr. Danzey said this is a good opportunity for Derry. It appears they have scaled back the original project. Are they asking the Board this evening for approval to move ahead with the tent portion and is that a permanent structure? Mr. Siragusa said the tent is not permanent. He further explained they have not scaled back the overall project. They are still working on it but have decided to work on this portion now. They have had discussions with NH DOT. DOT has indicated they may need to move one of their driveways. The project across the street is impacting their progress with the state. They are working through those items and still in discussion regarding potential off-site improvements required by the State. They are still looking at their property as a whole. They know they can flex the school and are making sure the first use in the project and master plan will remain and create a draw for the entire master plan.

Mr. Danzey asked if the goal is to hire a sales team and bring in a catering component. Mr. Siragusa said they have looked at this a few ways. They don't want to hire people yet and take on additional overhead. They won't sell themselves as event planners, but the event vendors are aware the site is available, and they will be able to create package deals. The person renting the space would have their own event planner or caterer.

Mr. O'Connor asked if the intent is to hold outdoor events between spring and fall. Mr. Siragusa said the typical season is May through October, but he can't say they would never have a winter event; it is possible someone might want to book an outdoor winter wedding.

Mr. Grabowski thanked the Siragusas for sharing the changes. Transparency is important. He believes the Chairman has highlighted the concerns and the applicant is aware of them and he looks forward to hearing more.

Mr. MacEachern echoed Mr. Grabowski's comments. He is glad to hear they are not scaling back the project and are lining it up so that it can still happen. The back section of the property is where the u-shaped event center was proposed in the master plan for the site. Will this infringe on that? He felt this was a good interim step. Mr. Siragusa explained they will eventually get back to the master plan. The tent location is to the far right of the u-shaped building. On the front left of the property is the proposed barn style building which will become an event space or brew pub. If they prove the tent concept, the brew pub will move forward; COVID is an issue. They want to be able to prove they can use the outdoor space. They would eventually move events indoors to the barn style building once the concept is proven and they can use it as a second space. This is not an immediate near-term use because of COVID. Jerry Siragusa added the vendors they have spoken to have emphasized the flexibility of the outdoor and indoor space. They have the ability to be flexible with events because people have the space

to social distance. Mr. Siragusa said they have turned away interested parties this year because they are being very careful with the first project on this site. Jerry Siragusa noted the Bedford Village Inn operated successfully for years with 12 available rooms. This is a similar concept.

Mr. O'Connor asked what the next step in the process would be. It appears the Board members are in agreement with the concept. Mr. Sioras said the process is that the applicant comes before the Board to discuss the concept in the West Running Brook District. Following that, the applicant would go to the Technical Review Committee and follow the normal site plan review process. This is a change in use for the property but as it is more involved, it would not follow the internal staff process – this level of change requires Planning Board review. Mr. O'Connor stated based on what has been shown to the Board this evening, it appears the plan will meet the architectural design criteria for the District for this phase as they are keeping the buildings as is; they are just adding the patio and tent area. He confirmed the Board did not need to vote on this concept tonight.

Jerry Siragusa stated they are currently working on the interior floor plans that will be required by the Code and Fire Departments, based on their discussions with those departments. Mr. Sioras added the Siragusas are aware that because the school would become an assembly use, there is a different level of department review required and the Code and Fire Departments need to see detailed floor plans. Mr. Siragusa stressed the intent is to preserve what they can and keep the existing features.

Mr. O'Connor reiterated the items of concern would be hours of operation, parking, noise, and the proximity to The Fairways. Mr. MacEachern added those are items the Board will address at the public hearing. Mr. O'Connor said he would reach out to the Board members who could not attend this evening and ask them to watch the presentation and forward any comments to Mrs. Robidoux or Mr. Sioras.

Beverly Donovan thanked the Siragusas and felt Phase I would be a great start to their master plan. She is looking forward to its success so they can move forward toward completion of their long-term vision.

## **Workshop**

Workshop #4: Planning Board discussion of potential changes to Article XII, Signs, specifically the regulations concerning Electronic Message Center Signs and sign requirements for the West Running Brook district

Mr. Sioras said this workshop is in two parts. The first part is specific to electronic message center signs and was initiated by a request from Town Council. The Board has been provided a copy of an attorney client privileged document regarding a specific section of the Zoning Ordinance. Staff would like to know if the Board wishes to pursue allowing off site advertising on electronic message center signs so that the changes can be made to the ordinance. The second part concerns sign regulations in the West Running Brook District.

Mr. MacEachern stated the Board has a request from Town Council, has proposed changes specific to the West Running Brook, and also has general sign regulations for the town. He is concerned that one specific instance is being looked at under a microscope and one particular zone in town is also being reviewed. He does not feel they are doing the job of the Planning Board which is to look at the ordinance as a whole. Whatever the Board does with electronic message center signs will affect all electronic message centers signs, not just the one sign. He feels Town Council has raised a valuable point, but the Board should not address one issue; the Board should address all of the ordinance. He would not like to take action on electronic message center signs and suggested a subcommittee could look at the ordinance in general to ensure the sign ordinance is up to date with current technology.

Mr. O'Connor raised the concern that a billboard, by definition, is an advertising device and his interpretation is that they are not illegal in Derry and are in fact allowed in several areas of town. Mr. MacEachern suggested forming a subcommittee consisting of Mr. Sioras, Mr. Mackey, Mrs. Robidoux and two Board members.

Robert Mackey, Code Enforcement Director, explained this issue began with one sign on Crystal Avenue. He does not believe anyone anticipated that sign would be used for off premise advertising. That created a question as to whether that type of use is allowed or not. The legal opinion states it is not allowed per the current ordinance. Billboards are not permitted per the general sign regulations.

Mr. Danzey asked if there are other signs in town that are used for off premise advertising. Mr. Mackey is not aware of any. He did to some research to see if there are other communities that allow this type of use (on premise sign used for off premise advertising) and he has not been able to find anything. If the Board wants to allow it then wording should be added to the ordinance.

Mr. MacEachern did not believe it would be addressed in one location only; electronic message center signs are in other districts. Mr. Mackey said that is why the proposed language to allow them lists the areas in which electronic message centers signs are allowed. The language does not negate the possibility of a non-electronic sign being used for off premise advertising; that would be exclusionary.

Mr. Danzey stated he is not in favor of allowing off premise advertising. Mr. Grabowski agreed and supported Mr. MacEachern's comments. He felt the sign ordinance needed to be reviewed with a more global perspective. This is a massive endeavor and calls for a subcommittee. Mr. Sioras noted staff works on zoning amendments as part of their daily duties, and staff has no objection to looking at the ordinance with several Board members.

Motion by MacEachern to take no action on the request from Town Council with regard to off premise advertising as the Board is creating a subcommittee. The purpose of the subcommittee is to look at the sign ordinance as a whole and come up with a long-term strategy for sign ordinances in all districts. Davison seconded the motion. Discussion followed.

Mr. MacEachern noted the Board had been asked by Council to take action on their request. The motion advises the Board is taking no action on the request, other than to form a subcommittee to

work on the request. Mr. Grabowski appreciated the motion and felt that subcommittees should be established by vote of the full Board. He recommended town's legal counsel be part of the subcommittee process so that the town avoids any issues in the future. Ms. Davison asked if the signs with the off-premise advertising are selling that service. Mr. Mackey said that is correct. Ms. Davison wondered if the option is available for Derry businesses to advertise on the sign and if they chose not to, does that make a difference? Mr. MacEachern felt that is where legal counsel could weigh in as that involves First Amendment rights. The Board wants to be fair, but not create unintended consequences.

Mr. Mackey said if the ordinance does allow it as the proposal is written, there is the possibility that on a vacant commercial property the land owner could erect a sign with the sole purpose of selling advertising on it – that would create a billboard in his opinion. A physical off premise sign requires an easement.

Mr. MacEachern asked the Board to move the question and to ask for Board members to volunteer for the subcommittee.

MacEachern, Danzey, Grabowski, Davison, and O'Connor voted yes, and the motion passed.
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Mr. O'Connor directed Mrs. Robidoux to send an email to the Board members to see if anyone was interested in participating on the subcommittee. Mr. Danzey and Mr. MacEachern volunteered. Mr. Mackey confirmed the subcommittee will also take on the task of creating regulations specific to the West Running Brook district. Mr. Sioras noted the reason the West Running Brook regulations were included in this document was because when the district was created, sign regulations for that district were not put in place so any sign in that district would fall under the general sign regulations.

Workshop #3: Planning Board discussion of potential changes to the Traditional Business Overlay District, specifically relating to housing. Article IV, Districts, Section 165-30, Zoning Map; Article VI, District Provisions, Section 165-49, Traditional Business Overlay District; Article XI, Design and Construction Standards, Section 170-63, Parking Requirements

Mr. Sioras reminded the Board that at the last workshop, the Board had been provided handouts. Staff had been asked to look at redevelopment potential, density, and the expansion of the Traditional Business Overlay District. Currently, the TBOD is comprised of the frontage lots from Veteran's Hall to the First Baptist Church, on both sides of the street. The goal is to redevelop the downtown and staff came up with the proposed ideas to expand the density. Other communities similar in size to Derry with downtowns have housing components with higher density and mixed use. The Board is being asked to move forward with this as there is development interest in the downtown. This also meets goals set forth in the Master Plan. Staff is looking for feedback on the suggestions provided.

Mr. O'Connor stated he has a concern with the increase in density from 12 units to 40 units per acre. What would that look like? Are there examples of a building with 40 units that he can look at for comparison purposes? He has no issue with the minimum size of the units or studios.



His concern is with the reduced parking. Unless the Municipal parking lots are opened up, there is no parking. He has copies of minutes from the [December 19, 1919] Highway Safety Committee in which Chief Garone of the Derry Police Department is quoted as stating, "the Derry Police Department is not tagging cars overnight. Parking is a problem throughout Town, but Fenway Street is curvy and narrow." He also has a press release from the Town outlining the winter parking ban. With increased housing density, where will people park? There is no public transportation in Derry. A single person or couple who works out of town would need vehicles to get to work each day. The Town Code, under Chapter 150-4, lists prohibited parking areas, many of which are located in the area proposed for the TBOD expansion.

Mr. Danzey stated Derry needs a parking garage. Mr. O'Connor noted the town has been working to get one, but a developer is needed. Mr. Danzey felt a garage behind Sabatino's in the Abbott Court lot would be a good location. There could be parking on the lower three levels, making it level with the grade on Manning Street Extension and there could be residential above. Mr. O'Connor noted that is very similar to the concepts discussed around 2010 when Stu Arnett worked with the town.

Mrs. Donovan said she appreciated this discussion. The town has been working with several developers and funders to look at ways to do what the town needs, which includes adding a parking garage. The final project could be combination of public/private partnership or by a private developer. Everyone is saying that with the cost of land and construction, the housing density need to be there to make a development work. The town needs housing: it needs people in the downtown to support our small businesses. With regard to a parking garage, the garage could have public pay to park, or a developer could purchase space for tenants. Derry would not be the first community to build one. The town needs to be careful to not be too limiting with housing density. On three acres, 40 units could be placed on one side and the project could incorporate commercial uses, restaurants and parking the other two acres. There are lots of plans and ideas out there. Developers are all saying the same thing. Without density and a residential component, projects cannot be built.

Mr. O'Connor noted that without parking there cannot be housing, but parking is needed for the housing. It becomes a Catch 22.

Mr. Sioras said in the interest of keeping the discussion moving, he would obtain examples from other communities with mixed use, similar to what Mrs. Donovan and Mr. Danzey mentioned. The older downtowns are redeveloping. This will give the Board something to look at. The numbers in the proposed changes before the Board are just starting points for the discussion. The intent is to meet the Town Council and Master Plan goals. He was looking for feedback and some direction. Would the Board like to move ahead with expanding the bounds of the TBOD? Most successful downtowns incorporate the side streets and not just the main street. Mr. Danzey and Mr. MacEachern were in favor of expanding the zone. Ms. Davison agreed the zone should be expanded; all vibrant downtowns have activity on the side streets. But it should not be all housing; there should be mixed use or commercial as well. The ordinance should be worded so that the area is reserved for commercial and retail uses.

Mr. Sioras confirmed the Board was in agreement with moving forward with expanding the Boundary of the TBOD and bringing that to a public hearing. Staff will work on the rest of the ordinance.

Motion by MacEachern to expand the Traditional Business Overly District per the staff recommendation as contained in the map before the Board this evening, seconded by Grabowski.

Grabowski, Danzey, Davison, MacEachern and O'Connor 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 with all in favor and the meeting stood adjourned at 8:33 p.m.

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

\_\_\_\_\_  
Secretary

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