

The Planning Board for the Town of Derry held a public meeting on Wednesday, January 17, 2024, at 7:00 p.m. The meeting was broadcast from the Derry Municipal Center, 14 Manning Street, Third Floor meeting room, with a virtual option.

Members present: John O'Connor, Chair, David Nelson*, Vice Chair, Andy Myers, Secretary, Dave Granese, Town Council Liaison, Dan Healey, Richard Malaby, Members.

Absent: Randy Chase, Town Administrator's Representative, Jim MacEachern, Bryan Fishman, Alternate, John Morrison, Chris Feinauer, Members.

Also present: George Sioras, Planning Director; Mark L'Heureux, Town Engineering Coordinator, Lisa Carvalho, Planning Clerk

*Indicates virtual attendance.

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

Escrow

#24-04

Project Name: Donald Ball, Irrevocable Trust

Developer: East Wynfield, LLC

Escrow Account: Same

Escrow Type: Cash Escrow

Parcel ID/Location: PID 11090, 53 English Range Road

The request is to establish cash escrow, issued by Salem Co-Operative Bank, for the above noted project in the amount \$14,777.50. This escrow is non-interest bearing.

Motion by Granese, seconded by Myers to approve as presented.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.

The motion passed.

Minutes

The Board reviewed the minutes of the January 3, 2024, meeting.

Motion by Granese seconded by Malaby to approve the minutes as amended of the January 3, 2024, meeting. Roll Call vote: Healey, Granese, Malaby, Nelson, O'Connor vote Yes.

Mr. Myers abstained.

The motion passed.

Correspondence

There is no Correspondence.

Other Business

1st Extension Request
PID 05038-001, 109 Rockingham Road
Spoffard Development

Mr. Sioras was recognized. He stated that this is the old junk yard on Rockingham Road on the south side near Clam Haven. The mixed use development was approved last summer. Staff recommends approval.

Mr. O'Connor noted that many projects have been having difficulties with having their AOT's signed and passed down to them by the Department of Environmental Services. At this location the soil status is a potential issue. Is that being monitored by our environmentalist?

Mr. Sioras replied that one of the conditions of approval includes the soil be cleaned up at the back of the property, where the town houses will be. DES will monitor. Craig Durrett, the Town of Derry Environmental Coordinator, and the office of Public Works are aware of the situation as well.

Motion to approve a first request to extend the conditional approval granted on July 19, 2023, for an additional 6 months for Spoffard Development, PID 05038-001, 109 Rockingham Road. The new expiration date will be July 19, 2024, by Granese, seconded by Myers.
Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.
The motion passed.

Planning Director/Chairman Updates

There were no Planning Director/Chairman Updates.

Public Hearing

A public hearing to discuss JAL, LLC, PID 11-58 & 58-8 thru 58-12 and map 14 Lots 13 & 15, Daniel Road Acceptance/Review, Lot Line Adjustment and Subdivision Plan Lot Line Adjustment and Subdivision Plan (13 lots) Phase III.

Mr. Sioras introduced Tim Peloquin, Project Surveyor and Breton Cole, Project Engineer and stated that the applicant has requested Mr. Peloquin and Mr. Cole to give an overview of the overall project as both Phase I and Phase II are part of Daniel Road and have the same owner. Many of the homes are occupied or under construction. Phase III and IV are an extension of

Daniel Road to the northwest. There are two separate applications and Staff Reports that will be voted on. A few abutters have called or emailed or are watching on DerryTV.

Tim Peloquin, a licensed Land Surveyor, of Promised Land Survey was accompanied by Brent Cole, of Granite Engineering. Mr. Peloquin stated that Jeff Merit, an Engineer and business partner to Mr. Cole, and Tom Lanin, owner of JAL, LLC are also in attendance. This project is known as Denali Estates.

Mr. Peloquin stated that Phases I and II are approved. Part of Phase II is being reconfigured into Phase III. Phase IV is a connection back to Forest Street. Our goal is to give an overview of Phase III and IV with the understanding that these are two separate applications. Mr. Peloquin yielded to Mr. Cole.

Mr. Cole stated that this is a multi-Phase conventional project. This is a single-family lot subdivision. Phase I was a 12 lot subdivision that extended Daniel Road. Phase II was a 13 lot subdivision and a further extension of Daniel Road that the Board approved last year. It is becoming a legacy project for JAL, LLC.

Phase III is an amendment to Phase II and further extends Daniel Road. Phase II becomes a 7 lot subdivision with the other 6 lots becoming part of Phase III. JAL, LLC acquired a parcel of land to the north, allowing Daniel Road to be extended to create Phase III. Daniel Road will terminate at a cul du sac and will not extend to Chancellor Drive. Daniel Road will be extended 1,824 feet from the intersection of what will be future forest and the intersection of Forest Street and Daniel Road. Phase III will be a total of 17 lots. There are two parcels for future development. One is Lot 15, to the east and the other is Lot 58-8 to the west. This is in the LMDR District. All the lots are two acres. They have access off of Daniel Road. The roadway has a gentle grade to it, similar to Phases I and II. When we get about halfway up Daniel Road, close to where the boundary line to be removed is located, we have a descent down at an 8% grade into the cul du sac. The typical grade there is about 2-3%. The roadway will follow suit with Phase I and II. There is a closed drainage system. Part of this Phase will drain to an existing pond in Phase II and the other part will drain to an existing pond behind Lot 13-1. This follows similar suit to what has been designed and approved by the Town. We are mitigating flows while meeting the treatment requirements that the State requires. We are asking for a waiver tonight for cul du sac length. This is a temporary waiver. It will become null and void when Forest Street is constructed. We are also requesting a waiver for relief from the requirement of a 6% roadway grade to 8%. We will also need approval from Mr. L'Heureux. This would prevent excess fill from being needed to make 6% work. 8% is not very steep for NH standards. There is not much traffic toward the end of the cul du sac and is at low speed in this area.

We are also requesting an additional waiver that was granted by the Board on Phases I and II for HISS Mapping, which is required for lot sizing. Because we have water, we are in an area where DES allows us to reduce the lot loading because we do not need to install wells. There is municipal water, therefore the lots can be reduced for septic systems, according to the State. The HISS Mapping would be redundant as we meet the 2-acre minimum. We will meet lot size with the ease of having a water line.

Phase IV follows a similar design to Phases I, II and III and is the connection of Forest Street to Daniel Road. This will nullify the waiver that you may approve tonight, allowing Daniel to extend where it is today. It will create an intersection and prevent a long dead end. Phase IV uses 3 existing lots and creates 13 new building lots. Twelve lots will derive off Forest Street with one lot off Daniel Road. One lot, Lot 57, will remain non-buildable. We are reducing the size of the lot but retaining the minimal frontage on Wildwood. There is a stub off Forest for future extension. The road will extend 1,781 feet with the grade climb at 6%. At the top it will descend into the intersection relatively flatly. The lots are a split zone with LMDR to the east and MDR to the west. The lots totally in the LMDR will meet the 2-acre lot sizing. The lots in the MDR will meet the 1-acre lot sizing. If there is a lot that is bisected by the Zoning District, wherever the property has the majority of the land and follows that Zoning District. Those regulations were deciphered appropriately with the guidance of Planning Staff and the Town attorney. The road has a closed drainage system and there is an additional storm water pond behind lots 1, 2, 3, and 4. The drainage study has been sent to AOT and reviewed with the Town Engineer. All lots are on septic systems and municipal water. We have worked with the Fire Department and Engineer to ensure hydrants are appropriately situated. We are requesting a HISS Mapping waiver for the same reasons stated in Phases I-II. We also have a waiver to allow a retaining wall within right-of-way. Forest Street was stubbed with a 50 foot right-of-way. At the end of that was a wetland crossing with an existing culvert. Our plan is to upgrade that existing culvert. We do not have enough real estate to grade out a proper headwall, the retaining wall associated with the headwall, the culvert is in the right-of-way. Your regulations prohibit having a retaining wall in the right-of-way. We have worked with the Town Engineer to ensure standards are met with a proper guardrail and that the Town is willing to take over the road. We will be going to AOT to obtain a notification process to make sure we can upgrade the wetland impact. We will have subdivision permits associated with these Phases.

Mr. Peloquin stated that the Conservation Commission has reviewed the plans and performed a site walk with us. We have their endorsement.

Mr. Sioras Stated that the Developer is JAL, LLC. The owners are Tom and Steve Lannon, PID 11-58 and 58-8 thru 58-12, map 14, lots 13 & 15, Daniel Road. The purpose of the plan is for a lot line adjustment and 13 lot subdivision plan located in the low, medium density residential district. All town departments have reviewed and signed, including the Conservation Commission. There will be a fourth waiver for the HISS Mapping. The first three waivers are for the maximum street grade, the street alignments and the cul du sac length. State approval from NH DES is pending. The NH AOT permit is pending. Staff would recommend approval of both the waiver requests and the subdivision plan. Some of the abutters have reviewed the plan and have no objection.

Accept Jurisdiction

Motion by Granese, seconded by Myers to accept jurisdiction of the lot-line adjustment and subdivision plan before the Board for JAL, LLC, PID 11-58 & 58-8 thru 58-12 map 14, lots 13 & 15, Daniel Road.

Roll Call vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes.
The motion passed.

Determination of Regional Impact

Motion by Granese, seconded by Myers, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote No, as this development DOES NOT meet the definition of a development of regional impact.

Motion to open the public hearing by Granese, seconded by Myers.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes.

The motion passed.

The **Public Hearing** is now open.

No one was recognized and there were no online requests.

Motion to close the public hearing by Granese, seconded by Myers.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor, vote Yes.

The motion passed.

The **Public Hearing** is now closed.

Mr. O'Connor recognized Mr. L'Heureux.

Mr. L'Heureux stated that the points related to the waivers were vetted out. The waiver for the cul du sac would go away once the roads connect. We do have a provision that allows the slope to go to 8% and they do meet the criteria for 4% or less in each direction, after that certain length that is outlined in the LCDR. The retaining wall is a contiguous element of having to do the culvert drain. We look at this as part of the drainage accommodation as we try to avoid encroaching on wetlands any further. The wall is an alternative to sloping the earth further back into the wetlands.

There are two items still under discussion. We are trying to formulate a final determination. One is on the end of Forest Street and how we end the water main. This is a mechanical note between the developer and the Town. The other involves the Postal Service. The Postal Service does not want a mailbox in front of each house. There is not an Association. The Town does not want to bear responsibility. There may be a couple of centralized locations where there may be a row of boxes in one strip or there could be a receptacle that you might see in a condo association. This resolution is pending, including making certain that the Town is not responsible for maintaining those receptacles. The HISS Mapping is not required as these are over size lots.

Mr. Nelson stated that the Engineer said there would be no connection between Daniel Toad and Chancellor Drive. Given that there is language in Town regulations that encourages multi thruway connectivity wherever possible, he would like to hear the reasons against it.

Mr. Cole responded that the intent of the project is to have a dead end in a nice neighborhood, like what Chancellor Drive experiences. Connecting the roads was never part of the plan. There is a significant grade difference. To connect them properly, vertical curves would be needed, which take up a lot of space. This connection may not be viable. We have elected to leave them unconnected. We have worked with the Fire Department and Town Engineer to confirm that this meets all requirements.

Grant Waivers

Motion by Granese, seconded by Myers, to grant waivers:

LDCR Section 170-26.A.15 – Table of Geometric Standards, to allow for maximum street grade up to 8%.

LDCR section 170-26.C – Vertical Alignment of Streets, to allow for road grade up to 8% in certain section of the new proposed road to avoid creatin excessive volumes of fill.

LDCR section 170-26.B.5 – Cul Du Sac Length, to allow for the length of road to extend beyond the dead-end street of 2,000 feet. This will be temporary until the development is connected to Forest Street.

LDCR Section 170-24.A12 is requested to require HISS Mapping on the project. This is requested as the property municipal water which allow the State to reduce lot sizing, therefore by meeting the Town minimum requirements and will meet State requirements.

After review of the waiver requests the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

Finding of Facts

The Board finds the proposed plan does not alter the existing conditions, which would affect access to the lots, ensuring the health, safety and welfare of the neighborhood remains unchanged as a result of the subdivision plan. The proposed development would allow for providing additional housing opportunities in the community as the high demand for housing in both Derry and the State of New Hampshire continues.

Motion to agree with the above noted findings of fact by Granese, seconded by Myers.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.

The motion passed.

Approve pursuant to

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

1. Subject to owner's signature.
2. Subject to on-site inspection by the Town Engineer.
3. Establish appropriate escrow as required to complete the project.
4. Establish escrow for the setting of the bounds and certify the bounds have been set.
5. Note approved waiver(s) on the plan.
6. Subject to receipt of applicable State or local permits relating to the project. (AOT & State Subdivision approval from NHDES)
7. Subject to the appropriate recording fees, payable to the Rockingham County Registry of Deeds. This includes the \$25.00 LCHIP fee, recording fees for the mylar and Notice of Decision.
8. Subject to conditions as outlined in the email from Mark L'Heureux, Public Works, dated January 10, 2024.
9. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and complies with LDCR Section 170-24-14.C
10. Conditions precedent shall be met within six months.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.
The motion passed.

A public hearing to discuss JAL, LLC, PID 11-57, 57-17 & 58-8, Daniel Road Acceptance/Review, Lot Line Adjustment and Subdivision Plan Lot Line Adjustment and Subdivision Plan (13 lots) Phase IV.

Mr. Sioras stated that the Developer is JAL, LLC. The owners are Tom and Steve Lannon. The purpose of the plan is for a lot-line adjustment and 13-lot subdivision plan located in the Medium Density Residential District for Phase IV. All Town departments have reviewed and signed the plan, including the Conservation Commission. There are two waivers, for the retaining wall/right-of-way and the HISS Mapping, Section 170.24.A12. State approval from NH DES is pending. The NH AOT permit is pending. Staff would recommend approval of both the waiver requests and the subdivision plan.

Accept Jurisdiction

Motion by Granese, seconded by Myers, to accept jurisdiction of lot-line adjustment and subdivision plan before the Board for JAL, LLC, PID 11-57, 57-17 & 58-8, Daniel Road.
Roll Call vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes. The motion passed.

Determination of Regional Impact

Motion by Granese, seconded by Myers, pursuant to RSA 36:56, the Board finds the proposal as presented at this time meets the definition of a development of regional impact.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote No, as this development DOES NOT meet the definition of a development of regional impact.

Motion to open the public hearing by Granese, seconded by Myers.

Roll Call Vote: Chase, Healey, Granese, Fishman, Feinauer, Malaby, Nelson, vote Yes.

The motion passed.

The **Public Hearing** is now open.

Online attendee Karen Higgins of 13 L Street was recognized. She inquired about the lot line to be moved and asked if the move is solely because of the street grade.

Mr. Cole responded that the lot line to be moved is internal to the property to create the 13 lots in Phase IV. The lot line will be moved to the west in order to give more space to the development. It will have no bearing on the Higgins property on L Street.

Motion to close the public hearing by Granese, seconded by Myers.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.

The motion passed.

The **Public Hearing** is now closed.

Mr. Myers inquired about lot 57 and why this land could not have been divided amongst the other lots.

Mr. Cole responded that this existing lot has a significant amount of acreage for the MDR, although it is not buildable at this time but could be used in the future. There is a wetland that splits the property from north to south and provides no benefit to lots 1-7. It will remain as it is today.

Mr. Myers asked if there were any plans for the future use of this lot. It seems that it would be difficult to obtain a variance because of the limited frontage. Could it be a park?

Mr. Peloquin replied that is a possibility, including a variance for a single-family lot. It could be deeded in the future but there are no current plans.

Mr. O'Connor stated that he has seen the property and asked if there are issues with septic systems because of the boulders and rocky land.

Mr. Peloquin responded that there are large outcroppings as one comes up Forest Street, but there is good land in the front, and we are able to do excavation to get soils. We are

demonstrating that on 4,000 SF suitable leaching areas that we have proved out and do exist greater than 4 feet to ledge.

Mr. Nelson referred to the Town Subdivision Regulations that state there is a strong disincentive or prohibition on “bowling alley” lots or “dogleg lots”. The lots in Phase IV fall into this category. Are these to meet the minimum area for the district? Will this be changed?

Mr. Peloquin believes that the spirit of the ordinance has been met. There is frontage and acreage. The lot lines are meeting at angles to the road that are required. They are indeed long, narrow lots.

Mr. Cole stated that the developer designed these lots to meet the standard of buildable. These 1-acre lots lend themselves to different housing stock. These will be smaller cape-style homes and ranch-style homes that will allow diversity among the subdivision, where the 2-acre lots have large colonial-style homes.

Grant Waivers

Motion by Granese, seconded by Myers, to grant waivers:

LDCR Section 170-26.A.18 – Retaining Walls in Public R.O.W. This would minimize the cuts in the road, no impact the wetland and the abutter’s lot.

LDCR Section 170-24.A12 is requested to require HISS Mapping on the project. This is requested as the property municipal water which allow the State to reduce lot sizing, therefore by meeting the Town minimum requirements and will meet State requirements.

After review of the waiver requests the Board finds that strict conformity to the regulations would pose an unnecessary hardship to the applicant and the waiver would not be contrary to the spirit and intent of the regulations.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O’Connor vote Yes. The motion passed.

Finding of Facts

The Board finds the proposed plan does not alter the existing conditions which would affect access to the lots, ensuring the health, safety, and welfare of the neighborhood remains unchanged as a result of the site plan. The proposed development would for providing additional housing opportunities in the community as the high demand for housing both in Derry and the State of New Hampshire continues.

Motion to agree with the above noted findings of fact by Granese, seconded by Myers.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O’Connor vote Yes.

The motion passed.

Approve pursuant to

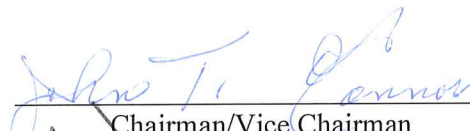
Motion by Granese, seconded by Myers, to approve pursuant to RSA 674:4 I – Complete Application, with the following conditions:

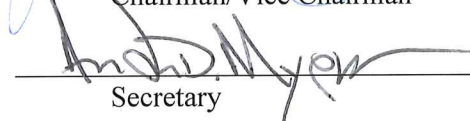
1. Subject to owner's signature.
2. Subject to on-site inspection by the Town Engineer.
3. Establish appropriate escrow as required to complete the project.
4. Establish escrow for the setting of bounds or certify the bounds have been set.
5. Note approved waiver(s) on the plan.
6. Subject to receipt of applicable State or local permits relating to the project. (AOT & State Subdivision approval from NHDES)
7. Subject to the appropriate recording fees, payable to the Rockingham County Registry of Deeds. This includes the \$25.00 LCHIP fee, recording fees for the mylar and Notice of Decision.
8. Subject to conditions as outlined in the email from Mark L'Heureux, Public Works, dated January 10, 2024.
9. Obtain written approval from the Planning Director/designee that the GIS disk is received and is operable and complies with LDCR Section 170-24-14.C
10. Conditions precedent shall be met within six months.

Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.
The motion passed.

Motion by Granese, seconded by Myers, to adjourn.
Roll Call Vote: Healey, Granese, Malaby, Myers, Nelson, O'Connor vote Yes.
The motion passed and the meeting was adjourned at 7:54 p.m.

Approved by:


Chairman/Vice Chairman


Secretary

Approval date: February 7, 2024