

LONDONDERRY, NH PLANNING BOARD MINUTES OF THE MEETING OF November 6, 2019, AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Mary Wing Soares, Vice Chair; Al Sypek, member; Ted Combes, Town Council Ex-Officio; Jake Butler, member; Ann Chiampa (alternate member); Peter Commerford (alternate member) and Roger Fillio (alternate member)

Also Present: John R. Trottier, P.E., Assistant Director of Public Works and Engineering; Town Planner Colleen Mailloux; Associate Planner Laura Gandia; Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer; and Beth Morrison Recording Secretary

Chairman Rugg called the meeting to order at 7:00 PM, explained the exit and emergency procedures, and began with the Pledge of Allegiance. He appointed A. Chiampa to vote for C. Davies and P. Commerford to vote for S. Benson.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member M. Soares made a motion to approve the minutes of October 2, 2019, as presented.

T. Combes seconded the motion.

The motion was granted 5-0-2, with P. Commerford and A. Sypek abstaining. The Chair voted in the affirmative.

Member M. Soares made a motion to approve the minutes of October 9, 2019, as presented.

T. Combes seconded the motion.

The motion was granted 6-0-1 with P. Commerford abstaining. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Mailloux informed the Board that she had five projects for their consideration.

1. Application for design review of a subdivision plan for a lot line adjustment between 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD) 2V Londonderry, LLC (Owners and Applicant)

2. Application for design review of a site plan for a gas station and convenience store with drive through, and a bank with a drive through, 174 Rockingham Road (Map 15 Lot 61, Zoned C-II & RTE 28 POD) and 178 Rockingham Road (Map 15 Lot 61-7, Zoned C-II & RTE 28 POD) 2V Londonderry, LLC (Owners and Applicant)
3. Rezoning request to rezone 61 Harvey Road, Map 14 Lot 45A, Zoned IND-II to Gateway Business (GB), Margaret & Daniel Gore, Ovation Theatre Company, LLC (Applicant) and Karl R. Ritzinger (Owner)
4. Application for design review of a condominium conversion at 53 Chase Road, Map 1 Lot 74, Zoned AR-1, Tyler Builders, Inc. (Owner & Applicant)
5. Rezoning request to rezone 595 Mammoth Road, Map 17 Lot 11 (Zoned AR-1) and 603 Mammoth Road, Map 17 Lot 13 (Zoned AR-1/C-II) to Commercial II (C-II), Thibeault Corporation of NE (Owner) and Vincent Iacozzi (Applicant)

Town Planner Mailloux recommended that the Board find these five projects are not developments of regional impact as they do not meet the criteria set forth by the Southern New Hampshire Regional Planning Commission.

Member A. Sypek made a motion to find that these projects are not of developmental impact.

M. Soares seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

C. DISCUSSIONS WITH TOWN STAFF:

Town Planner Mailloux told the Board that there is a request for an extension on deadlines to meet the conditions of approval for two projects this evening. She said the first is for Bellavance Site plan that was conditionally approved on July 10, 2019, and they are requesting a 120-day extension. She explained that the second request is from Woodmont Commons-Phase 1 amended site plan, which was also conditionally approved on July 10, 2019, and they are requesting a 120-day extension.

Member M. Soares made a motion to grant a 120-day extension request to Bellavance Site plan until March 6, 2020.

A. Sypek seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

Member M. Soares made a motion to grant a 120-day extension request to Woodmont Commons-Phase 1 amended site plan until March 6, 2020.

A. Sypek seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

Chairman Rugg informed the public that this past Monday the Town Council had a presentation on water quality study and this information is available on the town website. He also presented some information to the Board regarding demographics in New Hampshire related to housing.

III. Old Business

- A. Public hearing on proposed changes to the Londonderry Zoning Ordinance, Section 5.15.1 Portable Storage Structures in the AR-1 District, 5.15.2 Portable Structures in Commercial Districts, and 5.15.3 Portable Structures in Industrial Districts as it relates to provisions concerning placement, length and permitted time of these structures

Chairman Rugg informed the public that the Board has been working on this for almost a year now. Town Planner Mailloux noted that at the last meeting, the Board had wanted to make a change in the language, but the Town Attorney did not approve this. She said that the Board should make a decision tonight on the language as it stands.

Chairman Rugg opened it up to the public.

Tony DeFrancesco, One Cheshire Court, addressed the Board. T. DeFrancesco told the Board that he had asked that the Town Attorney render a decision on the language regarding the time frame someone would be allowed to have a portable storage structure. He said that his interpretation of the language in the ordinance would be that a resident could potentially use a portable storage container every year for the winter months. Town Planner Mailloux told him the language states, "it shall not remain on a property in excess of six consecutive months, unless otherwise approved as part of a site plan." She explained that a resident can have a portable storage structure for a period of six months and may be granted a onetime extension; therefore, a resident could not use such a structure every winter. T. DeFrancesco commented that in his opinion, he does not want this type of structure in the AR-1 zone.

Richard Canuel, Chief Building Inspector, Health Officer, Zoning Administrator & Code Enforcement Officer, expressed his concern regarding the amount of time the Board has been deliberating the potential language change to ordinance without any resolution. R. Canuel told T. DeFrancesco that the extension is granted one time and if a resident were to ask for another extension, the resident would present to the Zoning Board of Adjustment (ZBA). A. Chiampa asked if a resident presents

to the Building Department when they purchase/rent a portable storage container. R. Canuel said that a resident should tell the Building Department, but most of the time a code enforcement officer will see one when they are out in the community or a resident will call when they do not want to look at their neighbor's anymore. A. Chiampa voiced her concern about allowing such a structure to be 40 feet long.

Marc Fortin, 574 Mammoth Road, addressed the Board. M. Fortin asked if the Board received his submittal on portable storage structures last week. Chairman Rugg said they had not. M. Fortin commented that at the last meeting, he was under the impression that the Board wanted language regarding these structures on a larger property where the structures would not affect a neighbor's property, such as behind the house. Town Planner Mailloux told M. Fortin that she did not receive a submittal from him. Chairman Rugg told M. Fortin that they would act on the language they had this evening. M. Soares told M. Fortin that the Board could recommend the new language to the Town Council, and then the Town Council will have a public hearing where he could voice his concerns. A. Chiampa voiced her concern regarding the front set back and asked if this could be eliminated from the language. M. Fortin said in his proposal, the structure must be placed on the side or rear of the house, regardless of where the house is on the property line. Town Planner Mailloux clarified that the Board can either recommend this language to the Town Council or to leave the language alone. M. Soares said that she believes this is better language and eliminates a loop hole. J. Butler asked if someone had a lot of acreage is there a way for that resident to get relief on one of these structures. Town Planner Mailloux reviewed the way a resident can get that granted with the ZBA.

Chairman Rugg brought the discussion back to the Board as there was no further public comment.

Member M. Soares made a motion to recommend the amended portable storage language to the Town Council.

A. Sypek seconded the motion.

The motion was granted 6-1-0. The Chair voted in the affirmative.

Chairman Rugg told the public that this would go to the Town Council for a first reading and then a public hearing.

B. Public hearing on proposed changes to the Londonderry Zoning Ordinance, Building Code Amendments, Section 9 to reflect the adoption of the 2015 editions of the international codes as promulgated by the New Hampshire State Building Code. The full text of the amendment and changes are available at the Planning & Economic Development Department the Town Clerk's Office, and the Leach Library

Chairman Rugg read the case into the record. R. Canuel informed the Board that the state legislature adopted the 2015 editions of the internal codes, which is a step

forward, and therefore, the local regulations should be updated accordingly to reflect the proper codes. He said there is no new information or new requirements in the current regulations. M. Soares asked where a resident could read the 2015 edition of the international codes. R. Canuel told her that it is not available online, but they can come to his department to read it as they have it there.

Chairman Rugg opened it up to the public for input, and there was none.

Member M. Soares made a motion to recommend the amended changes to the Londonderry Zoning Ordinance, Building Code Amendments, Section 9 reflect the adoption of the 2015 editions of the international codes as promulgated by the New Hampshire State Building Code to the Town Council.

T. Combes seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

IV. New Plans/Public Hearings

- A. Review and recommendation of the Planning Board pursuant to RSA 41:14-a of a request for the release of Town Property; a portion of the Constance Drive Right-of-Way of approximately 11,000 square feet, adjacent to 7 Constance Drive and 14 Constance Drive

Chairman Rugg read the case into the record. Town Planner Mailloux gave the Board some background information on how this right-of-way was created when the subdivision was approved for Constance Drive. She explained that the right-of-way was deeded to the Town through a warranty deed, which included a future right-of-way extension beyond the end of the existing cul-de-sac as that was the practice at that time. She pointed out that due to the wetlands on the property there is no potential from the Cross Farm development for access. She said that the abutting property owners at 7 Constance Drive and 14 Constance Drive are requesting this 11,000 SF of land be transferred to them. She reviewed the procedure under RSA 41:14a that before the Town Council can authorize the transfer of town property, this needs to go before the Planning Board and Conservation Commission. She noted that it is a multiple step process, as there needs to be a property transfer, discontinuance of the right-of-way and a lot line adjustment. She said that this would be the first step in the process. A. Chiampa asked when the Conservation Commission would hear this. Town Planner Mailloux said the Conservation Commission would hear this next week. T. Combes asked why this was planned for in the first place, if there are so many wetlands that would prohibit it. Town Planner Mailloux noted that this was done over 30 years ago and this was common practice with cul-de-sacs at that time and the wetlands might not have been delineated.

Chairman Rugg opened it up to the public and there was none.

M. Soares made a motion to recommend to the Town Council that the parcel be transferred to the abutting property owners, with the condition that a lot line adjustment plan be submitted for review and approval by the Planning Board.

A. Sypek seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

B. Public hearing on a waiver request to Section 6.01.c of the Londonderry Site Plan Regulations to allow the issuance of a certificate of occupancy prior to the placement of the final wearing course for a previously approved site plan for the construction of a 9,560 SF manufacturing addition, parking lot expansion, and associated site improvements, Nine Ricker Avenue, Map 28 Lot 22-28, Zoned IND-II, Idlewild Realty, LLC (Owner & Applicant) conditionally approved by the Planning Board on June 5, 2019

Chairman Rugg read the case into the record. J. Trottier reviewed the background information of the site noting this was conditionally approved by the Board on June 5, 2019, the site plan was signed on August 14, 2019 and is currently under construction. He explained that it is anticipated that construction will be completed this winter; however, due to the winter conditions the final wearing course of pavement will not be able to be placed until the spring. He reviewed the waiver request with the Board. He said that Staff recommends that the Planning Board grant the waiver with the following conditions:

1. Appropriate financial guarantee is provided prior to the issuance of a CO to the satisfaction of the Department of Public Works to ensure installation of the wearing course of pavement and final pavement markings.
2. All other required improvements shall be completed prior to the issuance of a CO, except for landscaping as permitted by the regulations.

Chairman Rugg opened it up to the public for input, and there was none.

M. Soares made a motion to approve the applicant's request for the above waivers to the Site Plan Regulations as outlined in Staff's recommendation memorandum dated November 6, 2019.

T. Combes seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

C. Application for formal review of a subdivision plan to subdivide one lot into two, 17 Bancroft Road, Map 12 Lot 48, Zoned AR-1, Jillian S. Natale & Randolph M. Allaire (Owners & Applicants)

Chairman Rugg read the case into the record. T. Combes recused himself from the case. J. Trottier told the Board that there is one outstanding checklist item for which the applicant has requested a waiver. He noted that Staff supports granting the waiver for acceptance purposes only.

M. Soares made a motion to waive the checklist item for acceptance purposes only as outlined in Staff's recommendation memorandum dated November 6, 2019.

A. Sypek seconded the motion.

The motion was granted 6-0-0. The Chair voted in the affirmative.

M. Soares made a motion to accept the application as complete per Staff's Recommendation Memorandum dated November 6, 2019.

A. Sypek seconded the motion.

The motion was granted 6-0-0. The Chair voted in the affirmative.

Chris Hickey, from Eric Mitchell & Associates, 106 S River Road, Bedford, NH, addressed the Board. C. Hickey reviewed the lot noting the existing parcel is 17.7 acres with an existing house pointing out the parcel has a large Eversource easement. He said they sized the proposed lot for a duplex, it will have on-site well and tie into town sewer. He told the Board that this project requires a conditional use permit (CUP) as there is a large wetland in the area of the proposed driveway. He said he has been before the Conservation Commission a couple times, as the first proposal had the driveway entirely out of the Eversource easement, and the Conservation Commission asked if the applicant would approach Eversource to allow the driveway in the easement. He told the Board that applicant has a signed agreement with Eversource now to allow the driveway underneath the easement until they are out of the Conservation Overlay (CO) border. He noted that the Conservation Commission is okay with this proposal. He said the new lot will be 7 acres and the remaining 10 acres will stay with the existing house. J. Trottier reviewed the design review comments with the Board. Town Planner Mailloux reviewed the CUP for approximately 5,000 SF of buffer impact noting that the Conservation Commission recommended conditions of approval regarding construction inspections and long-term maintenance requirements. R. Fillio asked if the missing pieces are standard. J. Trottier said that the applicant has told them they have worked out an agreement with Eversource. A. Chiampa asked about the sewer line. C. Hickey said that Parrish Hill has a sewer line through the parcel and the driveway would cross over this sewer line. A. Chiampa asked where the well would be. C. Hickey reviewed the plan with the Board noting that since it is on sewer it can be placed anywhere. A. Chiampa asked how long the driveway is. C. Hickey told her about 400 feet. A. Chiampa asked if the driveway could be placed anywhere else. C. Hickey reviewed the course of the driveway noting there is less impact to the CO buffer this way having some of the driveway in the Eversource easement.

Chairman Rugg opened it up to the public.

Larry Maclennan, 26 South Parrish Drive, president of association. L. Maclennan voiced his concern about the driveway crossing the Parrish Hill sewer line. He commented that the easement deed states that if the property owner were to damage the sewer line, he or she would have to fix that. He asked what the time frame would be if a problem developed with the sewer line after the driveway was put in and asked if a camera could be used for visualization. J. Trottier told him that it would be appropriate for the applicant to use a camera before and after. L. Maclennan told the Board he met with Town Planner Mailloux before the meeting and reviewed the washout that occurred in 2006 on the Parrish Hill property. He said there was a study by Geo Insight in June of 2006 on how to remediate the washout, which was a retaining wall that was constructed. C. Hickey reviewed the plan with L. Maclennan stating he believes the retaining wall is located on 17 Bancroft. L. Maclennan commented that this retaining wall was a very large project for Parrish Hills and he is requesting the land around the retention wall be maintained for the correct slope. He asked the Board for a recommendation on how to protect this land. J. Trottier said that this could be obtained through an easement. C. Hickey noted the rock wall is in the Parrish Hill sewer easement, but stated that this would be a different use. Town Planner Mailloux said that this is outside the scope of the Board, but recommended L. Maclennan privately work with the property owner to obtain an easement to grant the rights to that slope easement. L. Maclennan requested the trees not be cut all the way back to the property where the new house would be built for some residents in South Parrish. C. Hickey reviewed the plans with L. Maclennan. A. Chiampa asked if there would be a problem with the retaining wall as it was built a long time ago. C. Hickey said in his opinion, he does not believe so. L. Maclennan asked if Parrish Hills is responsible for the cost to fix the driveway should their sewer line fail and work need to be done. C. Hickey said that is correct.

Frank McCan, 28 Bancroft Road, addressed the Board. F. McCan asked about traffic. J. Trottier said that they town would do improvements west of what Lamontagne is proposing. F. McCan asked if a rotary would be something the town might do, such as was done on Otterson Road. J. Trottier told him that the rotaries on Otterson Road were not really for traffic calming when they were building the neighborhood they are remnants of cul-de-sacs. M. Soares suggested he could go to the Safety Traffic Committee with his concerns regarding the speed on the road.

Chairman Rugg brought it back to the Board as there was no further public comment.

M. Soares made a motion to grant the applicant's request for a conditional use permit per Staff's Recommendation Memorandum dated November 6, 2019.

A. Sypek seconded the motion.

The motion was granted 6-0-0. The Chair voted in the affirmative.

M. Soares made a motion to grant conditional approval of a subdivision plan to subdivide one lot into two, 17 Bancroft Road, Map 12 Lot 48, Zoned AR-1, Jillian S. Natale & Randolph M. Allaire (Owners & Applicants) in accordance with plans prepared by Eric C. Mitchell & Associates, Inc. dated June 7, 2019, last revised October 8, 2019, with the following precedent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated November 6, 2019.

A. Sypek seconded the motion.

The motion was granted 6-0-0. The Chair voted in the affirmative.

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall provide utility clearance letters per Section 3.05 of the Subdivision Regulations and Item X.7 of the checklist.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated November 6, 2019.
3. The proposed road widening and drainage easements shall be reviewed and approved by the Town. Executed easements shall be submitted.
4. The Applicant shall provide the Owner’s signature(s) on the plans.
5. Required permits and permit approval numbers shall be noted on the plan.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
7. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.
8. The Applicant shall note all general and subsequent conditions on the plans.

9. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
10. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
11. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

D. Rezoning request to rezone 61 Harvey Road, Map 14 Lot 45A, Zoned IND-II to Gateway Business (GB), Margaret & Daniel Gore, Ovation Theatre Company, LLC (Applicant) and Karl R. Ritzinger (Owner)

T. Combes came back to the Board at this time. Chairman Rugg read the case into the record. Dan Gore, 8 Lane Way, addressed the Board. D. Gore told the Board that the company, Ovation Theatre Company, LLC, was created in January of this

year. He explained that they have been meeting with town staff for a year trying to find land to build this business and it has been challenging. He said that the business is best described under culture uses and performing arts and that it is permitted in the Gateway District (GB). He pointed out that the parcel is currently zoned IND-II, but they are requesting to rezone the parcel, as it is surrounded by GB. Town Planner Mailloux informed the Board that the existing site is manufacturing/production uses, which would be permitted in the GB. She commented that the zoning is consistent with the adjacent properties and Staff recommends the rezoning to the Town Council.

Chairman Rugg opened it up to the public and there was none.

M. Soares made a motion recommend to the Town Council approval of rezoning Map 14 Lot 45A from the current zoning classification IND-III to Gateway Business.

A. Sypek seconded the motion.

The motion was granted 7-0-0. The Chair voted in the affirmative.

V. Other

A. Conceptual Discussion of a proposed site plan for a performance space, Map 14, Lot 45A, Margaret & Daniel Gore, Ovation Theatre Company, LLC (Applicant) and Karl R. Ritzinger (Owner)

Chairman Rugg read the case into the record noting this was a conceptual discussion only for an exchange of ideas. Dan Gore, 8 Lane Way, addressed the Board. D. Gore informed the Board that he is presenting two different site plans to the Board this evening. He explained that the first would be a change of use site plan, as there are things that are different from the 1979 site plan on file. He commented that Phase 1 is to use the existing structure for workshops, rehearsals, camps, etc., just as the property is now. He added that Phase 2 would include a performance facility, as there is not something like this in the town now. He told the Board that typical theater is known as a black box, to seat about 120 to 150 people with the appropriate parking. He asked for feedback from the Board regarding the presentation.

Chairman Rugg opened it up to questions from the Board. Town Planner Mailloux said that the requirement for the parking would be one space per three seats, for example if there were 120 seats that would require 40 parking spaces. She asked if the Board would be flexible with the parking requirement, as parking would be different for performance events versus rehearsals. She told the Board that the airport is okay with the zoning change and has no concerns at the present time. D. Gore said that they do not have a problem with encouraging carpooling to help with the parking requirement, as well as having the airport as a potential for overflow parking. R. Fillio commented that he is in favor of having overflow parking. A.

Sypek said he is okay with the overflow parking. He asked about height limitations of the airport. D. Gore said they have talked to the airport and there is a permit they would need to file. M. Soares asked if the applicant had talked with Woodmont. D. Gore told her that Woodmont is interested in owning and/or leasing the property for a high price. M. Soares said she is excited, but wished it could be closer to the center of town. T. Combes asked about the leach field. Town Planner Mailloux said the building has sewer and does not use the leach field anymore.

Tony DeFrancesco, One Cheshire Court, addressed the Board. T. DeFrancesco said that he familiar with this profession and when these types of facilities have an event, they do block parking. He asked if that was allowed in Londonderry. Town Planner Mailloux said for site plan approval they need drive aisles to meet the requirements, but functionally what they do at events, she believes the FD would have a problem with it. D. Gore said they had considered another curb cut, but in meeting with J. Trottier that did not seem to make sense. T. Combes said that the brewery right down the road has too little parking. J. Trottier told him that they would need to review the plan and check the parking requirements. Town Planner Mailloux said that the plan has the required parking spots for the use, but on a busy night there is not enough parking and now it is an enforcement issue. She said the site should meet the parking requirements for the maximum use. D. Gore thanked the Board for their input.

VI. Adjournment

Member M. Soares made a motion to adjourn the meeting at approximately 8:50 p.m. Seconded by A. Sypek.

The motion was granted, 7-0-0.

The meeting adjourned at approximately 8:50 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,


Name: A. Sypek
Title: Secretary

These minutes were accepted and approved on December 4, 2019, by a motion made by C. Davies and seconded by T. Combes.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: November 6, 2019

Application: MuShield Site Plan, 9 Ricker Avenue, Map 28- Lot 22-28, Zoned IND-II, Idlewild Realty, LLC (Owner & Applicant) – Request to waive Site Plan Regulation Section 6.01c to allow the issuance of a certificate of occupancy prior to the placement of final wearing course for a previously approved site plan.

- **Background:** This project was conditionally approved by the Planning Board on June 5, 2019. The site plan was signed on August 14, 2019 and is currently under construction. It is anticipated that construction will be completed this winter, however, due to winter conditions, the final wearing course of pavement will not be able to be placed until the spring.
- **Waivers:** The Applicant has requested a waiver from Section 6.01c of the Site Plan Regulations, which requires that all site improvements be completed prior to issuance of a certificate of occupancy (CO). The Applicant requests that the project be allowed a CO prior to placement of the pavement wearing course on the site. As a condition of the waiver, the Applicant will establish an escrow account for the installation of the pavement wearing course and permanent pavement markings.

Requests such as this have been rare since the adoption of the revised Site Plan Regulations in 2001. The requirement for all improvements to be completed is an important part of the approval and construction review process, and since the requirement was added to the regulations, it has nearly eliminated incomplete site improvements and greatly reduced issues of enforcement for the completion of improvements on approved site plans.

Staff supports waiver requests only in limited circumstances, when the consequences and circumstances of the project outweigh the risks inherent to the issuance of a Certificate of Occupancy.

- **Recommendation:** Based on the information available, Staff recommends that the Planning Board **grant** the waiver with the following conditions:
 1. Appropriate financial guarantee is provided prior to the issuance of a CO to the satisfaction of the Department of Public Works to ensure installation of the wearing course of pavement and final pavement markings.
 2. All other required improvements shall be completed prior to the issuance of a CO, except for landscaping as permitted by the regulations.

Board Action Required: Motion to approve the Applicant's request for the above waivers to the Site Plan Regulations as outlined in Staff's recommendation memorandum dated November 6, 2019.

STAFF RECOMMENDATION

To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
John R. Trottier, PE, Assist. Dir. Of DPW

Date: November 6, 2019

Application: Application for formal review of a subdivision plan to subdivide one lot into two, 17 Bancroft Road, Map 12 Lot 48, Zoned AR-1, Jillian S. Natale & Randolph M. Allaire (Owners & Applicants)

- **Completeness:** There is one outstanding checklist item for which the Applicant has requested a waiver:
 1. Section 3.05 of the Subdivision Regulation and item X.7 of the checklist - utility clearance letters for electric, telephone or CATV.

Staff **supports** granting the waiver for acceptance purposes only and the submission of the above checklist item is noted as a condition of approval.

Board Action Required: Motion to waive the checklist item for acceptance purposes only as outlined in Staff's recommendation memorandum dated November 6, 2019

Board Action Required: Motion to accept the application as complete per Staff's Recommendation Memorandum dated November 6, 2019.

- **Conditional Use Permit:** The Applicant has requested a conditional use permit for 5,000 SF of buffer impact. Staff supports granting the conditional use permit as the Applicant has relocated the driveway to reduce encroachment, and the work within the wetland buffer is limited to impacts relating to construction of the detention pond. The Conservation Commission voted in favor of granting the CUP on September 24, 2019 and recommended conditions of approval regarding construction inspections and long-term maintenance requirements and inspections.

Board Action Required: Motion to grant the applicant's request for a conditional use permit per Staff's Recommendation Memorandum dated November 6, 2019.

- **Recommendation:** Based on the information received to date, Staff recommends that a conditional approval be granted with a Notice of Decision to read substantially as follows:

Board Action Required: Motion to grant conditional approval of a subdivision plan to subdivide one lot into two, 17 Bancroft Road, Map 12 Lot 48, Zoned AR-1, Jillian S. Natale & Randolph M. Allaire (Owners & Applicants) in accordance with plans prepared by Eric C. Mitchell & Associates, Inc. dated June 7, 2019, last revised October 8, 2019 with the following precedent conditions to be fulfilled within two years and prior to plan signature and subsequent conditions to be fulfilled as noted in the Staff Recommendation Memorandum dated November 6, 2019.

“Applicant”, herein, refers to the property owner, business owner, or organization submitting this application and to his/its agents, successors, and assigns.

PRECEDENT CONDITIONS

All of the precedent conditions below must be met by the Applicant, at the expense of the Applicant, prior to certification of the plans by the Planning Board. Certification of the plans is required prior to commencement of any site work, any construction on the site or issuance of a building permit.

1. The Applicant shall provide utility clearance letters per Section 3.05 of the Subdivision Regulations and Item X.7 of the checklist.
2. The Applicant shall address all appropriate items from the Planning & Economic Development Department/Department of Public Works & Engineering/Stantec review memo dated November 6, 2019.
3. The proposed road widening and drainage easements shall be reviewed and approved by the Town. Executed easements shall be submitted.
4. The Applicant shall provide the Owner’s signature(s) on the plans.
5. Required permits and permit approval numbers shall be noted on the plan.
6. The Applicant shall provide a digital copy of the complete final plan to the Town prior to plan signature by the Planning Board in accordance with Section 2.05.n of the Subdivision Regulations.
7. The Applicant shall provide checks for recording and LCHIP fees made payable to the Rockingham County Registry of Deeds.
8. The Applicant shall note all general and subsequent conditions on the plans.
9. Outstanding third-party review fees, if any, shall be paid within 30 days of conditional site plan approval.
10. Financial guarantee be provided to the satisfaction of the Department of Public Works and Engineering.
11. Final engineering review.

PLEASE NOTE – If these conditions are not met within two (2) years of the meeting at which the Planning Board grants approval, the Board’s approval will be considered to have lapsed and re-submission of the application will be required. See RSA 674:39 on vesting.

GENERAL AND SUBSEQUENT CONDITIONS

All of the conditions below are attached to this approval.

1. **No construction or site work for the subdivision may be undertaken until a pre-construction meeting with Town staff has taken place, filing of an NPDES – EPA Permit (if required), and posting of the appropriate financial guaranty with the Town.** Contact the Department of Public Works to arrange the pre-construction meeting.
2. The project must be built and executed as specified in the approved application package unless modifications are approved by the Planning Department & Department of Public Works, or, if Staff deems applicable, the Planning Board.
3. All of the documentation submitted in the application package by the applicant and any requirements imposed by other agencies are part of this approval unless otherwise updated, revised, clarified in some manner, or superseded in full or in part. In the case of conflicting information between documents, the most recent documentation and this notice herein shall generally be determining.
4. Prior to issuance of a certificate of occupancy, all site improvements and off-site improvements, if any, shall be completed.
5. It is the responsibility of the applicant to obtain all other local, state, and federal permits, licenses, and approvals which may be required as part of this project (that were not received prior to certification of the plans). Contact the Building Division at extension 115 regarding building permits.

STAFF RECOMMENDATION

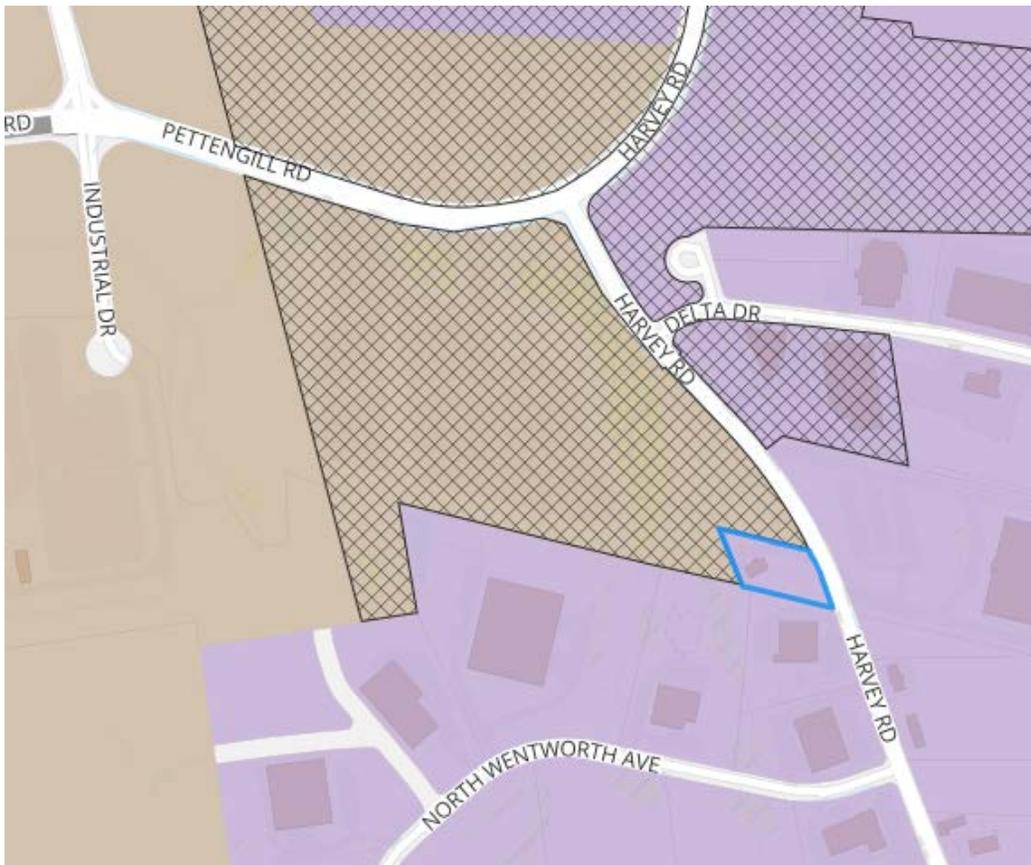
To: Planning Board
From: Colleen P. Mailloux, AICP, Town Planner
Re: Rezoning Request, Map 14, Lot 45A from IND-II to Gateway Business

Date: November 6, 2019

The Planning & Economic Development Division has reviewed the above referenced rezoning request and we offer the following comments:

Review Comments:

The Applicant requests the rezoning of the above referenced lot from Industrial-II (IND-II) to Gateway Business (GB). The parcel is located on Harvey Road, and is immediately adjacent to parcels zoned Gateway Business and Airport District. The existing use of the site is an office/production facility, per a site plan approved by the Planning Board in 1979.



Staff Recommendation:

The proposed rezoning is consistent with the zoning of the adjacent lots. Staff recommends that the Planning Board **RECOMMEND** to the Town Council that they approve rezoning Map 14 Lot 45A from the current zoning classification IND-II to Gateway Business.