

LONDONDERRY, NH PLANNING BOARD MINUTES OF THE MEETING OF October 5, 2022, AT THE MOOSE HILL COUNCIL CHAMBERS

I. CALL TO ORDER

Members Present: Art Rugg, Chair; Al Sypek, Vice Chair; Jake Butler, Secretary; Jeff Penta, member; Ann Chiampa, member; Deb Paul, Ex-Officio – Town Council; Giovanni Verani, Town Manager; Roger Fillio, alternate member; and Ted Combes, alternate member

Also Present: Kellie Walsh, Town Planner; John Trottier, Director of Public Works and Engineering; Laura Gandia, Associate Planner; 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 R. Fillio to vote for L. Wiles.

II. ADMINISTRATIVE BOARD WORK

A. APPROVAL OF MINUTES:

Member A. Sypek made a motion to approve the minutes of September 7, 2022, as presented.

J. Butler seconded the motion.

The motion was granted, 7-0-1, with T. Combes abstaining. The Chair voted in the affirmative.

Member A. Sypek made a motion to approve the minutes of September 14, 2022, as presented.

J. Butler seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

B. REGIONAL IMPACT DETERMINATIONS: Town Planner Walsh informed the Board that she had no projects for their consideration this evening.

C. Discussion with Town Staff:

Chairman Rugg asked how construction was going on Harvey Road. J. Trottier told the Board that the construction is going slow and steady. Town Planner Walsh commented that Staff has already rectified some of the concerns raised at the last

Planning Board meeting regarding the Derry Medical Center (DMC) building at Woodmont. She went on noting that Staff will continue to address the other concerns through the inspection and enforcement process. She emphasized that going forward if Board members have complaints regarding approved, active projects to please submit them to the Code Enforcement Officer. She mentioned that Staff is evaluating the request from a Board member that building elevations labeled with materials to be used be provided going forward for all commercial site plans. Chairman Rugg expressed his opinion, that he did not believe there is a statute that would allow the Board to do this unless it is a Historic District. He added that the city of Portsmouth has some strict rules, but that is because a large part of the city is in the Historic District. He said that it might be good to talk to the town attorney to review this. He asked for a non-meeting with the town attorney for a review of the rules of the Planning Board. J. Butler asked if what issues have been rectified and what is still outstanding could be discussed this evening. Chairman Rugg replied that this would be best handled outside the meeting through email with the Town Planner Walsh.

III. Old Business – N/A

IV. New Plans

A. Public hearing on a rezoning request by Gizmo Enterprises, LLC (Applicant) and State of New Hampshire (Owner) to rezone a portion of 0 RR Rockingham Road (otherwise known as the Londonderry Rail Trail - Map 13 Lot 143-0, Zoned AR-1) located to the east of Four Commercial Lane (Map 13 Lot 104-2), to Commercial II (C-II)

Chairman Rugg read the case into the record. Robert Carey, Esquire at 45 S. Main Street, Box 3550, Concord, addressed the Board. He also introduced Todd Bahan, owner at Gizmo properties that is with him this evening in the audience. R. Carey started off the discussion noting that they would a strip of land approximately 1.5 miles long and about 80-feet to 100-feet wide be rezoned to C-II. Chairman Rugg asked if the rezoning was just for Four Commercial Lane. R. Carey replied that Four Commercial Lane is already zoned C-II and the strip he just spoke about is owned by The New Hampshire Department of Transportation (NHDOT) and is currently zoned AR-I. Chairman Rugg clarified that the applicant is asking to rezone from Auburn Road all the way to Liberty Drive. R. Carey commented that this request was made in consultation with the Planning Department this summer to try and figure out a collaborative way to address the situation. Chairman Rugg asked for specifics regarding exactly what he is looking to rezone, as the Board has never had a request such as this. R. Carey replied that he identified the exact strip of land they would like to rezone in Exhibit 1, from his submission, which is attached hereto. He read from his applications as follows: "It begins, roughly, at the northern side of Rockingham Road-Route 28 and ends near Auburn Road, where the track crosses Rockingham Road-Route 28 again." A. Chiampa interjected that it does not cross Route 28 at Auburn Road, but goes straight across Auburn Road. R. Carey noted that intersection is what he is referring to. Chairman Rugg remarked that the Board needs exactly and not roughly. R. Carey asked how the Board would

like him to do this. Chairman Rugg replied that it is up to him, but if he cannot give exactly, it might be a problem. R. Carey noted that he has described it as exactly as he can, stating that he does not have the latitude and longitude. He asked to be able to give an overview and then discuss how it might look. Chairman Rugg stated he could proceed, noting it could potentially be a concern. R. Carey said that his client has owned this property, Four Commercial Lane, since 2004, using it for his business, Groundhog Landscaping. He went on stating that there is no staff on site, but used to store equipment, as well as sand and gravel used for his business. He mentioned that the sand and gravel are stored in very large cylinder blocks in open areas on the site. He pointed out that the functional footprint of the site has encroached past his client's property line into the railroad corridor. He said that his client was unaware of this, and when it was brought to his attention this summer, they immediately reached out to NHDOT. He remarked that NHDOT told his client that they are not concerned about the encroachment. He mentioned that in his application there is a letter from NHDOT which states that they are okay leasing the property to his client. Chairman Rugg pointed out that the letter from NHDOT states they will take the potential lease of the land under advisement and are not in the position to enter a lease. R. Carey agreed noting that NHDOT is awaiting this decision this evening, noting they will not be entering a lease if they cannot rezone it. He discussed that neither the state nor the town is subject to zoning. He asked for this to be rezoned to accommodate the functional footprint of his client's business, noting his client has spent significant amount of money improving recently to make is more cosmetically attractive. He reviewed the other properties in the area noting what they are zoned. He suggested that this rezoning is a reasonable accommodation for a long standing business and other businesses that are along the same corridor that also encroach. Chairman Rugg asked for more specific planning issues. R. Carey replied that there are two planning issues that have been raised, noting the first is what impact the rezoning will have on the buffer. He mentioned that under Londonderry's zoning ordinances, if a commercial and industrial properties is going to build a structure or a parking lot within 200-feet of a residential property must have a 50-foot buffer. He expressed his opinion, that he does not believe this is an issue in this particular case, because what has been developed has been developed for a long period of time and the buffer requirement does not seem to be a controlling factor to what has been developed in this area. He added that the corridor to be rezoned, which is about 80-feet to 100-feet wide, is mostly scrub brush and leaves. He discussed the second planning concern which is related to the Rail Trail, noting the town of Londonderry has an agreement with NHDOT to use this for recreational uses. He said that he believes they can address this concern because both Londonderry and NHDOT are exempt from local zoning. He added that regardless of how this corridor is zoned, it does not change the use that both Londonderry and NHDOT can make of it. He summarized that both planning concerns are addressed by the current and long standing use of the surrounding properties and by RSA 674:54, which exempts Londonderry and NHDOT from any sort of zoning requirements. Chairman Rugg asked for the NHDOT representative's name that he has been discussing this with. R. Carey replied that he has been speaking with Matthew Broadhead, Senior Assistant Attorney General, Bureau Chief, Transportation & Construction Bureau, New Hampshire Department of Justice. He stated that one of the factors to look at

with this rezoning is the surrounding uses and the health, safety and welfare. He remarked that the rezoning will not change the use of this corridor at all and will be consistent to what exists now. He voiced his opinion that his client's property is safer for the people that use the Rail Trail because he has the large cylinder blocks that prevents people from having access to equipment and things that could be a hazard. He added that in years past it helped to also deter vandalism that existed before the Rail Trail was developed. He said that the Board should also look at how this might fit into the Master Plan, stating that this very thin strip of land is not on the Master Plan's radar screen. Chairman Rugg asked for specifics in the Master Plan and how he would address these. R. Carey read from page 24 of the Master Plan as follows: "Residents, businesses, and visitors should expect a government that works diligently to link development with quality of-life, while strengthening community and economic vitality." He said that he believes they meet this guiding principal in the Master Plan with the rezoning request. He noted that there is an above ground septic on the site, so they are limited with moving things around. He added that is acceptable to just rezone the area before Four Commercial Lane or the area that he has defined in Exhibit 1. Chairman Rugg asked for the purpose of the rezoning what he had defined on Exhibit 1. R. Carey replied that the purpose of the rezoning is to accommodate his client's business and noted that there are other businesses that encroach all the way up the corridor as well. Chairman Rugg pointed out that the Board had not received any other letters from the other businesses in that area regarding rezoning. R. Carey said that he believes that they are the first business to take this initiative.

Chairman Rugg asked if the Board had any questions. J. Trottier noted that he is familiar with this site plan, but does not remember being as expanded as it is here this evening. He asked if the applicant stated that this encroachment was discovered this summer. R. Carey replied that it was and the site was re-surveyed after the concerns were brought to the applicant's attention. He commented that the survey results were supplied to the town. J. Trottier asked if the expansion of the site just occurred. R. Carey responded that the expansion did not just occur, noting that the expansion looks to have been there for almost 20 years that his client has owned the property. J. Trottier commented that the town would never had approved a site plan that would have encroached into the 50-foot buffer. R. Carey interjected that when the site plan was initially approved, there was no encroachment into the buffer, and as the property has been used over time the encroachment has occurred. J. Trottier pointed out that he has heard from many people that they like the buffer on the Rail Trail, specifically up by Liberty Drive where there are commercial entities. He added that if this is rezoned, that 50-foot buffer would go away. He explained that even if this is rezoned, the applicant would need to come back for a site plan, as he has expanded the use on his site. Town Planner Walsh mentioned that the town does have concern about potential conflict with the Rail Trail agreement, which is between the town of Londonderry and NDHOT. She said that the concern is specifically to allowing commercial uses on the Rail Trail. Chairman Rugg remarked that this would be between the Town Council and the Town Attorney, and he would like the Board to stick to the planning issues. Town Planner Walsh commented that she understands that there have been a number of enforcement issues on this property noting the applicant met with Staff

at that time where a number of ways to deal with the encroachment were discussed. She said that one of the ways discussed was a rezoning request, which is before the Board this evening. J. Butler asked if they were encroaching into the Rail Trail property or the buffer. R. Carey replied that they are in the NHDOT property, but are still roughly 30-feet to 40-feet from the Rail Trail pavement. J. Butler mentioned that in reviewing the GIS it appears as if the applicant has been encroaching since 2010. He asked if the applicant is looking to rezone his portion to lease it from NHDOT. R. Carey replied that is correct. He remarked that they were under the impression that they would have to rezone the whole strip of land, but if the Board would feel more comfortable just rezoning the piece in front of Four Commercial Lane, that is okay with the applicant and he believes it would be okay with NHDOT. T. Combes mentioned that the area to be rezoned is about a half an acre of land that is impacted and thought this might be spot zoning, which he did not think the Board likes to do. Chairman Rugg agreed that the Board would like to keep away from spot zoning. G. Verani asked if it would not be spot zoning since they are contingent to a C-II zone. Chairman Rugg pointed out that the site is contingent to both AR-I and C-II, but the planning question for the Board is whether or not to create more C-II area versus keeping the Rail Trail intact. He added that this would be setting a precedent and the possibility of losing the buffer on the Rail Trail. He mentioned that when the subsidized elderly housing on Sanborn Road was proposed the Conservation Commission wanted more of a buffer put in there, which the developer was able to do. He added that on the eastern end of the Rail Trail, Pittore Bros. Site Plan, which is in design review is also encroaching. He said that Pittore Bros. has been before the Heritage Commission, which recommended to eliminate the encroachment and increase the buffer vegetation. T. Combes asked if there would be an option to increase screening to block the concrete areas from the Rail Trail and allow the business to be able to operate. Chairman Rugg replied that he did not think this would serve the vision for the Rail Trail, as the AR-I zone offers certain opportunities for vegetation. Town Planner Walsh mentioned that in the past the Board has been cautioned about conditioning rezoning recommendations and she would advise against this. Chairman Rugg agreed. G. Verani asked how the applicant could proceed with a site plan for that piece of land that they would lease, even if they got the rezoning. Town Planner Walsh replied that they would be referring to property lines and property bounds. G. Verani pointed out that even with the C-II rezoning, it would not accomplish the main goal. He asked if any part of the site could be relocated to comply with the AR-I zone. R. Carey replied that they did look at it, and it was a close call. He added that the material on the site is material from a farm, such as gravel and sand, and said it is almost a hybrid agricultural use. He commented that NHDOT noted that this strip of land will never be developed regardless of what zone it is as it is just a tiny corridor of land, which would be strip zoning. Chairman Rugg mentioned that in all his experience with planning, you never say never. R. Carey said that he cannot imagine any compatible useful structure that can fit there. Chairman Rugg interjected that this is currently, but he does not know what will happen two years or ten years from now, as zoning is permanently with the property. R. Carey agreed, but asked the Board to consider the existing uses and the dimensions of the strip. G. Verani reiterated that even with the C-II rezoning the applicant would need to comply to site plans regulations, which does not

change the buffer, so he did not think this would accomplish the goal. A. Sypek commented that he is having a hard time with this, as someone would have to know that they are encroaching onto someone's else's land. He voiced his opinion that he is opposed to recommending this adding he would not want to look at cinder blocks when walking down the Rail Trail. R. Fillio remarked that he believes the Board has to be careful with this, specifically with setting a precedent. He stated that this would destroy the ambience of the Rail Trail. J. Penta commented that his biggest issue is that there is a reason this was zoned AR-I, such as the recreational aspect and ambience of the Rail Trail. He said that this could open the town up to different development along the Rail Trail and there could be more piles of dirt along it, which he does not want to see. D. Paul explained that she is not going to say she is for or against this rezoning, as she will save her vote for when the applicant is before the Town Council. She cautioned the Board on setting a precedent. A. Chiampa mentioned that there is a site plan in 2005 with a survey to back it up and then five years later the encroachment started. She asked why this happened. She pointed out that the applicant is encroaching 32-feet into where the Rail Trail property starts, which is not a mistake in her opinion. She echoed that this could set a precedent and then other properties could go to NHDOT and try to get a lease to accommodate their needs. She added that she is concerned about wetlands in the area. She mentioned that she went down to the site yesterday and viewed the encroachment, noting that the piles are two to three feet higher than the fence. She said that so many people use the Rail Trail and appreciate the beauty of it. She noted that there have been enforcement issues in the past, as well as some legal issues, and she is not sure if they are resolved. She expressed her opinion that it is not right to rezone this area and destroy the 50-foot landscape buffer along the area. Chairman Rugg voiced his concern that this is not consistent with the use of the Rail Trail or the AR-I zone. He commented that this could establish precedent, precipitate other changes along the Rail Trail and lose the aesthetics of the Rail Trail. He added that he does not believe that this is good planning, as planning is for the long term.

Chairman Rugg opened up the discussion to the public.

Ray Breslin, Three Gary Drive, addressed the Board. R. Breslin said that he echoes the concerns of Board members. He stated that the Rail Trail should have a buffer. He voiced his opinion that he believes this would set a precedent and he does not think is wise.

Bob Rimol, Two Faye Lane, President of Trailways. B. Rimol said that he believes that Groundhog Landscaping has been a good neighbor to the Rail Trail. He said that they have never have any trash. He commented that Trailways has no objections to the encroachment onto NHDOT property and did not know that Groundhog was encroaching. He added that he believes that there are probably other businesses that are encroaching as well. He stated that he does not believe there is a safety issue or an aesthetic issue. He said that Londonderry Trailways works very hard to keep the Rail Trail safe. He asked if the Board had any questions.

Chairman Rugg brought the discussion back to the Board as there was no further public input. J. Butler asked if the state had any issues with the encroachment. Chairman Rugg replied that he believes the state has not taken a position as far as he can see from the paperwork presented. R. Carey remarked that he has had many conversations with Matthew Broadhead, Senior Assistant Attorney General and they do not have any issues with it and are willing to work with them. He said that in the application, Exhibit 2, is a letter from NHDOT, and is attached hereto. Chairman Rugg read from Exhibit 2 as follows: "The Department continues to review your lease request and is following its normal surplus property process and is not in the position, yet, to enter into a lease for this property." R. Carey read from Exhibit 2 as follows: "the Department grants you permission to submit applications for the development and/or alteration of the property to the Londonderry Town Council and to any land use board of the Town of Londonderry." He reiterated that NHDOT does not have any issue with the encroachment. Chairman Rugg asked for a written letter stating that. A. Chiampa asked if there was an opinion from the Heritage Commission or Conservation Commission. Town Planner Walsh replied that rezoning applications do not go before the Heritage Commission or Conservation Commissions. She noted that at the last Heritage Commission meeting, Staff made the Commission aware of the application. Chairman Rugg stated that there was a discussion regarding this and the consensus was the Commission was not in favor of rezoning. Associate Planner Gandia read from the draft minutes of the September 28, 2022, Heritage Commission meeting as follows: "As a comment, the applicant should be forewarned that this rezoning request is not likely to be favorably viewed by the Heritage Commission."

A. Sypek made a motion to recommend to the Town Council to deny the rezoning request to rezone a portion of 0 RR Rockingham Road (Map 13 Lot 143) State of New Hampshire DOT (Owners) and Gizmo Enterprises, LLC (Applicant) from AR-I (Agricultural Residential 1) to C-II (Commercial-II).

J. Butler seconded the motion.

The motion was granted, 7-0-1, with D. Paul abstaining. The Chair voted in the affirmative.

B. Public hearing on an application for a Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1905 SF of temporary buffer impacts for the replacement and maintenance of select existing overhead electric transmission line structures located within the Conservation Overlay District in the existing T155 Transmission Line Right of Way (ROW), 169 Litchfield Road, Map 11 Lot 11, Zoned AR-1, Town of Londonderry (Owner) and Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant)

Town Planner Walsh stated that the application was complete.

A. Sypek made a motion to accept the application as complete per Staff's Recommendation Memorandum dated October 5, 2022.

J. Penta seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

Kris van Naerssen, PWS, AECOM Wetland Ecologist/Project Manager, 1155 Elm Street, Suite #401, Manchester, NH, addressed the Board. Ashley Friend, and Sarita Fullcringin from Eversource are in the audience as well. K. van Naerssen started the discussion by noting that the project is to continue the overall safety and reliability of the transmission lines for Eversource. He noted that this project extends from the Watts Brook substation through Londonderry, Manchester, Merrimack and terminates at the Merrimack substation. He stated that the project is a total of two miles in length. He explained that they are replacing 18 existing wooden overhead utility transmission structures with weathered steel poles. He added that they are also replacing OPGW or optical ground wire, which is a communication and safety line between two substations. He commented that they will be working in one mile in Londonderry from the Londonderry town line to the Watts Brook substation. He pointed out that nine structures will have work done to them in Londonderry with eight structures being replaced and one having the OPGW wire installed. He explained that there will be temporary impacts in the Conservation Overlay District (COD) associated with Watts Brook as well as temporary impacts to the wetland area. He reviewed a picture on the screen with the Board, specifically looking at structure #6, which is located off Litchfield Road and is associated with the 100-foot buffer from Watts Brook. He reviewed the procedures that are typically followed such as gaining access to the structure, conducting the structure replacement work, and restoration once that is complete. He said that they try to use existing access roads when possible and install timber matting work pads to provide a stable working platform for the cranes and other equipment. He added that in sensitive areas such as around Watts Brook, they use temporary timber matting. He reviewed the replacement of the structures with the Board. He mentioned that they follow best management practices are followed for utility work in wetlands and water course areas. He said that they also work closely with New Hampshire Fish & Game (NHFG) and the Natural Heritage Bureau to establish best management practices related to endangered species. He noted that this application has gone before the Conservation Commission last week and they had no comments and voted to recommend the CUP to the Planning Board.

Chairman Rugg opened up the discussion to the Board. J. Trottier informed A. Friend that he received the ____ control plan today, and he has one comment regarding access to structure #7 stating they should come in off Sunflower Lane not Acorn Drive. A. Friend replied that she would speak to J. Trottier after as they did have a field investigation on this and coming in off Sunflower Lane instead would be more disruptive to the property owners. Town Planner Walsh confirmed that the applicant did go before the Conservation Commission did they not have any objections to the CUP. J. Penta asked if they had contacted abutters. A. Friend replied that the abutters were notified through this application and they are also notified separately by Eversource. She explained that Sarina has been assigned as a Project Services Representative and she notifies abutters in advance of any field work that happened in May and June of this year. She added that the abutters will

be notified about pre-construction, the time line of construction and when the construction is completed. J. Penta asked if there was any feedback from the abutters. Sarita Fullcringrin, from Project Services at Eversource, said that she also sent out introduction letters that have her name and contact information. She commented that there has been some feedback with general questions, such as where the poles will be located, the height differences and where they will be doing work in connection to the property owner. J. Trottier mentioned that The Department of Public Works and Engineering (DPW) is a catch all for phone calls and he will talk to the abutters, noting Lidia from Eversource has been his contact. S. Fullcringrin informed J. Trottier that Lidia has changed departments and she would give him her card for future reference. D. Paul asked how much the height difference is and if S. Fullcringrin would give her number to the public if they have questions. S. Fullcringrin replied that the abutters for the most part had general inquiries. S Fullcringrin said that she does not have the height difference in front of her this evening, but she would get that information to the Board. D. Paul asked for the phone number to be given publicly. S Fullcringrin replied that she will look up Eversource's general hotline number and noted that they will respond to messages in 24 hours. A. Chiampa asked what project this was for. A. Friend replied that this project is the T-155 Transmission Line Structure Replacement OPGW project.

Chairman Rugg asked for public input.

Chad Franz, One Sunflower Lane, addressed the Board. C. Franz said that structure #8 is directly behind his house and he did not notice a big height difference. He asked for the lifting cables to be removed from structure #8, as they have been there for two years now and they are unsightly. He mentioned that four years Eversource did vegetation mitigation and planted arbor vitae as well as other vegetation, noting that a lot of time and money to water and cultivate this was done. He asked Eversource to replace this when they are done upon completion of the project. A. Friend replied that she did not see a problem in doing this, as when there are plantings and maintained lawns, they make an effort to make sure the landscaping goes back.

John Farrell, member of Town Council, addressed the Board. J. Farrell commented that several older residents contacted him regarding their notifications from Eversource. He mentioned that he does not think Eversource is educating the public and could do more with this. He encouraged Eversource to try and educate the public more.

Ray Breslin, Three Gary Drive, addressed the Board. R. Breslin said that Eversource does good work. He asked where this work is being done. Town Planner Walsh reviewed where the work is being done on the screen. R. Breslin asked if the poles were specifically Eversource. A. Friend replied that they are Eversource poles in their easement. R. Breslin asked if Eversource owned the property. A. Friend replied that Eversource holds the easement, but the underlying property boundaries are shown for the underlying landowner. She clarified that they do own the parcel around the Watts Brook substation.

Chairman Rugg brought the discussion back to the Board as there was no further public input. J. Butler asked if Eversource could do something else for education. A. Friend replied that Eversource has done town hall sessions in the past for larger jobs that might be more contentious, but not for more standard replacement work. She added that the Project Service Representatives do go door to door as well. J. Butler asked if Eversource would hold a session at town hall. A. Friend replied that they have done town halls in the past and no residents have shown up, noting that it was not in Londonderry. S. Fullcringrin gave the Eversource hotline number 888-926-5334 and by email nhprojectsinfo@eversource.com. A. Friend reiterated that Eversource will get back to a concerned resident within 24 to 48 hours.

A. Sypek made a motion to grant approval of the Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1,905 SF of temporary buffer impact within the Conservation Overlay District for the proposed replacement of transmission line structures along the existing Transmission Line Right of Way (ROW), Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant).

J. Butler seconded the motion.

The motion was granted, 8-0-0. The Chair voted in the affirmative.

V. Other

Chairman Rugg said that the next meeting will be regarding a CIP and zoning workshop. He asked for the CIP material to be sent out before the meeting.

VI. Adjournment

Member A. Sypek made a motion to adjourn the meeting at approximately 8:27 p.m. Seconded by J. Butler.

The motion was granted, 8-0-0.

The meeting adjourned at approximately 8:27 PM.

These minutes were prepared by Beth Morrison.

Respectfully Submitted,

Name: Jake Butler
Title: Secretary

These minutes were accepted and approved on November 2, 2022, by a motion made by A. Sypek and seconded by J. Butler.

STAFF RECOMMENDATION

To: Planning Board
From: Kellie Walsh, Town Planner

Date: October 5, 2022

Application: Application for a Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1,905 SF of temporary buffer impact for the proposed replacement and removal of transmission line structures along the existing Transmission Line Right of Way (ROW) for the T-155 Transmission Line Structure Replacement Project, Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant)

- Completeness: Staff recommends the Conditional Use Permit application be accepted as complete.

Board Action Required: **Motion to accept the application as complete per Staff's Recommendation Memorandum dated October 5, 2022.**

- Conditional Use Permit: The applicant is requesting a Conditional Use Permit (CUP) per Londonderry Zoning Ordinance Section 4.6.1.4.A.1.
 1. The Applicant has requested a Conditional Use Permit to allow a permitted use in the Conservation Overlay District. Eversource Energy seeks to do work within the wetland and Conservation Overlay District relating to replacement of existing transmission line structures in the utility ROW. The Conservation Commission has recommended approval of the CUP.
- Recommendation: Based on the information available to date, Staff recommends that the Planning Board APPROVE the CUP with the Notice of Decision to read substantially as follows:

Board Action Required: **Motion to grant approval of the Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1,905 SF of temporary buffer impact within the Conservation Overlay District for the proposed replacement of transmission line structures along the existing Transmission Line Right of Way (ROW), Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant).**

STAFF RECOMMENDATION

To: Planning Board
From: Kellie Walsh, Town Planner
Re: Rezoning Request

Date: October 5, 2022

Rezoning request to rezone a portion of 0 RR Rockingham Road (Map 13 Lot 143) State of New Hampshire DOT (Owners) and Gizmo Enterprises, LLC (Applicant) from AR-I (Agricultural Residential 1) to C-II (Commercial-II).

Existing Conditions and Background:

The Applicants are requesting rezoning of one property to Agricultural Residential (AR-I).



0 RR Rockingham Road (Map 13, Lot 143) is a parcel more commonly known as the Rail Trail. In this request, the focus is on a portion of the rail trail abutting parcel 013-104-002 also known as 4 Commercial Lane. The section of the rail trail is located near Rockingham Road-Route 28 and Auburn Road. The corridor is approximately 80-100 feet wide.

This section of the rail trail (Map 13, Lot 143) abuts Groundhog Landscaping (zoned C-II), a light industrial park (zoned C-II) and a parcel owned by Eversource/PSNH (zoned Ind-II and AR-I). additionally, there are wetlands located to the south and east of the subject area.

The 2013 Master Plan identifies this area as a “G-2 Controlled Growth Sector”. According to the Master Plan:

The Controlled Growth Sector is assigned to areas that may support mixed use development due to proximity to one or more existing or planned thoroughfares. Development in this Sector should occur in the form of conservation subdivisions containing open space or activity centers.

Rezoning Request:

The Applicants are requesting rezoning a portion of one parcel to Commercial II (C-II). Please see the attached rezoning request. The Applicant has provided a draft (unstamped) existing conditions plan of parcel 13-104-2 (Groundhog Landscaping) as well as information from NHDOT Bureau of Rail and Transit.

Board Action Required

Should the Board find that the request is reasonable and consistent with the surrounding uses and the Master Plan, the Board may make a recommendation motion as follows:

Move to ***recommend*** to the Town Council approval of the rezoning request to rezone a portion of 0 RR Rockingham Road (Map 13 Lot 143) State of New Hampshire DOT (Owners) and Gizmo Enterprises, LLC (Applicant) from AR-I (Agricultural Residential 1) to C-II (Commercial-II).

Conversely the Board may make a motion to recommend that the Town Council ***deny*** the request for re-zoning, if it finds that the request is not consistent with the Master Plan and the surrounding uses.

STAFF RECOMMENDATION

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Existing Conditions and Background:

The Applicants are requesting rezoning of one property to Agricultural Residential (AR-I).



0 RR Rockingham Road (Map 13, Lot 143) is a parcel more commonly known as the Rail Trail. In this request, the focus is on a portion of the rail trail abutting parcel 013-104-002 also known as 4 Commercial Lane. The section of the rail trail is located near Rockingham Road-Route 28 and Auburn Road. The corridor is approximately 80-100 feet wide.

This section of the rail trail (Map 13, Lot 143) abuts Groundhog Landscaping (zoned C-II), a light industrial park (zoned C-II) and a parcel owned by Eversource/PSNH (zoned Ind-II and AR-I). additionally, there are wetlands located to the south and east of the subject area.

The 2013 Master Plan identifies this area as a “G-2 Controlled Growth Sector”. According to the Master Plan:

The Controlled Growth Sector is assigned to areas that may support mixed use development due to proximity to one or more existing or planned thoroughfares. Development in this Sector should occur in the form of conservation subdivisions containing open space or activity centers.

Rezoning Request:

The Applicants are requesting rezoning a portion of one parcel to Commercial II (C-II). Please see the attached rezoning request. The Applicant has provided a draft (unstamped) existing conditions plan of parcel 13-104-2 (Groundhog Landscaping) as well as information from NHDOT Bureau of Rail and Transit.

Board Action Required

Should the Board find that the request is reasonable and consistent with the surrounding uses and the Master Plan, the Board may make a recommendation motion as follows:

Move to ***recommend*** to the Town Council approval of the rezoning request to rezone a portion of 0 RR Rockingham Road (Map 13 Lot 143) State of New Hampshire DOT (Owners) and Gizmo Enterprises, LLC (Applicant) from AR-I (Agricultural Residential 1) to C-II (Commercial-II).

Conversely the Board may make a motion to recommend that the Town Council ***deny*** the request for re-zoning, if it finds that the request is not consistent with the Master Plan and the surrounding uses.

STAFF RECOMMENDATION

To: Planning Board
From: Kellie Walsh, Town Planner

Date: October 5, 2022

Application: Application for a Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1,905 SF of temporary buffer impact for the proposed replacement and removal of transmission line structures along the existing Transmission Line Right of Way (ROW) for the T-155 Transmission Line Structure Replacement Project, Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant)

- **Completeness:** Staff recommends the Conditional Use Permit application be accepted as complete.

Board Action Required: **Motion to accept the application as complete per Staff's Recommendation Memorandum dated October 5, 2022.**

- **Conditional Use Permit:** The applicant is requesting a Conditional Use Permit (CUP) per Londonderry Zoning Ordinance Section 4.6.1.4.A.1.
 1. The Applicant has requested a Conditional Use Permit to allow a permitted use in the Conservation Overlay District. Eversource Energy seeks to do work within the wetland and Conservation Overlay District relating to replacement of existing transmission line structures in the utility ROW. The Conservation Commission has recommended approval of the CUP.
- **Recommendation:** Based on the information available to date, Staff recommends that the Planning Board APPROVE the CUP with the Notice of Decision to read substantially as follows:

Board Action Required: **Motion to grant approval of the Conditional Use Permit (CUP) for 439 SF of temporary wetland impact and 1,905 SF of temporary buffer impact within the Conservation Overlay District for the proposed replacement of transmission line structures along the existing Transmission Line Right of Way (ROW), Public Service Company of New Hampshire d/b/a Eversource Energy (Applicant).**