



**CITY OF CONCORD**  
*New Hampshire's Main Street™*  
***Community Development Department***

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**REPORT TO THE MAYOR AND CITY COUNCIL**

**From:** Sam Durfee, Senior Planner  
**Date:** April 19, 2019  
**Subject:** Ordinance amending the Code of Ordinances, Title IV, Zoning Code; Chapter 28, Zoning Ordinance, Article 28-2, Zoning Districts and Allowable Uses, Section 28-2-3, The Zoning Map.

**Recommendation**

Accept this report and set a public hearing concerning the proposed rezoning of 15 Frost Road from Single Family Residential (RS) to Medium Density Residential (RM).

**Background**

A request was made to City Council by Kelsey Peterson of BCM Environmental Law, on behalf of Marion Clattenburg, owner of property at 15 Frost Road, to rezone the subject property from Single-Family Residential (RS) to Medium Density Residential (RM) to allow a conditionally approved one lot, single-family subdivision without the requirement of connecting to municipal sewer and water. This request was referred to the Planning Board at Council's March 11, 2019 meeting.

At the July 18, 2018 Planning Board meeting, the Board heard an application to subdivide 1.80 acres from the 14.42 parent lot for the purpose of creating a single-family lot. The Board granted approval on the condition that the applicant receives zoning relief from the requirement to extend municipal sewer and water to the new lot, an extension of approximately 2,300 feet.

At the August 1, 2018 meeting of the Zoning Board of Adjustment, the variance request was denied on a 3-2 vote on the grounds that a precedent would be set and that the hardship of extending services such a length is self-imposed because the proposed lot is in the corner of the parent lot, farthest from municipal services.

The 14.43 acre property is bounded by Curtisville Road to the west, Frost Road to the south, the Dominique Drive development to the east and a privately owned, undeveloped lot to the north.

The lot is primarily zoned RS with a small, northeast section zoned RO. The properties to the west are zoned RM, the two other lots on Frost Road to the south are zoned RS, as are the lots on Domonique Drive, and the properties to the north are zoned RO.

The majority of the property is wooded with some cleared land and hosts a single family home with a garage and shed. Most of the land is in current use and will remain so should the property be rezoned and the 1.80 acre conditionally approved subdivision completed. The intention is that the land will remain mostly wooded with a Christmas tree farm.

The lot is currently within the Urban Growth Boundary (UGB) and will remain within the UGB should the property be rezoned. This is consistent with current zoning patterns as the majority of RM-zoned lots in the City are within the UGB.

## **Discussion**

Section 28-10-4 of the Zoning Ordinance outlines the following criteria for the Planning Board to evaluate in considering an amendment to the Zoning Ordinance or to the Zoning Map:

- (a) The consistency of the proposed amendment with the Master Plan;
- (b) The consistency of the proposed amendment with other plans, studies, or technical reports prepared by or for the Board and the City;
- (c) The effect of the proposed amendment on the City's municipal services, capital facilities, and planned facilities as described in the Capital Improvements Program;
- (d) The effect of the proposed amendment on the natural, environmental, and historic resources of the City;
- (e) The effect of the proposed amendment on neighborhoods including the extent to which nonconformities will be created or eliminated;
- (f) The effect of the proposed amendment on the City's economy and fiscal resources; and
- (g) The recommendation of the Planning Board relative to whether the proposed amendment should be adopted or rejected, and any recommendations for conditions of adoption or modifications to the proposed amendment.

The 2030 Master Plan's Future Land Use Plan identifies this parcel as part of a larger residential area of medium density (MR) development. The MR category encompasses single family to multifamily development. It allows for and anticipates that utilities will be extended and that parcels such as the subject property will develop at similar intensities to the single family residential neighborhoods to the south. However, the parcel also borders the Open Space Residential (RO) District to the north, and the Medium Density (RM) District to the west. It should be noted that the adjacent parcels zoned RM are owned by the school district, and are most likely anticipated for expansion of the school.

The RM District currently allows for two very different intensities of land use. Where utilities are present, it allows for densities higher than the adjacent Single Family Residential (RS)

District. Where utilities are not present, it requires densities less than the RS District. Since the subject property has no utilities, it would allow a density less than the adjacent RS District, but greater than the adjacent RO District. For those reasons, Staff feels that it is appropriate that the parcel function as a low/medium density transition between the two adjacent intensities of land use, and that the designations in the Master Plan are general enough to allow for this. Staff also notes that the impending proposed revisions to the zoning ordinance rectify the ambiguity in the RM District by splitting it into two Districts.

The rezoning will have minimal effect on the City's municipal services as the intent is for the lot to be serviced by a well and on-site septic system. Staff notes that the impacts on municipal services will be much less than would have occurred if the parcel had developed at the intensity permitted under the RS zoning. However, the lower density that is now anticipated will also contribute less to the tax base than higher density development would have. Staff notes that the property owner may never have intended to develop at such densities; therefore, the rezoning allows them to develop larger lots more affordably without the requirement to extend utilities. Staff also recommends that the parcel stay within the urban growth boundary in anticipation of future property owners that may want to rezone back to RS and continue the higher density pattern.

The applicant stated that it is their intention to maintain the rural, wooded character of the lot and to keep a portion of the lot under current use. The rezoning will better preserve many of the natural resources and the character of the area, whereas the RS zoning would have allowed the area to transform into a very different suburban character. Staff feels that the petitioner's proposal is very consistent with the development character of Curtisville Road. The rezoning would not create any non-conformities.

### **Summary**

It is staff's opinion that the applicant's request is consistent with the development goals of the Master Plan. The Planning Board unanimously voted in favor of the rezoning at their April 17, 2019 meeting.