



## PLANNING & CODE ENFORCEMENT



### Planning & Code Enforcement

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## WESTBROOK PLANNING BOARD TUESDAY, MARCH 3, 2020, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114

### AGENDA

1. **Call to Order**
2. **Approval of Minutes**

### NEW BUSINESS

3. **2018.56 – Site Plan – 1 Ledgeview Drive – Regional Transportation Program:** The applicant is requesting an extension on the March 5, 2019 approval of an 8,500 sf office building, 2-bay garage and associated site improvements on an existing 5.46 acre vacant lot. Tax Map: 002 Lot: 104 Zone: Industrial Park District
4. **2019.19 – Amended Site Plan, Subdivision and Village Review - 660 Main Street – MTR Development, LLC; Public Hearing:** – The applicant is requesting an amendment to a previously approved subdivision to add a 3<sup>rd</sup> floor to the proposed structure to accommodate 3-additional residential units creating a total of 6-residential units. Tax Map: 033 Lot: 028 Zone: City Center District, Village Review Overlay Zone

### WORKSHOP

5. **2019.32 – Site Plan – 267 Conant Street – MGM Builder, Inc:** The applicant is proposing to construct a +/- 16,000 square foot commercial complex and shared parking area. Tax Map: 031 Lot: 033 Zone: City Center District, Rural District
6. **2020.03 – Subdivision – 35 Seavey Street – RMC Properties, LLC:** The applicant is proposing a 4-lot subdivision to create 3-duplex lots with frontage along Seavey Street. Tax Map: 040 Lot: 135 Zone: City Center District
7. **2020.04 – Site Plan Amendment – 84 Warren Ave – Delta Realty, LLC:** The applicant is proposing a 23,100 sf steel building and 94-space parking area on units K and L of an approved condominium plan. Tax Map: 047 Lot: 005 Zone: Gateway Commercial, Industrial Park District

S:\PLANNING\2020\03.03.2020\AGENDA 03.03.2020.DOCX Deliberation of agenda items, including workshops, that have not been commenced by the Planning Board as of 10:00p.m. may be rescheduled to the next regularly scheduled meeting.

8. **2020.05 – REFERRAL FROM CITY COUNCIL – Land Use Ordinance Amendment – 404 Sign Regulations:** The proposed amendment reorganizes Section 404 Sign Regulations to provide clarity and remove inconsistencies and establishes standards for temporary noncommercial signage on public property and within the public rights-of-way.
  
9. **City Planner’s Business**



## Planning & Code Enforcement

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### PLANNING & CODE ENFORCEMENT

DATE: February 28, 2020  
TO: Planning Board  
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Asst. City Planner  
Cc: Plan Review Team  
RE: March 3, 2020 Planning Board Meeting

- 
1. **2018. 56 – Site Plan – 1 Ledgeview Drive – Regional Transportation Program**
  2. **2019. 19 – Amended Site Plan, Subdivision and Village Review - 660 Main Street – MTR Development, LLC**
  3. **2019. 32 – Site Plan – 267 Conant Street – MGM Builder, Inc**
  4. **2020.03 – Subdivision & Site Plan – 35 Seavey Street – RMC Properties, LLC**
  5. **2020.04 – Site Plan Amendment – 84 Warren Ave – Delta Realty, LLC**
  6. **2020.05 – REFERRAL FROM CITY COUNCIL – Land Use Ordinance Amendment – 404 Sign Regulations**
- 

1. **2018. 56 – Site Plan – 1 Ledgeview Drive – Regional Transportation Program**

#### **REGULAR BUSINESS**

Tax Map: 002 Lot: 104  
Zone: Industrial Park District

#### **Project Description:**

The applicant is requesting an extension on the March 5, 2019 approval of an 8,500 sf office building, 2-bay garage and associated site improvements on an existing 5.46 acre vacant lot

#### **Project History:**

January 9, 2019 – Neighborhood Meeting  
January 15, 2019 Planning Board Workshop  
March 5, 2019 – Public Hearing  
March 3, 2020 – Request for extension on approval

#### **Staff Comments:**

Post approval, the applicant experienced an unexpected grace period required to secure federal funding under the Federal Transportation Administration. Federal funding have since been approved and the applicant is currently finalizing financing from the remaining funding sources. The applicant anticipates construction on the project to commence Summer 2020 and is requesting a 1-year extension on their March 5, 2019 site plan approval for financing. Staff takes no issue with the request.

**Motion:**

Motion to grant a 1-year extension to the previous approval for the Regional Transportation Program Site Plan application for a new 8,500sf office building, 2-bay garage and associated site improvements located at 1 Ledgeview Drive, Tax Map: 002 Lot: 104 Zone: Industrial Park District is **(approved with conditions/denied)**. All previously approved findings of fact and conclusions and conditions are still applicable.

## 2019.19 – Amended Site Plan, Subdivision and Village Review - 660 Main Street – MTR Development, LLC

### PUBLIC HEARING

Tax Map: 033 Lot: 028

Zone: City Center District; Village Review Overlay Zone

### Project Description

The applicant is requesting an amendment to a previously approved subdivision to add a 3<sup>rd</sup> floor to the proposed structure to accommodate 3-additional residential units creating a total of 6-residential units.

### Project History

July 2, 2019 – Planning Board Workshop

July 10, 2019 – Village Review Overlay Committee

July 25, 2019 – Neighborhood Meeting

October 1, 2019 – Public Hearing and Approval

March 3, 2020 – Public Hearing on Subdivision Amendment

### Staff Comments

1. Provide a revised subdivision plan with conditions of approval (to be provided by Staff no later than Friday, 2/28) and signature block. Revised subdivision plan should be reflective of the amended application (3-story structure) and updated density standards.
2. Letter of capacity from Sewer required prior to any site disturbance or the issuance of a building permit. The sewer lateral needs to be televised and documentation provided to City Staff prior to capacity acceptance.
3. Ability to serve letter from PWD required prior to any site disturbance or building permits issued.
4. Provide documentation demonstrating 70% of the Main Street building façade is articulated with architectural features.
5. Private waste removal required for all commercial and residential tenants.
6. Noticing Fees due prior to the public hearing (\$162.15)
7. Final revised subdivision plan with conditions of approval and signature block due by Monday, March 2 (one mylar, 3 paper).

### Motion:

The Amended Site Plan – Subdivision application for MTR Development, LLC for the demolition of an existing residential building and construction of a three-story multi-use commercial and 6-unit residential building located at 660 Main St Street Tax Map: 033 Lot: 028 Zone: City Center District, Village Review Overlay Zone is **(approved with conditions/ denied)** and the following findings of fact, conclusions and conditions as stated on pages 3 through 7 of this Staff Memo dated February 28, 2020 are adopted in support of that approval.

### Site Plan – Finding of Fact

Standard	Finding
Utilization of the site	Applicant's plan meets the intent of the Ordinance
Handicap Access	Site is ADA compliant with accessible entrances, accessways and a parking space.
Appearance Assessment	The project meets the criteria of items 1-6. The proposed structure is in scale with the downtown area. Landscape design is varied and placement is within the constraints of the site. Lighting is designed to avoid adverse impacts on residential abutting properties. The building design incorporates Village

	Review standards and has been reviewed by the Village Review Overlay Committee.
Landscape Plan	On-site landscaping has been provided along the public rights-of way.
Odors	The operations should create no odor issues, outside of proper maintenance of trash disposal.
Noise	No adverse impact known or anticipated. The development should be in keeping with the ambient noise levels of the area.
Technical and Financial Capacity	Applicant has provided a letter from Biddeford Savings dated September 5, 2019 to demonstrate proof of Financial Capacity. The applicant has retained the services of DM Roma which demonstrates technical capacity.
Solid Waste	Waste removal for both the commercial and residential units will be privately managed.
Historic, Archaeological and Botanical Resources or Unique Features	None known.
Hazardous Matter	None known.
Vibrations	Not Applicable.
Parking & Loading Design and Site Circulation	Access to the site is provided in the form of one-way traffic circulation from Main Street to Giles Street to avoid traffic conflicts and congestion at either location. Signage is proposed to indicate vehicles are prohibited from exiting on Main Street. The development provides 8-off street parking spaces.
Adequacy of Road System	Adequate
Vehicular Access	Access to the site is provided from Main Street and Giles Street.
Pedestrian and Other Modes of Transportation	A paved pedestrian pathway has been provided for access from both the parking area and the public sidewalk system along Main Street.
Utility Capacity	Water, Sewer and Stormwater services are accessible from Main Street. Ability to serve letters will be provided to the City upon receipt.
Stormwater Management, Groundwater Pollution	Stormwater management has been adequately addressed on the plan.
Erosion and sedimentation Control	Adequate

## Conclusions

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site plan **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed site plan **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

9. The proposed site plan **conforms** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet standards of this section.
11. The proposed site plan **is/is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. The proposed plan **will not** negatively impact the ability of the City to provide public safety services.

### Subdivision - Finding of Fact

Standard	Finding
Pollution	Disposal of the sewage from the project will be via the City Public Sewer system.
Sufficient Water	The subdivision will be served by public water for fire protection and domestic use. Water services are accessible from Main Street. Ability to serve letters from Portland Water District and City of Westbrook will be provided to the City upon receipt.
Municipal Water Supply	The subdivision will be served by public water for fire protection and domestic use. Water services are accessible from Main Street. Ability to serve letters from Portland Water District and City of Westbrook will be provided to the City upon receipt.
Erosion	The applicant has provided a plan to adequately address erosion control. On-site inspections will occur during construction to ensure compliance.
Traffic	The road systems have adequate capacity to accept the traffic generate by this project.
Sewage Disposal	Project will be serviced by public sewer system.
Municipal Solid Waste Disposal	Waste removal for both the commercial and residential units will be privately managed.
Aesthetic, Cultural and Natural Values	Not Applicable
Conformity with City Ordinances and Plans	Proposal is in conformance with City Ordinances & Comprehensive Plan.
Financial and Technical Capacity	Applicant has provided a letter from Biddeford Savings dated September 5, 2019 to demonstrate proof of Financial Capacity. The applicant has retained the services of DM Roma Consulting Engineers which demonstrates technical capacity.
Surface Waters; Outstanding River Segments	Not Applicable
Ground Water	Ground water will not be adversely impacted by this project.
Flood Areas	The property is not located within a flood zone.
Freshwater Wetlands	No freshwater wetlands have been identified on site.
Farmland	No farmland has been identified on site.
River, Stream or Brook	No rivers, streams or brooks have been identified within or abutting the property.
Stormwater	Applicant has provided an adequate plan for addressing stormwater

	flows from the project.
Spaghetti Lots Prohibited	The lot does not have shore frontage.
Lake Phosphorus Concentration	The lot is not located on or near a great pond.
Impact on Adjoining Municipality	The lot does not cross municipal boundaries.
Lands subject to Liquidation Harvesting	Not Applicable

**Conclusions:**

1. The proposed subdivision **will not** result in undue water or air pollution
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land’s capacity to hold water so that a dangerous or unhealthy condition results
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal and **will/will not** cause an unreasonable burden on municipal services.
7. The proposed subdivision **will not** cause an unreasonable burden on the City’s ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms** with a duly adopted subdivision regulation or Ordinance, comprehensive plan, development plan or land use plan.
10. The subdivider **has/does not have** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **will not** adversely affect the quality of any pond, lake, wetland, great pond or river, or unreasonably affect the shoreline of that body of water.
12. The proposed subdivision **will not**, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The subdivision **is not** located in a flood-prone area, as determined by the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
14. All freshwater wetlands within the proposed subdivision **have** been identified.
15. All farmland within the proposed subdivision **has not** been identified. – Not applicable
16. Any river, stream or brook within or abutting the proposed subdivision **has** been identified.
17. The proposed subdivision **will** provide for adequate stormwater management.
18. Lots in the proposed subdivision **do not have** shore frontage on a river, stream, brook, great pond or coastal wetland as defined in 38 M.R.S.A. Section 480-B.
19. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond’s phosphorus concentration during the construction phase and life of the proposed subdivision.
20. The proposed subdivision **will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
21. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to 12 M.R.S.A. Section 8869, subsection 14.

**Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated September 5, 2019 and amended January 24, 2020 and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any

variation from such plans, proposals and supporting documents and representations are subject to review and approval by the City Planner or the Planning Board.

2. Consistent with Section 504.3, the Code Enforcement Officer shall not issue any permits until a site plan has been approved by the Planning Board and a Mylar signed by the Planning Board. *Mylars must be submitted to the City within 90 days of Planning Board approval or the approval shall be null and void.*
3. Prior to any site disturbance or building permits being issued for the project:
  - a. All Staff comments must be addressed.
  - b. Review of building elevations to be consistent with submitted documentation or testimony.
  - c. Provide ability to serve letter from Portland Water District.
  - d. Televisive the existing sewer lateral and provide documentation to City Staff to demonstrate adequate condition.
  - e. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - f. An inspection fee shall be made payable to the City of Westbrook for inspection of site improvements made by the Code Enforcement Officer and/or other appropriate City staff. **\$1,000**
  - g. The applicant shall file a performance guarantee with the City of Westbrook. The amount of the guarantee shall be agreed upon in advance with the City of Westbrook and shall be of an amount to ensure completion of all on- and off-site improvements necessary to support the proposed project. **\$50,000**
  - h. Coordinate with the E911 Coordinator on addressing of the buildings.
  - i. Best management practices shall be adhered to during all ground disturbance operations.
4. Prior to the first Occupancy Permit issuance:
  - a. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval. (This includes all paving, striping, sidewalks, directional signage, etc.)
  - b. All site improvements must be installed, unless a performance guarantee amount is held in the amount of the remaining improvements.
  - c. A gutter system installed on the westerly side along the entrance way
  - d. All building entrances are in compliance with ADA standards
  - e. Provide documentation to Planning Department demonstrating private trash removal for all commercial and residential tenant. Toter storage shall be screened to the satisfaction of City Staff.
5. Prior to release of the performance guarantee:
  - a. The site will be in compliance with the approved plan and as-built plan provided in City approved format for the GIS system
6. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.

### 3. 2019. 32 – Site Plan – 267 Conant Street – MGM Builder, Inc:

#### **WORKSHOP**

Tax Map: 031 Lot: 033

Zone: City Center District, Rural District

#### **Project Description**

The applicant is proposing to construct a +/- 16,000 square foot commercial complex and shared parking area.

#### **Project History**

October 1, 2019 – Planning Board Workshop

October 2019 – Neighborhood meeting – Scheduled

#### **Staff Comments**

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The following comments are based on the submission and plan set dated February 6, 2020.

Included with your packets is a **supplemental submission** and plan set dated February 25, 2020 that was submitted by the applicant in response to Staff comments for Board review. Due to the timing of the resubmission, Staff was unable to review the supplemental materials prior to the completion of this memo, but felt it was important for the Board to have the most up to date plan materials prior to the workshop to relay comments back to Staff and the applicant as to the direction of the application.

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1. A land swap is proposed between the subject parcel and the abutting 235 parcel impacting the land to the rear of 267 Conant St (generally following the district boundary between the City Center District and the Rural District) and land of 235 Conant St that directly abuts 267 Conant Easterly.
  - a. The swap would result in the stormwater features being located on the lands of the 235 Conant St parcel. Draft access and maintenance easements are required to be reviewed by City Staff. Easements will need to be recorded prior to any site disturbance.
  - b. The impact to 235 Conant St is unknown at this time. The parcel has three points of frontage on Conant St, none of which meet the minimum frontage requirement of the Rural District (200-feet required, frontage points are approximately 134-feet, 22-feet and 153-feet). The parcel is encumbered by a 100-foot CMP easement that could prevent the 153-foot frontage point from providing access to the parcel. If this is the case, the land swap as proposed would leave a 22-foot strip of land as the sole access point to the lot. Although this is the existing point of access for the single-family home, this could prohibit any further development on that parcel beyond what is existing.
  - c. Additionally, further clarification needed on whether the removal of 134-feet of frontage creates an increase in the parcel's nonconforming status.
  - d. Action needed – Provide a stamped boundary survey showing existing conditions and a secondary plan showing post-conditions of both lots.
2. Conant Street is under moratorium. The plan as presented is serving the full development with the existing 1" water line. Depending on the use and fixture count of the proposed structures, this may not be sufficient water for the project. The applicant will need to verify with PWD on the capacity of the 1" line. If the 1" water line is not able to service the entire parcel as proposed a revised utility design and/or phasing schedule is required.
3. Stormwater

- a. Increase in drainage to SP4 – show drainage continues to CB in Conant Street and does not create an adverse impact to the intersection of the abutting driveway and Conant Street or revise design to keep all water on site.
  - b. Provide a concrete base for forebay for maintenance
  - c. Provide a level lip spreader with the outlet control structure
  - d. Provide inlet capacity of grate on outlet control structure
  - e. Provide cleanouts for filter bed
  - f. There is a .1” of a differential between the outlet control structure and the emergency spillway. Staff recommends a minimum difference of 6”.
4. Per the discussion during the Planning Board workshop, Staff recommends a reconfiguration of the parking to create a defined site entrance. Consider removing the 6-parking spaces located on the northerly half of the parking island and use this space to create a 9-foot landscape corridor. Extend the remaining parking island westerly to reduce the 24-foot travel way to create one-way traffic circulation (signage required) which will allow for one additional parking space. Units 1 and 2 can shift northerly 9-feet to allow for extra parking to the rear/behind those units. Extend the parking area toward the rear of the site (in the direction of stormwater features) for additional parking, as necessary. (See attached drawing)
  5. Buildings 1 and 2 and intended to be used as office space/retail. Building 3 is proposed as a gym and may require sprinkler system. Clarity on use of building 4 is needed to determine if a sprinkler system is required and to determine traffic impacts. Coordination with FD required for buildings 3 and 4.
  6. Include post-conditions with district standards table (lot size, frontage, gross maximum density factor, landscape factor, etc.)
  7. Extend sidewalk down Conant Street to connect with existing infrastructure. Sidewalk plan required.
  8. Provide a greater diversity of landscape species
  9. Enhanced landscaping at site entrance and along Conant Street
  10. Show signage and stop bars at points of conflict throughout the site.
  11. Provide building elevations for all units include building materials and color.
  12. Lighting Plan required.
  13. Provide a cost estimate on City form.
  14. Turning template for FD access

**Board Action:**

1. Provide feedback to the applicant regarding site layout, building elevations and off-site improvements

#### 4. 2020.03 – Subdivision & Site Plan– 35 Seavey Street – RMC Properties, LLC:

##### **WORKSHOP**

Tax Map: 040 Lot: 125  
Zone: City Center District

##### **Project Description**

The applicant is proposing a 4-lot subdivision to create 3-duplex lots with frontage along Seavey Street with the 4<sup>th</sup> lot being the remaining land.

##### **Project History**

February 29, 2020 – Neighborhood Meeting  
March 3, 2020 – Planning Board Workshop

##### **Staff Comments**

1. Draft easements for access and parking required with final submission
2. Draft association documents required with final submission
3. Provide variation in building elevations (architecture, color)
4. High water table in this area of the City may be problematic with basement design, if proposed
5. Open Space requirement – 6,851 sf or \$11,481 in lieu of fee
6. Provide update on encroachments from abutting parcel, including access and revise drainage plan, if necessary.
7. Provide documentation of neighborhood meeting to Planning Office (sign in sheet and minutes)

##### **Board Action:**

1. Site Walk
2. Public Hearing

## 5. 2020.04 – Site Plan Amendment – 84 Warren Ave - Units K & L – Delta Realty, LLC

### WORKSHOP

Tax Map: 047 Lot: 005

Zone: Gateway Commercial, Industrial Park district

### Project Description

The applicant is proposing a 23,100 sf steel building and 94-space parking area on units K and L of an approved condominium plan. The building is proposed to be used as a roller skating rink and the use is Private Indoor Recreation Facility.

### Project History

March 3, 2020 – Neighborhood Meeting

March 3, 2020 – Planning Board Workshop

### Staff Comments

1. Provide site plan of full parcel showing location of development as well as a blow up of just units K and L. Signature block required on full site plan (may be included on both, if preferred). Verify existing impervious cover to comply with SLODA permit and state existing conditions as plan note.
2. State existing and proposed space and bulk standards on plan. Application must demonstrate standards are met for both the Gateway Commercial and Industrial Park Districts for the portion of the lot located within each district.
3. Show district boundary on plan
4. Provide lighting plan with final application
5. Staff recommends connecting to public sewer in Chabot St. If proposing septic, full design with plume analysis required with final submission
6. Provide a drainage plan demonstrating all water is directed toward the pond on located to the rear of unit I.
7. Stormwater pond appears to require repair on northerly berm.
8. Provide maintenance logs for all BMPs to Planning Office
9. Site Plan shows paving in drainage easements. Revise plans or provide easement documentation demonstrating this is permissible
10. Location of signage for lot/parcel to be provided with final submission
11. Possible readdressing required to address along Fairlane 500 Drive
12. Provide pedestrian connectivity from overflow lots through the proposed parking area to the structure.
13. Enclosed dumpster required.
14. Final site plan should show dumpster and snow removal location
15. Final building design must be reviewed and approved by FD and will require full sprinkler system, external door to sprinkler room. Final knock box locations to be determined by FD.
16. Provide documentation of neighborhood meeting to Planning Office (sign in sheet and minutes)

### Board Action:

1. Site Walk
2. Public Hearing

## 6. 2020.05 – REFERRAL FROM CITY COUNCIL – Land Use Ordinance Amendment – 404 Sign Regulations

### WORKSHOP

#### Ordinance Description

The proposed amendment reorganizes Section 404 Sign Regulations to provide clarity and remove inconsistencies and establishes standards for temporary noncommercial signage on public property and within the public rights-of-way.

#### Ordinance History

February 3, 2020 – Referral from City Council  
March 3, 2020 – Planning Board Workshop

#### Staff Comments

At their February 3, 2020 meeting, the City Council provided a referral to review the City Ordinance regarding temporary signage. Currently, regulations for temporary signs are limited and does not clearly address temporary signage on public land. Through review of State statute and the Ordinances of neighboring municipalities, Staff has drafted a new Ordinance within Section 404 titled ‘Temporary Signage on Public Property and Within a Public Right-of-Way’. Further description of this section is provided later in this memo.

During the process of drafting the new temporary sign Ordinance, it became clear the entire existing Sign Ordinance is disorganized and, at points, overly vague making it difficult to interpret. This can create confusion for both applicants and Staff in ensuring all new signs are in compliance with regulations and that regulations are being enforced in a consistent manner. Therefore, Staff is proposing a complete rewrite of Section 404 to reorganize the Ordinance and locate a General Provisions section at the onset of Section 404, where now they are scattered throughout Section 404.

Notwithstanding the new regulations for temporary signage on public property/within the public right-of-way, the bulk of the rewrite is administrative in nature (i.e. reorganization, removing duplicative language, typos and providing clarity on vague standard language). Although this is a proposed as a rewrite, Staff is providing the Board with a document showing Section 404 in its entirety with strike-throughs and new language shown for you to view the adjustments to the current ordinance.

Below is a detailed summary of the changes proposed. Amendments that are new regulations or altering the standards of a district are highlighted in yellow.

**404.1 – Purpose** – Move purpose statement under General Provision to a new Purpose statement.

**404.2 – Application Process** – Codifying our process and placing of criteria in the appropriate section.

- A. Language moved from a City Center District statement to the front of the document to clarify the process.
- B. Contradiction in language - Qualified “unless otherwise stated” because sign area for dual faced signs are computed as one sign in the City Center District

#### **404.2 – General Provisions**

- A. Relocated from City Center District (404.3.1.1.D.) to General Provisions as this standard applies to all signs. Provision added that night renderings can be requested for proposed illuminated signs at the request of Staff during the review process, which is a current practice, as needed.

B-C. Relocated from 404.4 – 404.6. These standards apply to all signs in the City. The amendment relocates them from the end of the section, where they can be missed by applicants who are reading the Ordinance, to a centrally located General Provisions. No changes in standard, other than retitling previous section 404.4 “Light Source Regulated” to “Illumination” to be consistent with wording throughout the section.

D. **New Section.** The intent of this section is to regulate noncommercial signage, including political or campaign signage, on public property. Per state law, commercial signage is prohibited from public property as it is considered off-premise signage (standard G.1). The intent of the Ordinance is to allow temporary signage that does not impede pedestrian or vehicular safety or pose a threat to public or private property due to staking of signs or damage of falling signs that are made from heavy materials. This is achieved by limiting the sign size to 2’x3’ in size (state law permits noncommercial signage to be up to 8’ x 4’ in size), prohibiting illumination due to the proximity of signs to/within public rights-of-way, and restricting signs from specific parks, facilities and intersections that are areas of concern for public safety or welfare.

Standards 1, 5 and 8 are State statute and cannot be altered.

E. Banners within the public right-of-way are currently regulated within the City Center District 404.3.1.3.H (Temporary Community Event Signs) and Section 404.7 (Temporary Community Event Signs). Although these are titled the same, one is referring to banner signs that are hung on light poles and the other is regulating banners across the public right-of-way. The proposed amendment relocates and consolidates these standards to General Provisions section as well as amends the reviewing authority for banners across a public way to the Director of Public Services instead of the Code Enforcement Officer. Banners across the public way must meet DOT standards and are currently subject to the approval of the Director of Public Services. Some revisions to the language were made for clarity, however the standards were not altered.

F. Nonconforming Signs. Nonconformance and discontinuance is addressed within the Residential Districts, City Center District and as a general standard (404.8). The proposed amendment consolidates these three sections as well as creates a uniform standard across all zones. **This amendment consolidates the existing standards as nonconformance is now applied uniformly across all districts.**

Currently, nonconforming signs in the Highway Services, Gateway Commercial, Industrial Park, Prides Corner Smart Growth Area and Manufacturing Districts are not afforded the ability to alter or relocate their nonconforming signs without bringing the sign into full compliance with current standards. Signs in the rest of the City may alter or relocate their signs, provided they are reduced in size a minimum of 25%, lessening the nonconformity. **As this provision is currently provided to the majority of the City, Staff felt it was overly restricting to prohibit this allowance to signs in commercial districts.**

Additionally, provisions for continuance and discontinuance were added to be consistent with the structure of nonconformance provisions of 203. **The discontinuance provision as written currently exists within the City Center District. The proposed amendment would apply this to all signs throughout the City, which is consistent with our Nonconforming Use provisions.**

G. Variance. A prohibition on variances from the sign ordinance exists under Section 404.8. The amendment breaks apart the Nonconformance and Variance provisions for ease of reference.

#### **404.2 – Residential Districts**

Amendments within this section were made for the following reasons:

1. Revision to section title for clarity
2. Reorganization of section by sign type
3. **Removal of size restriction for nonconforming and conditional uses (current 404.2.D).** Legally Nonconforming and Conditional Use operations are permitted and should be afforded the same signage as all other legally existing buildings.
4. **Added clarification to temporary subdivision signs that the subdivision must be an approved subdivision prior to sign installation.** The Ordinance is clear that the intent of this provision is to allow signs during the construction of the subdivision. **Added a max sign square footage on a permanent sign that is consistent with the Business sign size of 16 sq ft.**
5. Reorganization of ‘Business Signs’
  - a. Language to Sign Allowance 1.a moved from previous H.(1).b with slight wording revision for clarity. No changes were made to the standard.
  - b. **Message Boards – New Language.** Message Boards are currently permitted within residential districts and are held by the standards outlined in Section 404.G (Signs in Highway Services District, Gateway Commercial District, Industrial Park Zoning District, Manufacturing District and Prides Corner SGA). The proposed amendment includes the standards pertaining to message boards within the residential districts in the residential districts section rather than referencing another section of the Ordinance. No changes were made to the standards. Clarity was provided that the intent of the message board is to maintain an unlit background with lettering or text to prevent glare in the public rights-of-way.
  - c. Illumination – language moved from previous H.(1).b. No changes were made to the standards.
6. Business Signs;
  - a. Remove language identifying business signs as temporary (existing 404.2.H.(1).a). The current wording of this provisions is confusing and unclear. Differentiation is not provided as to which signs are temporary vs permanent.
  - b. Stationary - Provision is separated to differentiate sign and lighting standards. Standards are proposed to be included with proposed ‘Sign Allowance’ and ‘Illumination’
7. Provision removed - Nonconforming sign provisions are included under proposed General Provisions

#### **404.3 – Signs in Highway Services District, Gateway Commercial District, Industrial Park Zoning District, Manufacturing District and Prides Corner Smart Growth Area**

Amendments within this section are as follows:

1. Reorganization of section for clarity, readability and sign type classification.
2. Proposed section 404.3.C.1 – relocated from existing 404.3.C, Area of Sign. No changes to the standard
3. Changeable Message Boards – Changeable message boards are currently permitted within these districts under the Illumination provision (existing 404.3.E). The proposed amendment relocates the message board standards from the Illumination provision to be included as a permitted sign type. No changes to the standards were made. Clarity was provided that the intent of the message board is to maintain an unlit background with lettering or text to prevent glare in the public rights-of-way.

4. **New Standard** – Prohibited materials clarified to be consistent with materials permitted in other districts as well as the general standards to address public safety (i.e. signs intended to distract motoring vehicles).

#### **404.4 – Signs in the City Center District**

This section of the Sign Ordinance is particularly disorganized. Amendments within this section include the following:

1. Preambles should not be in ordinance and is replaced with the purpose statement.
2. Reorganization and renumbering of section to consolidate standards to General Provisions, Illumination, Sign Types and Materials sections
3. Section 404.3.1.1.B Traffic safety and Illumination – section broken apart. Illumination standards moved to Illumination section. Statement on district setbacks do not apply to signs removed as there are no setbacks in the CCD so this provision is unnecessary.
4. Sign Permits (404.3.1.1.D – E) – Provision relocated to 404.1 General Provisions as this process is applicable to all sign applications in the City, with the exception of the insurance requirement which is specific to signs that are only permitted in the CCD.
5. Sections 404.3.1.1.G – H are standards that pertain to building mounted signage. Relocated to proposed 404.3.C.1
6. Section 404.3.1.1.I are standards related to temporary signage. Provision relocated to proposed 404.3.C.11, Sign Types Allowed)
7. Section 404.3.1.1.J - K is stricken as nonconforming sign discontinuance and alterations are addressed in the General Provisions, 404.1.
8. Section 404.3.1.1.L – Definitions. Staff is recommending to relocate definitions for ‘Commercial Message’, ‘Nonconforming Sign’ and ‘Signs’ to Section 201, Definitions, and removing ‘Animated Sign’, ‘Temporary Community Events’, ‘Public Way’, ‘Visible’ and ‘Window Sign’ as these terms are either not utilized within the Ordinance or are vernacular in nature.
9. 404.3.1.2 – Illumination. Illumination is addressed throughout the City Center District Standards. The proposed consolidates all Illumination Standards with slight rewording to eliminate duplicative language. No changes are proposed to the lighting standards from what they currently are. At the direction of the Code Enforcement Officer, the proposed amendment also broadens the current requirements to Nationally Registered Testing Laboratory listed rather than specifying Underwriters Laboratory.
10. 404.3.1.3 – Sign Types Allowed.
  - a. Building Mounted – relocation of standards from general section (as stated in comment 4 above.)
  - b. Message Board - Clarity was provided that the intent of the message board is to maintain an unlit background with lettering or text to prevent glare in the public rights-of-way.
  - c. Temporary Community Event Signs – Provision moved to General Provision (proposed 404.1.H.1, Banners within the Public Right-of-Way)
  - d. Temporary Signs located on Private Property – relocation of standards from general section (as stated in comment 5 above)
11. Sign Materials – Reorganized and clarified materials to be of solid construction.

#### **Sections 404.5 – 404.8**

1. Relocated to General Provisions, proposed 401.D, E, F, I and J, respectively, as described above in this memo.

#### **Board Action:**

1. Provide feedback to Staff
2. Schedule a Public Hearing