



City of Westbrook

DEPARTMENT OF PLANNING & CODE ENFORCEMENT

2 York Street

Westbrook, Maine 04092

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**WESTBROOK PLANNING BOARD
TUESDAY, SEPTEMBER 3, 2019, 7:00 P.M.
WESTBROOK HIGH SCHOOL, ROOM 114**

AGENDA

PUBLIC HEARING

1. **2019.21 – Ordinance Amendment – Chapter II Section 203 Nonconforming Use Provisions:** The proposed amendment establishes and clarifies standards for the alteration, reconstruction and expansion of existing nonconforming uses, structures and lots.
2. **2019.22 – Ordinance Amendment – Chapter IV Section 403 Village Review Overlay Zone. Section 404 Sign Regulations:** The proposed amendment addresses inconsistencies in sign language within the City Center District.

REGULAR MEETING

3. **Call to Order.**
4. **Approval of Minutes.**

NEW BUSINESS

5. **2019.21 – Ordinance Amendment – Chapter II Section 203 Nonconforming Use Provisions:** The proposed amendment establishes and clarifies standards for the alteration, reconstruction and expansion of existing nonconforming uses, structures and lots.
6. **2019.22 – Ordinance Amendment – Chapter IV Section 403 Village Review Overlay Zone. Section 404 Sign Regulations:** The proposed amendment addresses inconsistencies in sign language within the City Center District.

WORKSHOP

7. **2019.24 – Site Plan – 85 Bradley Drive – Clear H2O:** Discussion on a proposed renovation and 20,000 sf expansion to an existing structure and associated access drives and parking areas located within the Five Star Industrial Park. Tax Map: 005 Lot: 026 Zone: Manufacturing District
8. **2019.26 – REFERRAL FROM CITY COUNCIL - Land Use Ordinance Amendment –Retail Class 4:** The proposed Ordinance establishes standards for Retail Class 4 establishments located within the City Center District.

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



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Fax: 1-866-559-0642

DATE: August 30, 2019

TO: Planning Board

FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Asst. City Planner

Cc: Plan Review Team

RE: September 3, 2019 Planning Board Meeting

1. **2019. 21 – Ordinance Amendment – Chapter II Section 203 Nonconforming Use Provisions**
 2. **2018.22 – Ordinance Amendment – Chapter IV Section 403 Village Review Overlay Zone. Section 404 Sign Regulations**
 3. **2017. 24 – Site Plan – 85 Bradley Drive – Clear H2O – Renovation and 20,000 sf expansion**
 4. **2019. 26 – Ordinance Amendment –Retail Class 4 in the City Center District**
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1. **2019. 21 – Ordinance Amendment – Chapter II Section 203 Nonconforming Use Provisions**

PUBLIC HEARING

Ordinance Description:

The proposed amendment establishes and clarifies standards for the alteration, reconstruction and expansion of existing nonconforming uses, structures and lots.

Ordinance History:

July 2, 2019 – Planning Board Workshop

August 6, 2019 – Planning Board Workshop

September 3, 2019 – Public Hearing

Staff Comments:

The existing Section 203 Nonconforming Use Provisions is limited and unclear in nature and can be overly restrictive in terms of the maintenance and repair of nonconforming structures. Upon review of the existing Ordinance, neighboring municipalities and discussions with the Code Enforcement Officer, Staff has provided the Board with a draft Ordinance that clearly addresses nonconforming uses, structures and lots within the City. The intent of the Ordinance is to encourage those in nonconformance within the City to comply with existing standards while still affording the flexibility of property and business owners to maintain existing structures and uses. (City Solicitor reviewed the document and provided updates to the language as well.)

Nonconforming Uses

- The draft Ordinance allows for the expansion of existing residential nonconforming uses, including the addition of accessory structures, such as an unattached garage or shed. While the intent of the Ordinance is to discourage nonconforming uses within the City, Staff did not want to overburden a residential home which became non-conforming due to an amendment to the zoning map or district.

- The draft language for nonconforming extractive industry is consistent with the existing Ordinance.
- All other expansions of nonconforming uses are prohibited.

Nonconforming Structures

- The existing Ordinance does not permit for the replacement of a nonconforming structure within the same footprint. Through conversations with the Code Enforcement Officer, it became apparent that this was creating a safety concern due to property owners who would not be able to obtain the size or density that their existing nonconforming structures provide if that structure were required to meet current standards and therefore are unable to provide necessary building upkeep if that maintenance involves the removal of any part of the building. The proposed Ordinance would allow the restoration or replacement of a nonconforming structure, provided the new structure does not increase the nonconformance, the restoration or replacement is necessary as a result of a cause other than the willful act of an owner or their agent and the restoration or replacement occurs within a specified time frame from the date of damage.

Nonconforming Lots

- Although the proposed amendment is a repeal and replace, the draft language for nonconforming lots is consistent with the existing Ordinance with the following exceptions:
 - Staff revised the language from “substandard lots” to “nonconforming lots” to remain consistent throughout the Ordinance
 - Slight reorganization within the Design Standards subsection for clarity.

A few minor edits were made to the Ordinance language in response to the August 6th workshop. Changes to the language are highlighted in yellow.

After posting the public hearing for the item, Staff found Nonconforming Lots and Structures are not currently defined in the Ordinance. Staff have added the language for the Planning Board’s review. However, this issues was identified after the item was publicly noticed and therefore Section 201 was not included in the posting. Additional noticing for Section 201 is required prior to a formal recommendation by the Board. Staff is requesting feedback from the Planning Board on the proposed language and recommends the Planning Board to continue the public hearing to the October 1st agenda to then make a formal recommendation to the City Council.

Board Action:

Provide any comments on the proposed Language.

Request Continuation of the Public Hearing to October 1.

No further action is needed by the Planning Board at this time.

**2. 2019.22 – Ordinance Amendment – Chapter IV Section 403 Village Review Overlay Zone.
Section 404 Sign Regulations**

PUBLIC HEARING

Ordinance Description:

The proposed amendment addresses inconsistencies in sign ordinance language within the City Center District.

Ordinance History:

August 6, 2019 – Planning Board Workshop

September 3, 2019 – Public Hearing

Staff Comments:

This existing Ordinance has some contradictory statements in sign materials stating that metal awnings both are and are not permitted within the City Center District. The amendment clarifies a metal awning is permitted within the district as well as removal of language specific to the supporting structure which is not necessary.

Additionally, Staff finds the requirement of an incandescent light bulb when using spotlight fixtures in the City Center District to be overly restrictive, particularly as LED lighting is acceptable when used in other fixtures (gooseneck, etc.). The amendment allows for LED or incandescent light bulbs in all lighting fixtures so long as the lighting is down casting and does not present a safety hazard within the public rights of way.

Lastly, in reviewing the Ordinance, Staff found that when the previously Industrial parcels were rezoned to the Manufacturing District in 2010, the sign ordinance was not amended to include the newly created zone. Staff is recommending the Manufacturing District be included with the regulations for Section 404.3, which provides standards for the Industrial, Gateway Commercial, Highway Services and Prides Corner Smart Growth zones. This proposal does not alter or amend any standards.

As the posting for the September 3rd public hearing was specific to amending language pertaining to signs within the City Center District, Staff recommends continuing the public hearing to the October 1st Planning Board meeting so the amendment can be noticed appropriately.

Board Action:

Provide any comments on the proposed Language.

Request Continuation of the Public Hearing to October 1.

No further action is needed by the Planning Board at this time.

3. 2019.24 – Site Plan – 85 Bradley Drive – Clear H2O

WORKSHOP

Tax Map: 005 Lot: 026

Zone: Manufacturing District

Project Description

Discussion on a proposed renovation and 20,000 sf expansion to an existing structure and associated access drives and parking areas located at 85 Bradley Drive within the Five Star Industrial Park.

Project History

August 21, 2019 – Neighborhood Meeting

September 3, 2019 – Planning Board Workshop

Staff Comments

1. Stormwater treatment required with final design
2. Verification needed on ability to build within the drainage easement. May require an amendment to the original subdivision plan to remove the drainage easement from the site.
3. Utility pads may not be located within the side setback
4. The existing hydrant located on the site must be maintained
5. Include a lighting plan with final submission
6. Provide auto-turn with final submission
7. All buildings must be fully sprinkled including above and below all suspended ceilings and dry heads under all outdoor covered patios
8. Letter of capacity for water and sewer required
9. Stamped electrical plans are required with the building permit submission
10. One fire system for entire building is acceptable, provide separate tamper for tenant space
11. Knox box locations – front of building, rear of building and sprinkler room
12. Sprinkler connection should be located next to front entrance
13. Smoke detectors in the tenant area of the building will be required prior to occupancy of new construction
14. Final plan must include a plan note demonstrating the parking requirement for the proposed use is met
15. Provide color elevations with materials indicated with final plan submission
16. Provide a landscape plan with final submission
17. Include a trip generation report with final submission
18. Provide sign rendering with final submission
19. Remove '22 spaces' from the parking area of the plan (leftover from old design)
20. Neighborhood Meeting – Submit a copy of the notice sent to abutters along with an attendance sheet and minutes from the meeting to Planning Staff
21. Final Plan should include signature block and zoning standards for the Manufacturing District

Board Action:

1. Site Walk – or a virtual site walk can be provided at the meeting.
2. Public Hearing

4. 2019.26 – REFERRAL FROM CITY COUNCIL – Land Use Ordinance Amendment – Retail Class 4 – Gas Stations in the City Center District

WORKSHOP

Ordinance Description:

The proposed Ordinance establishes standards for Retail Class 4 establishments located within the City Center District to allow the use as a conforming use under specified circumstances.

Ordinance History:

July 1, 2019 – Referral from City Council

September 3, 2019 – Planning Board Workshop

Staff Comments:

There are currently four existing gas stations (defined as Retail Class 4 in the Ordinance) located in the City Center District. Retail Class 4 establishments are not a permitted use within the City Center District and therefore the existing gas stations are not permitted to expand per the Nonconforming Use Provisions, Section 203. The intent of the proposed Ordinance is to allow the existing businesses as permitted uses, thereby allowing for renovations and expansions, while maintaining the current character of the downtown.

There have been discussions over time that some of these Gas Stations would like to re-invest in their properties, but it could only be done if there was the ability to re-organize their sites or potentially acquire adjacent parcels and with the gas station use being non-conforming, they cannot expand or relocate the non-conforming use.

This item was brought to the City Council to see if there was general support for allowing gas stations to be permitted uses in the City Center District, as staff did not wish to bring a proposal to the Board if there was not going to be support for it at the Council. The Council's discussion did provide some reservations on allowing the use, but in general they felt this was a discussion worth having and provided a positive referral to the Planning Board.

At the direction of City Council through Legal review, Staff have drafted an "Overlay" proposed approach and is seeking direction from the Board on the language.

- Retail Class 4 Overlay Zone

Develop an overlay zone to be located over the parcels currently operating as a Retail Class 4 use. This would limit the total number of establishments to those map/lot parcels stated in the overlay section of the ordinance which we are specifying the current four (4) locations. If any new or relocated establishments were proposed outside of the four (4) parcels stated in the ordinance, it would require an ordinance amendment and would therefore be under the consideration/discretion of the Planning Board and City Council.

Staff feel this approach provides the most control for the City while still allowing for existing stations to expand, renovate, and allow re-investment in these downtown properties. The use of the Map/Lot parcel affords acquisition of adjacent parcels into the current gas station parcels. The zoning map would have a reference to the Overlay with a statement "Refer to Ordinance for specified parcels"

Board Action:

1. Provide feedback to Staff
2. Public Hearing