

**WESTBROOK PLANNING BOARD**  
**TUESDAY, APRIL 2, 2019**  
**MINUTES**

**Present:** Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (At Large), Rebecca Dillon (Ward 1), Dennis Isherwood (Ward 2), Joseph Marden (Ward 3), Robyn Tannenbaum (Ward 4), Nancy Litrocapes (Alternate)

**Absent:** Kim Fickett (Alternate), John Turcotte (At Large)

**Staff:** Jennie Franceschi

MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING PLANNING AND CODE ENFORCEMENT at 207-854-0638 ext. 1220 and [lgain@westbrook.me.us](mailto:lgain@westbrook.me.us).

**Ed Reidman** explained the procedure for a Public Hearing.

\*\* Editor's Note – Technical problems no recording and no sound

**PUBLIC HEARING**

**1. 2019.03 – Site Plan – 15 Saunders Way – J.B. Brown & Sons: The applicant is proposing a new 40,000 sf warehouse/office building. Tax Map: 042 Lot: 013 Zone: Industrial**

**Dan Riley** Sebago Technics on behalf of JB Brown & Sons presented the project. Only revision is landscaping around the building and around near abutters. Meets all standards. Tenants has not been identified. The metal building will be subdivided as needed. Storm Water, Utilities are on site. Questions?

**Project Description**

The applicant is proposing a new 40,000 sf warehouse/office building on their existing Industrial mixed-use parcel.

**Project History**

March 5, 2019 – Planning Board Workshop

March 26, 2019 – Neighborhood Meeting

April 2, 2019 – Public Hearing

**Staff Comments**

1. Fees – All outstanding noticing fees due prior to public hearing.
2. Provide concrete base on all forebays for maintenance
3. Revise cost estimate to include as-built plans
4. Add a plan note to the final plan indicating landscape factor standards is met
5. Provide elevations to the Planning Office, color and materials proposed.
6. Verify PWD water capacity letter
7. Final edited plans with conditions stated on the signature sheet provided to the planning office in both paper and mylar form by Monday April 1. (One set of paper, one set of mylars)

**Jennie Franceschi** applicant has addressed the comments and the draft motion with conditions is within your memo.

**Public Hearing open**

No comments

## Public Hearing closed

2. **2018.59 – Subdivision Plan – 138 Hardy Road – Michael Pednault: The applicant is proposing a 7-lot subdivision located at 138 Hardy Road. Tax Map: 020 Lot: 005 Zone: Rural District**

### Project Description:

The applicant is proposing a 7-lot subdivision located at 138 Hardy Road. The land is part of two family trusts with the Gowan Family. The first plan shows the entire limits of the land and the subsequent plans show the two trust parcels separately. The two trust parcels had previously cut off 1 lot from each parcel within the last five years and are proposing to cut each of the remain trust lands into 3 parcels thus we are reviewing this project as required by state law as a subdivision.

### Project History:

January 15, 2019 – Planning Board Workshop

February 28, 2019 – Recreation and Conservation Commission

April 2, 2019 – Public Hearing

Jennie staff does not support – all projects will need – CMP easement public – will meet intent and not be encumber – defer to Rec to speak more to that point – Board want do have provisions – table then planning vote – do not meet the application – hold for Recreation and Conservation Commission

### Staff Comments

1. **Open Space** – The applicant is requesting a waiver of the Public Open Space requirement. Per the most revised plans dated March 2019, the applicant is required to provide approximately 27,300 square feet of open space, or pay an in-lieu-of fee in the amount of \$45,750. See applicant’s attached letter for justification.
  - a. **Staff Comment:** Staff does not support the waiver of the open space requirement for the following reasons:
    - i. Although the intended recipients of the subdivided parcels are family members of the trust beneficiary, the proposed dividing of the land meets the state definition of subdivision and is therefore not exempt from subdivision review.
    - ii. The two lots to be subdivided total over 32 acres of vacant, forested land. Although the applicant is not maximizing the density of these lots and has expressed an interest in the subdivided lots remaining forested, Staff does not find this meets the intent of the Open Space requirement for “reservation of land for parks, playgrounds or conservation areas”. Further, there is no mechanism to prevent these lands from being developed further in the future.
    - iii. Staff has no knowledge of any previous subdivisions where a waiver was granted for the open space / in-lieu-of fee requirement.
  - b. During the January 15<sup>th</sup> 2019 workshop, the Planning Board instructed the applicant to present their request to the Recreation and Conservation Commission. The applicant met with the Commission on February 28<sup>th</sup>. **The Commission voted unanimously against the waiver and has provided Staff with the following comments:**

- i. The Recreation and Conservation Commission, upon evaluation of the request to waive the public open space requirement for the 138 Hardy Road Subdivision proposal, voted unanimously against recommending the waiver to the Planning Board.

In considering the waiver request, Commission Members reviewed (1) the letter from the applicant requesting the waiver, (2) a plan view of the subdivision, and (3) a memo from the Planning Department in response to the waiver request. Additionally, Rec/Con Members reviewed and discussed relevant provisions of the City's Ordinances and Comprehensive Plan and provided the following commentary to the Board:

***It is the position of the Commission that there is no basis upon which to grant an open space waiver.***

***First, the relevant provisions of the Comprehensive Plan and City Ordinances indicate that the two applicable zones (Rural District and RGA-3) are the only two in the City providing cluster density incentives, which are designed to preserve more open space as an environmental protection measure; large-lot development is the antithesis to cluster development and one of the most environmentally impactful ways to build out the remaining portions of the City.***

***Next, no conservation or recreation measures of any kind have been proposed for the area by the applicant; therefore, not only would a waiver constitute a public giveaway disproportionately benefitting one landowner, but there is nothing in place to protect any part of the forested area the applicant is claiming to intend to preserve.***

***Finally, a waiver could incentivize other owners of large plots to take a similar approach in subdividing, with the potential result that these zones would not be built out as intended in both the Comprehensive Plan and ordinances; a result of substantial non-conformance with the same.***

Unless further information is provided that constitutes a basis upon which to grant a waiver, the Recreation and Conservation Commission has concluded that it is in the best interests of the citizens of Westbrook **that the requested waiver not be granted.**

2. During the workshop the abutter located at Tax Map20 Lots 5-A and 5-E requested a fence be required along their property lines as part of the Planning Board approval. The applicant has responded by providing a 75-foot no cut/no disturb buffer along the shared property line. Staff supports this vegetated buffer and finds it will appropriately address the privacy of the abutting property. Final plans must be revised to note and further easement a "no cut-no disturb" easement on the plans.
3. Driveways may not block any drainage ditches within the public right-of-way. All driveways shall allow for city drainage to pass unrestricted.
4. AutoCAD files on Maine State Plane Coordinates required.
5. Final revised plans in mylar and paper (2 of each) with conditions of approval required for signature.

**Michael Pedneault** on behalf of Nancy Gowen, owner of the property explained the family subdivision request and request a Public Open Space waiver. Recreation Conservation did not support this request but the Planning Board has the authority to grant such a waiver as stated in the Westbrook Ordinance.

\*\* Editor's Note – Technical problems no recording and no sound

**Ed Reidman** the Planning Board will hold the Recreation Conservation comments until after the Public Hearing, then they can give their testimony.

### **Public Hearing open**

**Phil Spiller** on the Recreational Conservation – I am wondering if we can blow up the plan and show where the parcels are located.

**Ed Reidman** I will make a note and ask that after the Public Hearing.

**Mart Klement** 24 Methodist Road happy to hear about buffers and happy to see the plan and answer our questions

**Jane Murphy** 1 Sawyer Road – novice to the meeting – live across – concern of buffer and roads to the land – watch on Methodist Road – on the corner will be disruptive. Land preservation – we respect development but love land and any buffers understanding what is decided.

### **Public Hearing closed**

**Ed Reidman** I heard the request to show the parcels within the subdivision request.

**Michael Pedneault** South on Methodist Road is another parcel that will be split and sold to others, non-family members. We minimize the size of this lot that is just under two acres that is the only other lot off of Methodist Road that will get a house.

That is limited as far as development is concerned. The other parcel that is in the back which is not labeled as that is being given to my Aunt considered a sale as an abutter so therefore does not have to go through this process. She will cover that land within her own lot as it exists.

Lot A was actually given to my sister in 2017 but because that is within a five year time period it has to be considered as part of this subdivision so we had to include it even though she lives in the house on that land that is along Hardy Road.

The abutter with the fence concern lives here and own this as well so the seventy – five foot forested buffer is in this area which abuts the back of their house. Then the long driveway that comes in through the field off Hardy Road, between their land and where Nancy currently lives that enters into the woods and goes to the highest point of that property. When you are on Hardy Road you will not be able to see that house. It is in a heavily wooded area and the intent is to be maintained as a heavily wooded area and the lot is just under eight acres.

As we pan over going up Hardy Road the field adjacent to Nancy's house at the corner of Sawyer Road there is potential for another house lot there. Nancy has not decided what she is going to do with that parcel yet but is potential for another house.

Then the next lot considered as lot D is just under seven acres, so there is one house left for that lot which is pushed back into the woods away from the field as well.

The whole intent of this subdivision is to maximize lots up for sale and is not meant for profit, it is not meant for development, building of houses and selling of houses. That is not the intent of this subdivision.

That is where we are, and I hope I have answered the questions

**Ed Reidman** will you need to build roads?

**Michael Pedneault** every lot has its own road frontage that meets the Ordinance and we are well above the density requirements. They all have their own utilities, public water access. The provision for underground electric is all in there. That is already to go.

**Ed Reidman** I did not note any other questions, could the Recreation Conservation member come to the microphone?

**Melissa Hamlin** Chair of the Recreation and Conservation Commission. The Planning Department asked us to be present tonight in case you have any questions. They also asked us to provide the reasons that we recommend that the waiver not go through that is in your packets.

In considering the waiver request, Commission Members reviewed (1) the letter from the applicant requesting the waiver, (2) a plan view of the subdivision, and (3) a memo from the Planning Department in response to the waiver request. Additionally, Rec/Con Members reviewed and discussed relevant provisions of the City's Ordinances and Comprehensive Plan and provided the following commentary to the Board:

**It is the position of the Commission that there is no basis upon which to grant an open space waiver. First, the relevant provisions of the Comprehensive Plan and City Ordinances indicate that the two applicable zones (Rural District and RGA-3) are the only two in the City providing cluster density incentives, which are designed to preserve more open space as an environmental protection measure; large-lot development is the antithesis to cluster development and one of the most environmentally impactful ways to build out the remaining portions of the City.**

**Next, no conservation or recreation measures of any kind have been proposed for the area by the applicant; therefore, not only would a waiver constitute a public giveaway disproportionately benefitting one landowner, but there is nothing in place to protect any part of the forested area the applicant is claiming to intend to preserve.**

**Finally, a waiver could incentivize other owners of large plots to take a similar approach in subdividing, with the potential result that these zones would not be built out as intended in both the Comprehensive Plan and ordinances; a result of substantial non-conformance with the same.**

**Unless further information is provided that constitutes a basis upon which to grant a waiver, the Recreation and Conservation Commission has concluded that it is in the best interests of the citizens of Westbrook that the requested waiver not be granted.**

**Ed Reidman** anyone on the Board have any questions?

No questions

**Melissa Hamlin** Chair of the Recreation and Conservation Commission the reasons we list in the statement that we were asked to provide we take seriously. We are members of the commission as representatives of the City of Westbrook and this appears to be a significant public give away if a waiver is granted so we think there needs to be a substantial basis. Thank you

Ed Reidman thank you for your work on the Commission.

### **Public Hearing is closed**

Ed Reidman explained the Public Hearing and Workshop process for public speaking.  
Any questions at this point from the Board?

No questions

3. **2019.01 – Site Plan/ Village Review Overlay Zone/Shoreland Zoning – 3 Vallee Square – Vallee Square Holding, LLC: The applicant is proposing a 3,300+/- sf expansion to an existing commercial business (restaurant) including a new second floor event space, roof-top deck and covered porch. Tax Map: 032 Lot: 229 Zone: City Center District, Village Review Overlay Zone, General Development-SZ**

### **Project Description**

The applicant is proposing a 3,300+/- sf expansion to an existing commercial business (restaurant) including a new second floor event space, roof-top deck and covered porch. Tax Map: 032 Lot: 229 Zone: City Center District, Village Review Overlay Zone, General Development-SZ.

### **Project History**

February 20, 2019 – Village Review Overlay Committee

March 4, 2019 – Neighborhood Meeting

March 5, 2019 – Planning Board Workshop

April 2, 2019 – Public Hearing

### **Staff Comments:**

1. Submit documentation of neighborhood meeting to Planning Office
2. All outstanding fees due: \$750 Final Application Fee and \$281.50 public noticing fees
3. Fire lane must be striped and signed 'no parking zone'
4. Provide a narrative response to the VROZ comments (decorative railing). Provide railing detail/cut sheet prior to the public hearing
5. All roof drainage must go into city storm drainage system.
6. Final edited plans with conditions stated on the signature sheet provided to the planning office in both paper and mylar form by Monday April 1. (One set of paper, one set of mylars)

**Mark Sengelmann** Alpha Architects presented aspects of the project on behalf of James Tranchemontagne and Guy and Jane Cote. We have addressed all the comments from the original meeting a few weeks ago. Stormwater ties into the City's system, comments about a decorative fence from the Village Review Committee.

Showed the fence slide.

The fence is showcasing Westbrook's history that will have historical elements referred to the old Carr Shoe Store, Phil's Pizza, Chickee's, the old Police Station, Rudy Vallee and past Military Veterans. We have addressed that concern.

There was a concern about not having parking at the rear, so we have noted that on the plan.

The rest of the building that faces Main Street that will be sprinkled and alarmed within six months of the Certificate of Occupancy.

As noted last week this is the first downtown building to pop up and is making a significant leadership role within the community to build up. The roof deck will be a big addition to the community with sweeping views of the river and when the ice disc comes back you will be able to see it again.

\*\*Editor's note - Public laughter

**Ed Reidman** questions from the Board?

No questions

**Public Hearing Open**

No Comments

**Public Hearing Closed**

**4. 2019.04 – Ordinance/Zoning Map Amendment – Industrial Zone: The proposed amendment rezones parcel 042-000-013 to Industrial Park District to bring the parcel up to date with current zoning districts and associated standards of Appendix A, Land Use Ordinance.**

**Jennie Franceschi** the proposed amendment rezones parcel 042-000-013 to Industrial Park District to bring the parcel up to date with current zoning districts and associated standards of Appendix A, Land Use Ordinance.

The parcel located at 15 Saunders Way (Tax Map 042 Lot 013) is currently zoned “Industrial” District, which is an outdated zoning district that is no longer defined in the current Land Use Ordinance. Due to a court remand of the ordinance at that time on this specific parcel, the parcel was required to be returned to its former zoning prior to the approved 2004 zoning map. All of these actions occurred prior to the current owner purchasing the property.

In working with the current property owner, JB Brown, it was agreed that this parcel should be corrected to be current with the existing standards. The current district that most closely matches the old “Industrial” District is the “Industrial Park District”. Rezoning the parcel to the Industrial Park District will not create any nonconformances and will bring the lot into current standards.

No language changes to the Land Use Ordinance are proposed. This is a zoning map amendment only.

**Ordinance History**

March 5, 2019 – Planning Board Workshop

April 2, 2019 – Public Hearing

**Public Hearing open**

No comments

**Public Hearing Closed**

**REGULAR MEETING**

**5. Call to Order.**

**6. Approval of Minutes.**

**Rene Daniel move to approve the March 19, 2019 minutes as presented.**

**2<sup>nd</sup> Dennis Isherwood**

**The vote is unanimous in favor 7-0**

**NEW BUSINESS**

**7. 2019.03 – Site Plan – 15 Saunders Way – J.B. Brown & Sons: The applicant is proposing a new 40,000 sf warehouse/office building. Tax Map: 042 Lot: 013 Zone: Industrial**

**Ed Reidman** questions from the Board?

No questions.

**Rene Daniel** move the Site Plan application for J.B. Brown & Sons for a new 40,000 sf warehouse/office building on an existing Industrial mixed-use parcel located at 15 Saunders Way Tax Map: 042 Lot: 013 Zone: Industrial is **approved with conditions** and the following findings of fact, conclusions and conditions as stated on pages **2 through 3** of this Staff Memo dated March 29, 2019 are adopted in support of that approval.

**Site Plan – Finding of Fact:**

Utilization of the Site – *Adequate.*

Adequacy of Road System - *Adequate.*

Access to the Site – *Adequate.*

Internal Vehicular Circulation - *Adequate.*

Pedestrian and Other Modes of Transportation - *Adequate.*

Stormwater Management – *Adequate.*

Erosion Control - *Adequate.*

Utilities – *Adequate.*

Hazardous, Special and Radioactive Materials – *N/A*

Financial and Technical Capacity – *Adequate. The applicant has provided a letter of financial capacity from NBT Bank dated March 4, 2019. Applicant has retained the services of Sebago Technics which demonstrates technical capacity.*

Solid Waste – *Adequate.*

Historic, Archaeological and Botanical Resources – *Adequate*

Landscape Plan – *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** to the 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 the standards of this section.
11. The proposed site plan **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.

**Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated March 5, 2019 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. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate.
  - d. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - e. 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. This fee is required per Section 500.8 of the Land Use Ordinances in order to cover the costs of inspection of site improvements - \$10,267
  - f. 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. A performance guarantee in the amount of \$513,381 is required.

- g. Coordinate with the E911 Coordinator on addressing of the buildings.
  - h. 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.
  - b. All site improvements must be installed, unless a performance guarantee amount is held in the amount of the remaining improvements.
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.

**2<sup>nd</sup> by Dennis Isherwood**

**Ed Reidman** are you aware of the two financial conditions?

**Vin Veroneau** yes

**Ed Reidman** questions or comments from the Board?

No comments

**The vote is unanimous in favor 7-0**

**8. 2018.59 – Subdivision Plan – 138 Hardy Road – Michael Pednault: The applicant is proposing an 8-lot subdivision located at 138 Hardy Road. Tax Map: 020 Lot: 005 Zone: Rural District**

**Jennie Franceschi** it is supposed to be a seven lot subdivision.

**Ed Reidman** questions or comments from the Board?

**Joe Marden** if the applicants position is to transfer these all to family and has been held for more than five years, is there a reason that this does not qualify for exemption from subdivision law?

**Jennie Franceschi** the transfer of land to two land trusts placed the land into an entity that is not family. At that point the exemption for providing those lots to family members is no longer.

**Joe Marden** okay, so now it is held by land trust.

**Jennie Franceschi** there are two land trust that the land was divided into.

**Ed Reidman** other questions of the developer?

**Dennis Isherwood** once the lots are split into the new seven lots, is there anything in place that says they cannot sell their lot?

**Michael Pedneault** no there is nothing in place.

**Dennis Isherwood** okay that is all I need.

**Robin Tannenbaum** can you show me where the seventy-five-foot buffer is located?

\*\*Editor's note – applicant showed buffer on overhead screen

**Robin Tannenbaum** do you know how many square feet that is?

**Michael Pedneault** 550 x 75

**Robin Tannenbaum** the comments from Jennie required space to be provided is 27, 300 square feet so that is a little more than ½ an acre. I am sympathetic of the big picture of what you are going through but I am curious that a ½ an acre from 34 acres that would need to be set aside.

**Michael Pedneault** for public open space?

**Robin Tannenbaum** yes

**Michael Pedneault** so our concern is providing access to the public to use the land. Obviously this is a tight knot family that all have properties that is adjacent to what is happening.

The challenge there is the smallest of the lots are the ones that will be sold off and within the ordinance it actually states that the public open space is to benefit the residences of the development which I find as a misnomer. Per that language it does not mean that it is public open space. I understand the intent behind of why that is in the Ordinance is to benefit the people within the development and that makes sense to me, but for what we are trying to accomplish it does not make sense to us. I am going to my mother's house, I am walking through the woods, why do I have to allocate that in the deed that I can do that. It is a weird situation that we are dealing with and that is why we are pushing forward to get this waiver passed.

I will state for the record that the Planning Board is the determining factor on the voting of this waiver. It is in the purview of the Planning Board to grant this waiver. I appreciate the Rec & Con's comments however it is ultimately up to the Planning Board for that determination.

The other point I think you we trying to allude to, the seventy-five (75') foot buffer could then become the public open space. The challenge there is what does that mean for us? Yes it is unbuildable, it is designated that piece of land that cannot be developed, there is no cut zone, the trees need to be standing but does that meet the intent of why that is in the ordinance? I do not agree that it would.

That is the challenge that we are presented with trying to meet the intent of why that is in the Ordinance. Even if we were to provide a space that a traditional development should, it still does not stand the intent of why that is in the Ordinance and to benefit the residents within the development.

We could have maximized this land and Nancy could have sold off a bunch of lots and I agree, then in that instance that is something that should be maintained and not waived but in this situation I completely disagree with that intent. That is why we have presented the waiver request.

**Robin Tannenbaum** Jennie, what are the specifics to open space requirement, like how much is public and do you have to have parking for the public? Can it be on the corner versus in the middle?

**Jennie Franceschi** the intent is we are supposed to provide some level of an amenity with every one of these projects on all developments that comes to the City. We have used various ways, depending on what the land bares or if the land cannot bare then they pay the in lieu of fee then the Rec and Con will make a recommendation on how those funds should be allocated within that region of the community.

In this particular instance that has a CMP corridor that runs through the property that could function as a public easement to connect Methodist Road and Hardy Road and provide that public access point through that land. It would not be in an area in which a building would be placed and it is the intent that we are not supposed to be waiving.

We need to be consistent with all projects and I understand that this particular project is initially going to family and that is fantastic for the family however there is nothing that says after that first sale that these

lands cannot be resold, re-subdivided and a condo complex could go on any of these parcels based on the density of this particular district.

The manner of which the lots are being created and not necessarily how the Land Use Ordinance intended subdivisions to occur. Trying to reduce curb cuts, have as few as possible. Have an internal road system that would function.

There are very few units being placed on this land at this time that does not mean that is how the land will be in perpetuity. From a consistency stand point, Staff does not feel that we should take or choose projects on how or when to apply the ordinance. We should apply the Ordinance uniformly.

**Ed Reidman** in the Staff Memo there is a comment that a fee could be made and resolve the physical conflict. For those who do not see it, it is \$45,750.00 dollars. The staff comments do not recommend the waiver, the Recreation and Conservation Commission voted unanimously against the waiver.

There is no need for a professional seal on these plans that is before us other than the land surveyor stating the land is there?

**Jennie Franceschi** correct where there are not private ways being built, no Civil Engineer needed to be involved.

**Joe Marden** curious moving forward on the motion, is a positive waiver motion or negative? What is the best way to proceed?

**Jennie Franceschi** I would recommend on the waiver to format it as a positive question, however the waiver ends up being a portion of your vote and is not an actual vote on the application. That is where I mentioned that you can ask the applicant if they wish to table themselves to then go back to providing a sufficient open space plan. Otherwise if you did move forward on the next vote that is where you would have to make the decision whether or not the current application meets the intent of the Ordinance.

**Ed Reidman** I will pose the question; if the waiver motion fails do you wish to have the application tabled to then provide the Board with an Open Space plan?

**Michael Pedneault** yes

**Rebecca Dillon** I have a few questions, say the waiver is granted and then two (2) years from now, lot B gets sold and subdivided into what would be considered a traditional subdivision with one road and four or five lots, would then the open space kick in again in that situation?

**Jennie Franceschi** each project needs to have a component that is their own.

**Rebecca Dillon** that would come back as a new subdivision.

**Jennie Franceschi** the new subdivision with a small component, they would have to provide some level of open space on a specific lot and come back to the Board with an open space for that particular project.

**Rebecca Dillon** I am struggling with this as I understand the intent of open space requirement is in the Ordinance. It is a good thing and we have only seen it when it is thirty-four acres, a road and several parcels. This is definitely a unique situation and I also understand the strong hesitancy on many Board members minds about granting a waiver because what does granting a waiver do in the future? It could open Pandora's Box.

My question to the applicant is the Central Maine Power easement a compromise where that could be considered open space and less obtrusive instead of having the seventy-five foot forested buffer area?

**Michael Pedneault** that has been up for consideration. We had that discussion with Rec and Con as well. It is an established trail. The only concern we have is the public access for that trail and going back to the Ordinance, the first sentence in the public open space definition states that it is to benefit the residents in the development not open to the public or the City. If we were to propose that and go forward with that approach

then what does that look like? Can we post signs because it is just supposed to benefit us and what does that look like? Does it have to be encumbered by easement within the deeds themselves? Yes that have been under consideration.

**Rebecca Dillon** is there a reason why we cannot have answers to that tonight?

**Jennie Franceschi** the consideration of the CMP easement has been our hope for the project is that we saw that as a way to achieve the intent of the Ordinance. We have been dealing with public access to lands and not just people within subdivisions having access. The public access between the two roads makes the less cumbersome to their land. We were trying to look how to make this work within the confines of their land.

**Dennis Isherwood** I move to table this item

2<sup>nd</sup> by Nancy Litrocapes

**The vote is 6-1 (Rene Daniel Opposed)**

**9. 2019.01 – Site Plan/ Village Review Overlay Zone/Shoreland Zoning – 3 Vallee Square – Vallee Square Holding, LLC: The applicant is proposing a 3,300+/- sf expansion to an existing commercial business (restaurant) including a new second floor event space, roof-top deck and covered porch. Tax Map: 032 Lot: 229 Zone: City Center District, Village Review Overlay Zone, General Development-SZ**

**Rene Daniel** move the Site Plan/Shoreland Zoning application for Vallee Square Holding, LLC for a 3,300+/- sf expansion to an existing commercial business including a new second floor event space, roof-top deck and covered porch 3 Vallee Square Tax Map: 032 Lot: 229 Zone: City Center District, Village Review Overlay Zone, General Development Shoreland Zone is approved with conditions and the following findings of fact, conclusions and conditions as stated on pages 8 through 10 of this Staff Memo dated March 29, 2019 are adopted in support of that approval.

#### **Site Plan – Finding of Fact:**

Utilization of the Site – *Adequate.*

Adequacy of Road System - *Adequate.*

Access to the Site – *Adequate.*

Internal Vehicular Circulation - *Adequate.*

Pedestrian and Other Modes of Transportation - *Adequate.*

Stormwater Management – *Adequate.*

Erosion Control - *Adequate.*

Utilities – *Adequate.*

Hazardous, Special and Radioactive Materials – *N/A*

Financial and Technical Capacity – *Adequate. The applicant has provided a letter of financial capacity from Evergreen Credit Union dated March 7, 2019. Applicant has retained the services of Alpha Architects which demonstrates technical capacity.*

Solid Waste – *Adequate.*

Historic, Archaeological and Botanical Resources – *Adequate.*

Landscape Plan – *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** to the 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 the standards of this section.
11. The proposed site plan **is** 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. (*Fishway will be in river*)
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.

#### **Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated February 5, 2019 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. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate.
  - c. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - d. 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. This fee is required per Section 500.8 of the Land Use Ordinances to cover the costs of inspection of site improvements and is 2% of the performance guarantee estimate. \$830
  - e. 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. \$41,500
  - f. 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.

- b. Verification provided that the project, including all roof drainage, is compliant with City storm, sewer drainage separation standards
  - c. Compliance with State Fire Marshall's Permit in conjunction with local requirements.
  - d. All site improvements must be installed, unless a performance guarantee amount is held in the amount of the remaining improvements.
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.

**2<sup>nd</sup> by Dennis Isherwood**

Ed Reidman is the applicant aware of the fees?

Guy Cote yes

**The vote is unanimous in favor 7-0**

**10. 2019.04 – Ordinance/Zoning Map Amendment – Industrial Zone: The proposed amendment rezones parcel 042-000-013 to Industrial Park District to bring the parcel up to date with current zoning districts and associated standards of Appendix A, Land Use Ordinance.**

Rene Daniel move to recommend the proposed ordinance/zoning map amendment for adoption by the City Council.

**2<sup>nd</sup> by Robin Tannenbaum**

**The vote is unanimous in favor 7-0**

Ed Reidman explained workshop process

**Rene Daniel I move to go to workshop**

**2<sup>nd</sup> by Dennis Isherwood**

**The vote is unanimous in favor 7-0**

**WORKSHOP**

**11. 2019.07 – Subdivision/Site Plan – 477 Saco St – STJ, Inc: Discussion on a proposed 38 single-family house lot subdivision located at 477 Saco Street. Tax Map: 004 Lot: 018 Zone: Residential Growth Area 2**

**Project Description**

The applicant is proposing a 38-single family house lot subdivision

**Project History**

March 26, 2019 – Neighborhood Meeting

April 2, 2019 – Planning Board Workshop

## Staff Comments

1. A dead-end street may not begin from any point along another dead-end-street. Remove secondary street and revise plans. (Must still provide for access to back lands per easement)
2. Straight line frontage needed for all lots – please demonstrate (Lot Frontage: The horizontal, straight-line distance between the intersection of the side lot lines with the road right-of-way of a publicly or privately maintained road which is commonly traveled thoroughfare open to the public but not including private driveways. Frontage for lots fronting on a cul-de-sac shall be the straight-line distance between the intersection of the side lot lines with the right-of-way, measured from a point equal to the required setback from the right-of-way and parallel to the right-of-way)
3. Provide full density calculation for the project stating the unusable lands.
4. Lots must net 10,000 will unusable lands removed (State gross & net on each lot)
5. Hydrants required every 500' and must be on a loop system back to Saco Street
6. One side of the road should be designated no parking. Staff recommends this aligns with the side of the road the hydrants are located on.
7. Open space shown does not appear functional/acceptable with the drainageways, steep slopes and wetlands.
8. Provide open space calculations and plan with Final Submission. Plans must be reviewed by the Recreation and Conservation Commission prior to public hearing.
9. Provide proposed and second/third choice street names to Linda Gain to verify suitability.
10. Traffic impact analysis required with final submission – potential for contribution to signal project on Saco St.
11. State all owners on plan (first lot to the right of new street)
12. Note 10 – state “City” not town
13. Westbrook is misspelled in title block
14. Association would own & maintenance stormwater maintenance features
15. Homeowners association would need to be established, with project owner responsible for all plowing and trash disposal until the street is accepted by the City.
16. Statement of financial capacity for the project must be provided.
17. Ability to Serve from Portland Water District
18. Ability to Serve from Sewer department
19. DEP stormwater permit required prior to public hearing.
20. Finished floor elevations for the houses will need to be shown
21. Landscaping plan will be required.
22. Buffering from neighbors will need to be incorporated into the plan
23. Provide documentation of neighborhood meeting (sign-in sheet and minutes) to Planning Office

## Board Action:

- Site Walk
- Public Hearing

**Shawn Frank** an Engineer with Sebago Technics presented aspects of the project located at 477 Saco Street for a 38 single family home subdivision.

We have made our initial submission and have had a Staff meeting. We had a small hammerhead dead end and were made aware at the meeting that the hammerhead was considered a dead end off of a dead end and as such could not be proposed. Since then we have removed that hammerhead and basically lost two lots. We have removed the hammerhead and lost two lots and are now showing thirty-four (34) new lots and two existing lot.

An acre here where the old farm house as well as another house that Mr. Libby constructed previously within the five (5) year time period.

\*\*Editor's note: Showed Saco Street and Richards Street location and where CMP lines are located.

We have two (2) pieces of property. One piece of land is just over fifteen (15) acres in size and will lose about one acre and leave us just under fourteen (14) acres in terms of development.

Based on the ten thousand (10,000) square feet per lot subtracting steep slopes and wet lands the total lot development that we could actually be looking at is around fifty (50) lots and what we are showing at this point in time is thirty-four (34) lots.

There is a second piece of land (shown) which is a little over size (6) acres with the CMP line separating the two parcels that also has an easement on a portion of it owned by CMP. One acre off the front will be conveyed to the abutter and the remainder at this time is proposed to be undeveloped.

From a development standpoint is one new access road off of Saco Street that loops all the way around to service the proposed lots.

You can see there is a ninety-degree intersection with stop signs that will control that as a traffic calming devise efforts. The roads are proposed to be built to City standards, twenty-four feet wide with curbing on both sides, a sidewalk on one side.

Utilities; underground electric to be installed to the existing overhead service along Saco Street and there is sewer and water available within Saco Street that will be extended to service the project. We anticipate some grading through here and are anticipating the back three lots may need a pump station to access the sewer line.

We have three areas for stormwater management. (Shown on overhead)

Showed easement location to provide access to back property.

We had a Neighborhood meeting last week at the Westbrook Warren Congregational Church and was well attended, close to thirty (30) folks including the applicants and the land owners.

\*\*Editor's note; Showed location of discussions that have existing poles with the series of trees.

The applicant and I will be pleased to meet with abutters and walk the property and discuss landscaping or something along those lines to provide some buffering.

We have reviewed the items that were brought up by staff comments. Number one was the dead end street that we have taken care of, as we did that we looked at the frontage with the specific requirements that defines lot frontage and we made sure that works out.

We will provide the density calculations and make sure each lot has the required buildable land. We do understand the hydrants will be within five hundred-foot intervals. They are asking that on the side of where the hydrants will be that they will have no parking on that one side of the road. We have no issue with that.

We understand that we need to work through the open space calculation and determine exactly what that will be as well as a traffic impact analysis at Saco Street. With the thirty-four (34) lots we do not think it

will require a traffic movement permit from the State. Because of the size of the project it is not a site location development permit through the Department of Environment Protection but it is a stormwater permit associated with that. We have a meeting with them next week.

This is a presentation to you so the Board can see where we are. We are just starting with the real design associated with that in terms of the road plans, profiles, utilities and the stormwater management that will be occurring.

We will have a meeting with DEP and have had a meeting with the neighbors and wanted to present the project to the Board to get your comments and feedback as we move forward through the design process.

With that Mr. Chairman that concludes my presentation and will answer any questions the Board may have.

**Ed Reidman** questions and comments from the Board?

**Robin Tannenbaum** where would a school bus stop, would it go into the subdivision or would it stop on Saco Street?

**Shawn Frank** my anticipation because of the length of the road and that it is a city Street that the bus would go in and pick the children up.

**Robin Tannenbaum** would you go so far as to designate a spot?

**Shawn Frank** we would be happy to have that conversation. I do not know in terms on how that is done today? If they want a specific spot we can provide that.

**Joe Marden** would the open space be to satisfy the City's requirement on the opposite side of the CMP corridor?

**Shawn Frank** that would be part of a conversation with staff. There are some wetlands associated with that, there is a stream so part of the conversation will be how buildable is that land. We have not had any in depth conversations associated with retention of open space.

**Joe Marden** is there access right to cross that CMP corridor?

**Shawn Frank** there are general access rights with CMP.

**Joe Marden** I would have you look at the wetlands that goes through the CMP corridor and how you access the usable part of the open space. The pedestrian corridor looking at lots 3 through 8 which I understand are your best lots and do not want to lose them but maybe you could move it one way or the other to provide pedestrian access. It looks from the road that it is all wetlands and would be tough to get back there.

**Shawn Frank** it would be tough to get back there.

**Joe Marden** Lot 22 the first one on the right.

**Shawn Frank** that is now Lot 20, sorry I know you hate to have me do this change. It is now Lot 20, this is the one you are talking about, correct?

**Joe Marden** it may be covered under the ordinance standards, but I would want a driveway that accesses that far enough away from the stop sign to not cause issue for people backing in and out of the driveway.

**Ed Reidman** other questions or comments from the Board?

**Rene Daniel** can you briefly explain to me that right now this is one piece of property except for the Central Maine Power right of way.

**Shawn Frank** that is correct.

**Rene Daniel** your goal is to separate them into two pieces? Or are we talking about both of those pieces tonight?

**Shawn Frank** we are talking about both pieces. My anticipation is that we will have a homeowner's association if nothing else but to care for the common land that will have the storm water management features associated with it. This land will be owned by the association, but we have not pursued that, but it is our initial thought.

**Rene Daniel** on the Gorham parcel could a road in on the flagpole and turned into another road with more houses?

**Shawn Frank** potentially, but the issue is twofold, no return on the road and the other part is the wet land. Our initial thought is that it did not seem worthwhile to us that is why we are not proposing any development there. The potential is there and I never say never because what we are looking at today compared to fifty (50) years down the road when land is even more precious, does it make sense in that point of time, it may certainly be possible but now it does not make economic sense.

**Rene Daniel** I would like some sort of closure on what might or might not happen on that land.

I am assuming that you will have two trees on every lot?

**Shawn Frank** as I recall, before I can leave with a signed mylar there is a note on the plan that says a minimum of two trees on every lot.

**Rene Daniel** you mentioned granite curbing and a sidewalk which pleased me, so I say you are on the right road. One concern that I have is the extra parcel. As you said in the future for any price something could be developed. I just want assurances.

**Shawn Frank** that will be part of our future discussions working with Staff and Recreation and Conservation Commission.

**Ed Reidman** other questions?

No questions

**Jennie Franceschi** does the Board want to conduct a site walk?

**Ed Reidman** video site walk? This parcel is what is known as the Libby Farm.

Anyone in the public that would care to speak?

**Paul Drinan** 477 Saco Street the development is proposed to be built behind the house that I currently rent and have a long-standing verbal agreement to purchase and my question to the Board is, is this the last opportunity for public comments?

**Ed Reidman** no

**Paul Drinan** my chief concern that I understood that the lower green strip to the left was to be my property and now we are looking at some sort of a collection pond. I am hoping I can get some information from the Libby's or Shawn or developer about environmental health impacts about that and have a conversation about that. As a resident and someone who tromps around in the woods in general I would be happy to see the parcel to the left be open space.

**Joanne Reece** 400 Saco Street I have a couple of concerns. Like Mr. Daniels I am all about the assurances that the Planning Board might be able to put in place before the project is finalized.

Right now, it is being described as single unit homes. I am concerned about it changing, I do not want what happened on Spring Street happen on Saco Street where a development goes in and it is all condos and duplexes and apartments. There is a big difference between that and single-family homes. I am interested in what the Board can do to put assurances that will not happen with the initial development.

The other concern I have as I live on the Corner of Saco and Eisenhower is the traffic impact. The final phase for the Idexx expansion has not been completed yet so I do not think any traffic study that is done now is going to be a true picture of what is really going to be going on up there. So an increase of fifty or sixty cars which is realistic for thirty-five new houses is a concern coming on to Saco Street, very close to where the new road for Idexx is on top of a stretch of road that is already very dangerous. I have big concerns about the traffic impact and what type of studies you are doing about that.

I am confused about the homeowner's association and how that is going to work. I do not understand what that is all about. If it is a municipal road that is going to be plowed and will be maintained by the City I am assuming with sidewalks that the City will plow because right now the City does not plow the sidewalk on Saco Street. That is another concern of having more people, more houses that might want to walk and not have the sidewalk clear.

**Ed Reidman** Shawn you will have a public Street with a public sidewalk?

**Shawn Frank** correct Mr. Chairman, we will have public streets with public right of ways with the anticipation that the City Council will agree to accept those roadways.

What the City of Westbrook won't do is storm water management that is outside of those roadway right of ways. The stormwater features are required by the State of Maine as well as the City of Westbrook. The open areas will have stormwater features that will have to be maintained by somebody and there

will be specific requirements within the association making the homeowners association responsible for the storm water maintenance.

Besides the single-family homes, we did discuss the possibility of two duplexes on the larger lots, much like an in-law apartment. A lot of us are in the situation that parents living with us as they age. But what we are really talking about is thirty-four single family houses, with the potential of two of them having a duplex on the lot.

When we met with Staff, it is our understanding that the intersection does meet warrants now. It means a signal can be placed there. My understanding that there is a funding mechanism associated with that signal. There are design plans associated with the signalization of the intersection. We understand that the process is in the works. Idexx is not completed at this point in time but they do have a traffic study that is in place. WE will take their build out study and add our trip study to that, at the intersection of Saco and Eisenhower and Saco Street and our proposed road to insure people can get in and out appropriately in coordination with City Staff. As I stated due to the size of the development it does not require a traffic movement permit through the State of Maine so it will be a study with the City of Westbrook.

**Ed Reidman** my understanding of owner's association is a document that you receive when you buy a lot and once the homes are built out, the City does not have enforcement rights to the Homeowners Association document.

**Jennie Franceschi** not to be the stipulations within the document such as, you cannot put outdoor clothes lines. That is in the document and it is not in the City Ordinance. That is a civil matter between two property owners. The Association has to enforce that. The stormwater regulations we can enforce the association to maintain the stormwater components of the project.

**Ed Reidman** homeowners' associations are nice but do not always cover what you want them cover. Questions from the Board?

No questions or comments

**12. 2019.05 – Ordinance Amendment – Chapter V Subdivision and Site Plan Review: The proposed amendment re-organizes and clarify the subdivision and site plan submission requirements and review process.**

**Ordinance Description:**

The proposed amendment re-organizes and clarifies the subdivision and site plan submission requirements and review process.

**Ordinance History**

March 5, 2019 – Planning Board Workshop

April 2, 2019 – Planning Board Workshop

**Jennie Franceschi** the proposed amendment accomplishes 3 goals to the Subdivision and Site Plan Review chapter of the Land Use Code.

- 1) The initial intent of the proposed amendment was to introduce a requirement that larger subdivisions, defined as subdivisions of 5 or more lots/units, incorporate a landscape architect to assist with the design of the subdivision. This proposal was brought to Staff by a member of the Planning Board and is utilized in other municipalities throughout the State. During the March 5<sup>th</sup> workshop the Planning Board had a discussion on the appropriate threshold for different disciplines depending on the size and type of subdivision. Staff has revised the amendment to state a multi-disciplinary team is recommended for all subdivisions greater than 5 lots/units and can be required by the Planning Board. This allows the applicant to procure the team they feel is appropriate for their project while affording the Board the ability to require additional professionals if they feel it would benefit the project design. This determination would occur during the sketch level review and remain throughout the duration of the application process.
- 2) While drafting this requirement, Staff reviewed the submission requirements for sketch and final site/subdivision submission and found several inconsistencies between required and supplemental submittal materials. Therefore, the proposed amendment revises the submission requirements to more accurately reflect what is truly required and what may be required, depending on the project site and proposed development. This revision does not remove any submission requirements, but rather places those requirements at the appropriate process step, while still allowing the Planning Board the ability to request any additional information, if necessary.
- 3) Lastly, the existing Chapter V is disorganized and difficult to interpret. Staff is proposing a reorganization and rewording of the Chapter to consolidate all subdivision and site plan standards together in adjoining sections rather than dispersed throughout the Chapter. This revision does not remove any subdivision or site plan standards, but rather organizes them.

**Board Action**

- Provide feedback on the proposed Ordinance
- Consideration of a public hearing on the proposed language – Staff would suggest holding a public hearing on May 7, 2019

We are looking for feedback on 504.4.1 letter A, *for subdivisions of five or more lots or units, a multidisciplinary team of professionals that include surveyors, architects, engineers and landscape architects is recommended and can be required by the Planning Board.*

We went back and forth on the terminology if you use the term must then there is a potential that the Board has to ask for waivers, understanding that is not necessarily what the Board enjoys doing, granting waivers.

We thought it might be a better way as part of the Sketch Plan review process is to say that at the time the Sketch Plan is brought to you, you probably need to list some additional help on you team and please bring in the landscape architect before you come back to see us at final submission. That could be a conversation depending on the complexity of the project, how big it is, whether you think it will have an impact on the project, and that gives the Board the ability to make that decision at Sketch Plan level.

That is how we developed the language and would love to have any feedback from you that you have on that particular item.

**Robin Tannenbaum** I am torn and am sort of disappointed when I saw it, instead of sticking with such and such is required unless a waiver is requested... I respect where you are coming from, you do this all the time. I would like to know what Rebecca Dillon thinks. My fear is that if onus is on us to require the professional

team when we get to that point, you will already done a certain amount of work and it will feel extra onerous when we say you need to get these professional involved.

**Jennie Franceschi** we as Staff will push on our end. Such as the last project, would a landscape architect provide a better context on how to lay out that project better? Again, the applicant always has the ability to say no to us, and ultimately it would be the Board's decision as to whether or not that they feel that that applicant has met the intent.

We can go either way on this, if you felt strongly that it is a "must", we do not have any issue with putting stronger language in Ordinance. It was more of looking at; do you want to be granting waivers or do you want to be providing more firm guidance.

**Rebecca Spitella** the other idea was during the previous workshop, there was a discussion about the thresholds and understanding the threshold that a landscape architect might be different on the threshold of architect. This was an idea that would allow for more of a case by case basis depending on what the project is and allow the applicant to come forward and discuss what they feel is appropriate and have further discussion with the Board. That was the other goal we were trying to accomplish.

**Rebecca Dillon** I agree completely, we are not, I do not think our job is to sit here to vote on waivers every meeting. My concern with this if the goal is to have larger scaled projects to be designed with the best planning practices as opposed to best engineering practices it should be done very, very early on. I feel like if they come to sketch plan and we say it does not cut it, then the project owners is going to go and find a landscape architect and say here, draw this and it is the same thing.

They have already scene what it can be from a density cost many perspectives. We will still end up with projects that are not designed holistically from the beginning where a landscape architect is allowed the ability to be creative and thoughtful for the end product.

That is also not fair to the developer to have them get so far in the process and then say you need to go back. So, I understand both components.

**Robin Tannenbaum** if that person is not part of the first conversation, there is an attitude with that as we want thoughtful applications. If the city put something out there it might rub people the wrong way but I think that makes a lot of sense.

I wonder if it says, "five to ten is recommended and ten and above is required". Like tonight we saw a seven and a thirty-four subdivision and the thirty-four subdivision would be required, the seven (*Paused thinking "augh" maybe not*) I can understand that, and it would not get us involved in every little duplex, triplex subdivision.

**Rebecca Dillon** although it is funny because some of those smaller projects are ones that could really have used a Landscape Architect.

**Jennie Franceschi** the project on 48 Seavey Street was an eight (8) unit which came out really nice and was laid out well.

One thought Rebecca and I had was and you are struggling with the incorporation of the architect as an absolute in every project maybe if we strike the word architect and take off the end of the statement where it says is recommended and just say that *a multidisciplinary team of professionals that include surveyors, architects, engineers and landscape architects is required.* Then leave it at that. They would have to come to us to state otherwise why their project should not have to have those professionals. We can do that, if you agree.

**Dennis Isherwood** that sounds good

**Robin Tannenbaum** with all due respect to my profession, I do not think architects are not the most important ones here, it is about land use and planning the development, not architecture, but once they move forward architects are needed.

**Jennie Franceschi** we still have the ability in the elevations component that we can bring in the architects but we do not need to state that. This statement is geared more to the layout.

**Robin Tannenbaum** and you still have that statement somewhere else on page nine, item twenty-two a “subdivision of five or more plans”, stamped by a Landscape Architect. Will there be confusion? Am I reading that correctly? Someone will read it and say sure; I will have a Landscape Architect do my plans. We cannot control how they use that professional

**Rebecca Spitella** so you are saying instead of using a Landscape Architect to help with the layout use just for the landscaping component...

**Robin Tannenbaum** I still like what we had earlier I am commenting out loud and picking a whole in it and saying it maybe unclear.  
Our intent is sensitive layout.

**Jennie Franceschi** in the first section where we are back at 504.2.1A if we said for Subdivision layout? We add in a term layout in that particular statement, so it is more specific to the plan.

**Robin Tannenbaum** that makes sense.

**Jennie Franceschi** we were taking out architect as a requirement of the team.

**Robin Tannenbaum** that is the intent, it is about layout and keep number twenty-two about the landscape plan.

**Jennie Franceschi** yes

**Ed Reidman** you had an example raw land going into a proposed subdivision tonight, the one that is up on Saco Street. If you open the Ordinance to see what zone you are in you can see what you can do with the land. That does not envision doing something other than what is shown on the performance standards.

No matter what you do or how you lay it out that piece of property best use is a circle, otherwise you need to do something to get under CMP in order to make it more viable.

You can play with the requirements all you want and have no objection to putting Landscape Architects in there in order to do certain things but there are only special projects that you are going to be able to use them on. Maybe when you get out to Ward five where you have larger tracks of land and also larger lot sizes proposed then you might be able to use this language. You can struggle to find the right verbiage to go in and maybe never use it.

**Rebecca Dillon** that is true because the last project we saw, I do not know how that could have been changed or planned better, but we have seen plenty of projects that have come before us where a landscape architect would have made a huge contribution and not necessarily decrease the density or made the project cost more. Sometimes it is what it is.

**Ed Reidman** it is tough. With all the other requirements to get in and get involved. The come in and they talk traffic, there should be a traffic study with a traffic signal down at Eisenhower Drive but the question is where and when does it come in?

**Joe Marden** I would say from a consultant standpoint, I would say the major determination what the project looks like, I have been involved with projects where the surveyor does all the subdivision layout then come to us for any engineering needs and we have no input on the design in case we need to modify it to meet stormwater standards. I have seen Landscape Architects come to us with a finished design and they want us to be the engineer. It depends on who the project lead is and fortunately I do not think we can require that. Generally, the project lead is the one who drives the design. There can be input from other people, but it depends on the first professional that the owner reaches out to. It is tough to control that.

**Ed Reidman** I am sure in some cases it is the bottom line that determines which professional they get to do the design.

**Rebecca Dillon** or the perception of the bottom line.

**Joe Marden** I have one other question on the requirement on the landscape plan design, I lost it now, for instance the Saco Street project that was just before us, that requires two street trees per lot, is there a landscaping plan required for that?

**Jennie Franceschi** I think that in that particular instance you might want to have the entrance maybe beefed up a bit. There may be components that we might want to see how they are actually going to lay that out. I think they need to put a little more effort on how that project is going to look with houses, drive cuts, trees, etc., so it does flow and there is a need for a landscape plan for the project.

There are some things we need to be able to push on to enhance the project.

**Joe Marden** but that standard could be waived for a Straight road with four lots on it with two hundred feet of frontage, you do not need to have someone in there to do a landscaping plan and could be waived as part of the project.

**Jennie Franceschi** correct

**Ed Reidman** other comments?

No comments

**Adjourn**

*THANK YOU, respectfully submitted by Linda Gain [lgain@westbrook.me.us](mailto:lgain@westbrook.me.us)*