



City of Westbrook

DEPARTMENT OF PLANNING, ENGINEERING AND CODE ENFORCEMENT

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WESTBROOK PLANNING BOARD MINUTES

TUESDAY, JUNE 20th, 2006, 7:00 P.M.

Present: Ed Reidman, (Chair), Rene Daniel (Vice-Chair), Luc Bergeron (At-Large), Corey Fleming, Dennis Isherwood

Absent: Paul Niehoff (Alternate), Anna Wrobel, Brian Beatti, Greg Blake,

Staff: Rick Gouzie, Brooks More

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School. Mr. Reidman removed items number 2 and number 4.

1. Call to Order

2. Approval of Minutes: May 16, 2006; May 30, 2006; June 6, 2006.

This item was removed from the agenda. Refer to Chairman Reidman's Call to order as written above.

Continuing Business

3. Final Subdivision Plan - Railway Subdivision - Pinkham & Greer, on behalf of ECM Properties, for the creation of a 12 lot subdivision on a combined 3.8 acre parcel located at 99 Tolman Street and 101 Tolman Street. Tax Map: 41, Lots: 24 & 25, Zone: RGA1.

Jeff Reed with Pinkham & Greer on behalf of ECM Properties presented to the Planning Board all aspects of for the creation of a 12 lot subdivision on a combined 3.8 acre parcel located at 99 Tolman Street and 101 Tolman Street. Tax Map: 41, Lots: 24 & 25, Zone: RGA1.

Diane Morabito with Maine Traffic Resources presented to the Planning Board the traffic study for Deer Hill, Tolman Street and Merritt Street.

Rene Daniel moved to remove this item off the table

2nd by Luc Bergeron

The vote was unanimous in favor 5-0

Luc Bergeron explained that the Public Comment period is reserved for the Public Hearing and has been held. It is the prerogative of the Chairman and the Board to not open Public Comment due to the fact that a reputable Traffic Engineering Firm has completed the traffic study and has met all the requirements of the City's Ordinance.

Luc Bergeron moved the Subdivision application for Railway Subdivision on Tax Map: 41, Lot: 24 & 25 is to be approved with conditions with the following findings of fact and conclusions.

POLLUTION AND SEWERAGE DISPOSAL

- **The project will be connected to the public sewer system. Thus, it will not have an adverse impact on subsurface water quality.**

B. WATER

- **The Portland Water District has confirmed its ability to serve the project in a letter dated January 17, 2006.**
- **An 8" water main has been provided.**

C. SOIL EROSION

- **The City Engineer has approved the erosion control plan.**
- **The City Engineer has approved the stormwater management plan's ability to not reduce the land's capacity to hold water so that a dangerous or unhealthy condition results.**

D. TRAFFIC

- **A traffic impact study was conducted by Diane W. Morabito, PE. on June 6, 2006. The study made the following findings:**
 - **Study figures were calculated using projected growth in 2008 and peak summertime conditions,**

- The project will generate a maximum of 11 on way trips in the peak hour,
- Travel patterns show that 45% of traffic uses Tolman Street, 25% Marrett Street and 30% Deer Hill Avenue,
- The project will increase the delay at Tolman and Main Street by 3.3 seconds during the AM and 6.8 seconds during the PM,
- The study does not recommend that either a signal or turn lanes be added at the intersection of Tolman and Main,
- There are no high crash locations within the study area,
- The proposed Railway Avenue has greater than 100' feet separation from Robyn Avenue. This exceeds the MDOT minimum for State Highways,
- No excessive speeding was recorded on Tolman Street,
- Adequate sight distance exists looking down Tolman towards Main Street. It is not clear that adequate sight distance exists looking towards Robyn Avenue.

E. SEWERAGE

- There is adequate capacity in the sewer system to accommodate the project.
- An 8" sewer main has been provided.
- The City Engineer has confirmed that the sewer system will provide for adequate sewage waste disposal and that it will not cause an unreasonable burden on municipal services.

F. SOLID WASTE

- Solid waste will be collected by the City of Westbrook.

G. AESTHETICS

- A statement from the Maine Department of Conservation sent on January 23, 2006 confirms that no rare botanical features have been documented on the project site.
- A statement from the Maine IF&W sent on February 13, 2006 confirms that no significant wildlife habitat exists on the property.
- Appearance Assessment:
 - (1) Project to Site - The plan appropriately takes into account the shape and topography of the parcel.
 - (2) Project to Surrounding Property - The proposed single-family homes are the same use as the adjoining residential properties. The plans

have been revised to demonstrate the areas in which trees should be retained.

- (3) Landscape Design - A landscape plan has not been designed. The site plan has been revised to include street trees along the new street.
- (4) Lighting - Interior street lights have not been proposed.
- (5) Signs - A project sign has not been proposed. It should be noted that the sign standards in the Land Use Ordinances limit the size of subdivision advertisement signs.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The project meets the goals of the Residential Growth Area 1. As stated in the Comprehensive Plan, "The principle focus of this growth area is to infill the few remaining vacant residential parcels that have immediate access to existing public services and pose little expense to the City." (p. 12-3)
- Land Use Ordinances - The plan meets the setback and net residential density standards of the zoning ordinance.
- Recreation & Open Space - The Recreation & Conservation Commission reviewed the project at the April 24th, 2006 meeting and recommended that a fee-in-lieu of land be assessed per Section 502.6A(2) of the Westbrook Land Use Ordinance. The amount of the fee should be set at \$14,760.
- Community facilities impact analysis - An analysis may be requested by the Board.
- Fire Code
 - No comments.
- Others
 - None.

I. FINANCIAL AND TECHNICAL CAPACITY

- The applicant has submitted documents of financial capacity.
- A performance guarantee in the amount of \$201,000 must be established and submitted to the City of Westbrook prior to the commencement of any site work.

J. RIVER, STREAM OR BROOK IMPACTS

- None identified.

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 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 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. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38,

- section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
18. 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.
 19. For any proposed subdivision that crosses municipal boundaries, 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.
 20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.
 21. The proposed subdivision will not negatively impact the ability of the City to provide public safety services.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated March 14, 2006, as amended May 11, 2006, 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 Planning Board.
2. Per Section 502.6A(2) of the Westbrook Land Use Ordinance the applicant shall pay a fee in lieu of land in the amount of \$14,760 prior to the commencement of any site work.
3. A performance guarantee in the amount of \$201,000 must be established and submitted to the City of Westbrook prior to the commencement of any site work.

2nd by Dennis Isherwood

Rene Daniel moved to amend the conditions to The plans shall be revised to include fourteen (14) street trees on the North side of the street and ten (10) street trees on the South side of the street, or a minimum of two (2) trees per lot, overall.

2nd by Dennis Isherwood

The vote was unanimous in favor of the amendment 5-0

The vote was unanimous in favor of the original motion as amended 5-0

New Business

4. Special Exception – Maine Dovetail, Inc. for the relocation of their Light Manufacturing use to 36R Rochester Street. Tax Map: 40, Lot: 168, Zone: City Center.

This item was removed from the agenda. Refer to Chairman Reidman's Call to order as written above.

Rene Daniel moved to adjourn to Adjourn to Workshop

2nd by Dennis Isherwood

The vote was unanimous in favor 5-0

5. Adjourn to Workshop

6. Land Use Ordinances – Request by Tim Flaherty to amend Section 204.1B of the Sign Regulations in the Land Use Ordinances. The amendment will remove the standard that both sides of the sign face must be counted in the computation of sign area.

Brooks More presented recommendations to update the sign ordinance. The amendments to the sign regulations are in Section 404. As you may have recognized, we have brought forward several amendments to the sign ordinance in the past year. In all three cases (Disability RMS, Cinemagic, and this one) the size of signage has been the issue.

The proposed amendments would allow for greater size of free-standing (A.K.A. Pylon) signs in all districts. In other words, all districts would receive the same treatment as the amendment for Cinemagic achieved in the Industrial Park District (Note: the previous amendment for the Industrial Park District was removed as the proposed amendment will achieve the same ends).

Staff is not favorable to allowing excessive signage in the City. However, we try to look at applications and look at what is reasonable and fair. In light of the most recent application, and the Cinemagic application, we recognize that requiring both sides of a free-standing sign to count towards area is too restrictive. Thus, we are proposing that both sides of a free-standing sign be counted separately when determining the size of a sign. Thus, allowing one hundred (100) square feet of sign area means that both sides of a free-standing

sign may be 100 square feet for an overall total of two hundred (200) square feet. Under the current regulations, each side may only be fifty (50) square feet, for a total of one hundred (100) square feet. Staff recommends that members visit the newly constructed free-standing sign for Cinemagic on County Road. This sign is just less than one hundred (100) square feet per side.

Ed Reidman explained that the Chairman of the Planning Board can schedule a Public Hearing while in Workshop.

Rene Daniel recommended that we schedule a Public Hearing for July 18th, 2006.

7. Land Use Ordinances Amendment - Referral from the City Council to remove private ways and introduce back lots into the Land Use Ordinances.

Brooks More explained the reasoning for the amendment recommendation to the City Council for the removal of the private ways and introduces back lots into the Land Use Ordinances.

The Administration is concerned that residents on private ways will request that the City take over responsibility for plowing, maintenance and trash collection. In this scenario, the City may take over responsibility for roadways that were constructed with less subsurface support (in the form of gravel layers), no pavement, curbing or enclosed storm. Staff is recommending that the City return to the practice of only allowing new subdivisions to occur on roadways that are constructed to public street standards.

This is a departure from the recommendations in the 2000 Comprehensive Plan. The Plan identified private ways as a means to encourage the development of interior lots and reduce municipal maintenance costs. As Strategy 4.3.3 states, "Reduce municipal maintenance costs by permitting private road development, provided that such roads remain private in perpetuity." (p. 11-7). The risk is that a future City Council may, as a result of landowner pressure, decide that the City should accept responsibility for the private ways. Thus, the municipal maintenance costs will not be reduced as the road did not remain private in perpetuity.

The Comprehensive Plan also finds that regulatory restrictions previously constrained the amount of development potential on Methodist Road. As stated in the Plan, "Prohibitions on flay lots, private roads, and the 1,000-foot maximum length for new subdivision roads has frozen development that diminishes the very visual quality that defines the district." (p. 8-20) as we are witnessing with Cobb Farm Estates, public streets are being used along Methodist Road for new

subdivisions. Furthermore, with the companion proposal to reintroduce back lots (A.K.A. flag lots) we can create a system that accommodates large scale subdivisions with public streets and minor subdivisions (1-2 lots) with the allowance of flag lots.

Back lots (A.K.A. Flag lots)

As a companion to the removal of private ways, Staff is proposing that flag lots be reintroduced into the ordinances. Flag lots provide property owners with an option when the goal is to split off a single lot. Without the ability to create a flag lot, a property owner must construct a private way to establish lot frontage. Below are images of A. a private way, and b. a flag lot. Both are examples of minor divisions of land that did not require Planning Board review.

Rene Daniel asked for clarification for the reasoning of "Grandfathering" of existing Private ways. Mr. Daniel requested the number of Private Ways.

Brooks More informed the Planning Board that there were about ten (10) existing Private Ways that would become legal - non-conforming.

Eric Dudley clarified that the ten (10) Private Ways Brooks mentioned were built since the new ordinance been in effect. There are a few older Private Ways also.

Natalie Burns asked if houses could be built on the existing Private Ways.

Brooks More said yes

Ed Reidman asked to schedule two separate Public Hearings on July 18th, 2006.

8. Land Use Ordinance Amendment - Referral from the City Council to introduce contract zoning into Section 106 of the Land Use Ordinances.

Brooks More presented to the Planning Board reasoning to recommend the addition of Contract Zoning into the Land Use Ordinance.

The City Council is requesting a recommendation on whether contract zoning should be introduced into the Land Use Ordinances. Contract zoning was allowed in the previous zoning ordinance. Per State Statute, contract zoning is defined as, "'Contract zoning' means the process by which the municipal legislative body may rezone property to permit the use of that property subject to conditions not generally applicable to other properties similarly zoned."

Reviewing the zoning map, Westbrook has several examples of contract zones. These include Golder Commons on Lincoln Street, Hannaford Supermarket on William Clarke Drive and Brydon Farms on Route 302.

In the past, Staff has found that when used in coordination with the Comprehensive Plan, that contract zoning provides the City with greater flexibility on projects that have the potential to benefit the community. Thus, Staff recommends that the proposal receive a positive recommendation.

Ed Reidman asked to schedule two separate Public Hearings on July 18th, 2006.

Dwight Gailey 346 Austin Street asked why you could not build a private road off a dead end public road.

Eric Dudley explained that Mr. Gailey wanted to development land in back of his existing lot. The recommended changes will help Mr. Gailey's request for developing in back of his property.

Corey Fleming moved to return to Regular Session

2nd by Rene Daniel

The vote was unanimous in favor 5-0

9. Adjourn to Regular Session

10. Adjourn

Respectfully submitted by Linda Gain PECE Secretary

MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE ENGINEERING, PLANNING AND CODE ENFORCEMENT DEPARTMENT. THANK YOU