



City of Westbrook

DEPARTMENT OF PLANNING

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WESTBROOK PLANNING BOARD TUESDAY, OCTOBER 2ND, 2007, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES-Amended

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Anna Wrobel (Ward 4), Cory Fleming (At Large), Scott Herrick (Alternate), Greg Blake (At Large), Michael Taylor (Alternate)

Absent:

Staff: Molly Just, Diana Brown, Erik Carson

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School.

1. Call to Order

2. Approval of Minutes – September 4th, 2007

Rene Daniel moved to approve the revised minutes as presented.

2nd by Cory Fleming

The vote was unanimous in favor 7-0

Ed Reidman asked Natalie Burns to explain to the Public and the rest of the Planning Board the duties of the Planning Board when an application is presented to the Board.

Natalie Burns said the Planning Board has an obligation to review the application under the standards established in the ordinance. If the plan meets the standards set in the ordinance, the Planning Board has to approve the application or approve with conditions, requiring modifications of the plan. Should there be any standards that are not met; the Planning Board must deny the application. The Planning Board can not refuse to act on a complete application brought to the Planning Board.

Rene Daniel moved to take this item off the table

2nd by Anna Wrobel

The vote was unanimous in favor 7-0

Continuing Business

**3. Final Subdivision Review – Terradyn Consultants LLC, on behalf of
Crockett & Sons Homebuilders, LLC, for the development of a three (3)
lot subdivision on .62 acres located on Hawthorne Lane. Tax Map: 007
Lot: 021 Zone: Residential Growth Area 1.**

Anna Wrobel asked why the third party inspection was requested as a condition.

Molly Just said it was requested by the Recreation and Conservation Commission, to make sure the inspection was completed, without thinking that staff does perform inspections.

Rene Daniel moved the Subdivision application for Hawthorne Lane on Tax Map: 7, Lot: 21 is to be **approved with conditions** with the following findings of fact and conclusions.

A. POLLUTION AND SEWERAGE DISPOSAL

- The project will utilize public sewer for wastewater disposal.

B. WATER

- The applicant will need to provide a letter of serviceability from the Portland Water District.

C. SOIL EROSION

- No plan is required for this project. Each individual lot construction shall have its own erosion and sediment control plan when a building permit application is submitted.

D. TRAFFIC

- This project will result in a minimal increase of traffic which the existing roadway system can support.

E. SEWERAGE

- The City of Westbrook has available capacity to service the project with sanitary sewer.

F. SOLID WASTE

- Solid waste collection will be handled by the City's curbside collection program.

G. AESTHETICS

- A statement from the Maine Department of Conservation is not required for this project.
- A statement that no significant wildlife habitat exists from the Maine IF&W is not required for this project.
- Appearance Assessment:
 - (1) Project to Site – The project will be further developing a property which currently contains a single-family residence. There are not significant natural resources on the lot.
 - (2) Project to Surrounding Property – The surrounding properties are single-family homes, some with in-law apartments.
 - (3) Landscape Design – no landscaping plan is required. The Recreation and Conservation Commission makes the recommendations included in the Update section for this item.
 - (4) Lighting – No lighting is proposed for the project.
 - (5) Signs – No sign is proposed.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan:
 - The project meets the use requirements of the Residential Growth Area District.
- Land Use Ordinances – The project meets the performance standards of the Residential Growth Area I District.
- Recreation & Open Space – The Recreation & Conservation Commission has reviewed this proposal. Their recommendation is included in the Update section for this item.
- Community facilities impact analysis – If required.
- Fire Code
 - No issues.
- Others:

- None.
- I. FINANCIAL AND TECHNICAL CAPACITY
- The applicant has provided documents of financial and technical capacity.
- J. RIVER, STREAM OR BROOK IMPACTS
- Not applicable

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated August 20, 2007, 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. Require a fee in lieu of land for recreation and open space using the calculation found in the Land Use Ordinances. (The fee would be \$410.00)~~
2. Require a fee in lieu of land for recreation and open space using the calculation found in the Land Use Ordinances. (The fee would be \$4,652.76)
3. Due to the close proximity of the land to a resource protection zone, require Best Management Practices for erosion and sediment control and storm water management.
4. Require the use of native and non-invasive plant species during landscaping.
5. Require the use of native shade trees, such as maple and ash, along the street.

2ND by Scott Herrick

The vote was 6-1 in favor (Rene Daniel opposed)

New Business

4. **Subdivision Amendment – Stage Coach Station Condominium - Sebago Technics on behalf of Ralph Vance Land Development to amend the subdivision to replace approved but not yet constructed commercial development with a single unit residential condominium on property located on Bridgton Road. Tax Map: 18 Lot: 15 Zone: Prides Corner Smart Growth Area.**

Scott Herrick recused himself as his law firm represents Mr. Vance.

Michael Taylor arrived at 7:20 pm

Dustin Roma with Sebago Technics on behalf of Ralph Vance Land Development presented aspects of the Site and Sub-division plan amendment for Stage Coach Station located on Bridgton Road, Tax Map: 18 Lot: 15 Zone: Prides Corner Smart Growth Area.

The applicant has constructed 12 condominium units and now proposes to replace the balance of the approved development, 4,000 square feet of retail/office space, with 1 single-unit residential condominium (for a total of 13 units).

One modification that will have to be completed involves the septic system located in the rear of the property. Due to the additional two bedroom unit, the septic design does not have the capacity as it is designed now. A revised septic design is being engineered that will be reviewed and approved through the Department of Health and Human Services.

As it stands now, the sub-division is addressed off Stage Coach Lane. The applicant understands that the existing and proposed structures will be addressed off Bridgton Road with a single address with unit addresses.

Cory Fleming moved to find the application complete

2nd by Anna Wrobel

The vote was 7- 0 in favor (Scott Herrick recused)

No site walk or Public Hearing requested

Ed Reidman asked for confirmation that the fire hydrants have been installed.

Mr. Vance confirmed the installation of the fire hydrants.

Anna Wrobel asked how many units have been built.

Dustin Roma confirmed that all twelve units have been built, sold and occupied

Molly Just asked the Planning Board to add a condition to the approval. Ms. Just received an e-mail from an abutting resident, expressing concerns about trash pick-up at 2:00 or 3:00 AM. She proposed a condition for trash pick up no earlier than 5:00 am and no later than 10:00 pm, for this project. This would help to alleviate the abutters concerns.

Anna Wrobel suggested that 6:00 am trash pick-up would be early enough.

Mr. Vance explained to the Planning Board that he has received complaints from tenants and has requested the trash pick-up time be addressed with the association.

Cory Fleming moved the subdivision amendment application for Stagecoach Station on Tax Map 18, Lot 15 is to be **approved with conditions** with the following findings of fact and conclusions.

Findings of Fact and Conclusions

POLLUTION AND SEWERAGE DISPOSAL

- Due to its scope, this project will not produce undue amounts of air pollution.

B. WATER

- The subdivision will be served by the public water system.

C. SOIL EROSION

- A stabilized construction entrance has been provided.
- Silt fence is proposed along the wetlands on the South side of the parcel.
- Erosion control notes have been included in the plan.

D. TRAFFIC

- No traffic study has been completed. The Board may request that a study be undertaken.

E. SEWERAGE

- Sewage disposal is via a 4,000 gallon on-site septic tank and leachfield and must be expanded to accommodate the additional unit. The redesigned system is being designed and must receive authorization from the Maine Department of Human Services.
- The subsurface wastewater disposal application has been revised to take into account the proposed amendment.

F. SOLID WASTE

- Solid waste will be the responsibility the Condominium Association.

G. AESTHETICS

- Relationship of project to the site – The project proposes to leave the majority of the wetland area as open space.
- Relationship of project to surrounding property – The project provides for an 85' foot buffer between the Jaques property and the main driveway. The project also appears to leave the vegetation that runs along the North parcel line in place. The applicant is designing a buffer between the septic leachfield and the Jaques property line.
- Relationship of landscape design – The project is well designed to reduce the amount of existing vegetation that will have to be removed.
- Relationship of lighting to project – Street lighting is provided from a single pole-mounted fixture along the driveway.
- Relationship of sign to the project – The existing sign will be replaced with a more residential design.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive Plan – The Pride's Corner District was not developed as part of the 2000 Plan. Rather, it is in accordance with the Pride's Corner Smart Growth Plan developed in June 2001 by City Staff and Orcutt Associates through a grant from the State Planning Office.

The Stagecoach Station plan conforms to the Pride's Corner Plan through the location of its entry drive (which is across from a proposed entrance on the other side of Route 302) and the provision of a 50' buffer between the buildings and Route 302. This buffer is the proposed location of a service road that will serve the area in the event the plan reaches an appropriate level of build-out.

In accordance with the Pride's Corner Plan, the applicant will provide easements for future road and utility connections to the east of the parcel.

- Zoning Ordinance – The project meets the standards of the Prides Corner Smart Growth district.
 - Recreation & Open Space – The Recreation and Conservation Commission voted at their September 20th, 2007 meeting to recommend that a fee in-lieu of land be provided as a condition of approval and that the fee be updated on the plan to reflect the proposed amendment and current requirements. The fee would be \$410.00 for the one additional unit.

I. FINANCIAL AND TECHNICAL CAPACITY

- The applicant submitted a letter from Gorham Savings Bank dated June 15, 2004 stating the applicant's financial capacity. All 12 condominium units have

been constructed, the proposed request to construct one additional single-family condominium would complete the project

J. RIVER, STREAM OR BROOK IMPACTS

- The applicant received a stormwater permit from the Department of Environmental Protection.
- The applicant received a NRPA Tier 1 permit to fill 8,020 S.F. of forested wetland.
- The proposed amendment would not increase the impervious area or wetland disturbance beyond that already permitted.

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 on, and limited to, the proposals and application dated February 14, 2006, as amended to March 9, 2006, and Plan dated March 15, 2005 and amended to August 27, 2007, 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. The applicant will pay a fee in lieu of land, in the amount of \$410.00 prior to the issuance of the first residential building permit.
3. The applicant will have the private fire hydrant and the relocated municipal hydrant flow tested by the Portland Water District or another acceptable authority prior to building construction.
4. The applicant will ensure that the fire hydrants are maintained in accordance with NFPA 25 by the developer/ homeowners association. This will include checking and clearing of snow during the winter.
5. The waste will be removed between the hours of 5:00 am and 10:00 pm.

2nd by Michael Taylor

Rene Daniel asked for an explanation of the difference in cost of the fee in lieu of land.

Molly Just explained that the other 12 unit's fee has been paid for and the \$410.00 dollar fee in lieu of land is for the one additional unit.

The vote was unanimous 7- 0 (Scott Herrick recused)

5. Village Review – 10 Cloudman Court – Rob Twombly for the construction of one single-family unit on the property located at 10 Cloudman Court. Tax Map: 33 Lot: 153B Zone: City Center District: Overlay Zone: Village Review.

Rob Twombly presented to the planning Board aspects of the construction of a single family home on the property at 10 Cloudman Court, Tax Map: 33 Lot 153B Zone: City Center District: Overlay Zone: Village Review.

Anna Wrobel mentioned that one side of the building had no windows.

Rob Twombly said that would be the inside stairwell side.

Rene Daniel asked for an explanation of the building envelope.

Erik Carson explained the building envelope to the Boards satisfaction.

6. Michael Taylor moved to approve 10 Cloudman Court. Tax Map: 33 Lot: 153B Zone: City Center District: Overlay Zone: Village Review, with the following conclusions and Conditions:

The VROZ (Village Review Overlay Zone) Committee has made the following recommendations, to which the Applicant has agreed:

1. The roof shall have a minimum pitch of 8/12, with a minimum 12” horizontal overhang, and an 8” fascia;
2. The siding shall have a minimum reveal of 5/8”;
3. The corner boards shall be a minimum of 6” wide, and may be made up of either wood, composite, or vinyl, provided there is articulation such that the material resembles wood when viewed from the public right of way;
4. The windows shall consist of 6/6 double hung sash, as shown on the plans, using simulated divided lites;
5. The front entrance shall have a crown molding, with “colonial” side trim to match.
6. The front steps shall be brick
7. The rear and side entrance doors shall have simulated divided lites; and
8. If a garage is proposed, either now or at a later time, it shall be connected to the house, set back the appropriate distance, as shown.

The Planning Board agrees with the Village Review Overlay Zone Committee for the proposed structure.

2nd by Rene Daniel

The vote was unanimous in favor 7-0

Rene Daniel moved to recess to workshop

2nd by Anna Wrobel

The vote was unanimous in favor 7-0

6. Recess to Workshop - Public comment will be accepted during the workshop

Workshop

7. Land Use Ordinances - Farm Animals in Residential Growth Areas – Referral from the City Council seeking recommendations on land use policy for the keeping of non-domesticated animals within residential zoning districts.

Molly Just explained that the Planning Board worked for approximately one year on a proposal to regulate the keeping of “Hobby Farms” in residential zones and referred their recommendations to the City Council for consideration and adoption.

Ms. Just has reviewed the City of Westbrook’s proposed language and surveyed Yarmouth, Gorham, Windham, Saco, Biddeford and South Portland standards, concerning Farm Animals in Residential areas.

Yarmouth, and to some extent Gorham, do acknowledge this use in their Zoning Ordinance. Windham is thoughtful as to their approach as to how they handle Farms in their jurisdiction. The Board should consider how other jurisdictions regulate the use using minimum lot size. While Yarmouth does regulate the use, they typically have larger lots.

This information is provided for the Boards consideration.

1. Ed Reidman said one of the suggestions was: Change Hobby Farming to a permitted use in all zones within the City of Westbrook. Included in this proposal is to eliminate the lot size restrictions in the residential growth areas and to allow any animal consistent with farming to be kept in any zone. Mr. Reidman felt this change was not a possible option.

Mr. Reidman read the definition of "Farm" as stated in the City of Westbrook Land Use Ordinance:

201.37 **Farm.** The definition of 'Farm,' 'Farm operation,' and 'Farm product' is determined by the most current definition in Title 17 M.R.S.A., Chapter 91, Subchapter 3, Section 2805.1.A-C.

Natalie Burns I can tell you that the definition is tied to a "commercial operational facility" to alleviate nuisance claims between a lawful farm and new sub-divisions within the City.

Ed Reidman said the in the City Center District, Residential Growth Area 1, Residential Growth Area 3, Prides Corner Smart Growth Area., Gateway Commercial District, Highway Services District, Business/Professional Office District, Industrial Park District there is no farming permitted uses. Although in Residential Growth Area 2 and the Rural District farming is a permitted use.

Mr. Reidman stated he felt the recommended language for the Ordinance is sufficient.

Natalie Burns mentioned that the City Council requested language for the grandfathered residential uses to include Hobby Farms use and to make it clear that if you have a farm in a district that does not allow farming, it would be made clear that use could continue as a permitted use.

Corey Fleming asked for clarification: the City Council has asked the Planning Board would add language to allow new Hobby Farms in all zones?

Natalie Burns yes, in theory at this point in time, the Board of appeals ruled at least in one zoning district that you can not keep what is thought of as a farm animal as an accessory to a Residential use. When the Ordinance was originally drafted, the Planning Board came up with language to allow farm animals as an accessory to the Residential use. The thought process was to extend the use to the Industrial and Business Professional Districts.

Ed Reidman said with that premise, you will be allowing Hobby Farms in any and all Zones.

Natalie Burns confirmed Chairman Reidman's statement.

Cory Fleming if someone had a Hobby Farm when the Ordinance was instituted, I can see grandfathering them, but I do not agree with allowing new Hobby Farms, in all zones.

Anna Wrobel said she has a problem with regulating different types of animals, based only on the zone and not the lot size.

Rene Daniel stated his mixed feelings on the regulation of farm animals or Hobby Farms. Mr. Daniel agreed with Anna Wrobel that if a taxpayer has a large enough lot and the farm animal is allowed in that zone, it should be allowed. But Hobby Farms is a new term, and we have not been charged with regulating this new term.

I would be in favor of keeping the recommended language as is.

Ed Reidman explained that the Planning Board has worked a little over a year on this subject and when it started, it was just chickens and bees. Now it is horses, cows, pigs and any other type of Farm Animal.

I am satisfied with the language that the Planning Board worked over a year on. If the Planning Board is instructed by the City Council to research Hobby Farms in all zones, we need legal advertisement and notifications for a Public Hearing, and then the process starts all over. If the City Council wants the Planning Board to research more than the bees and chickens, then we need further instruction as to what the Board needs to look at. The Board needs guidance, so the staff can also have the guidance.

Personally I am in favor of sending it back to the Council as written. We have worked for a year, if you need something different, please completely define what the Planning Board needs to do, so time is not wasted trying to resolve this issue.

Chairman Reidman asked Ms. Just to take this suggestion back to the City Council, with explanation of how the Planning Board feels and ask for more detailed instruction or direction as to what the City Council wants the Planning Board to do.

Rene Daniel move to recess to regular session

2nd by Anna Wrobel

The vote was unanimous in favor 7-0

8. Resume Regular Session

9. 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 ENGINEERING, PLANNING AND CODE ENFORCEMENT at 207-854-9105
ext. 220 and lgain@westbrook.me.us. THANK YOU*