



## Planning & Code Enforcement

2 York Street  
Westbrook, Maine 04092  
Phone: 207-854-0638  
Fax: 866-559-0642

### PLANNING & CODE ENFORCEMENT

**WESTBROOK PLANNING BOARD**  
**Tuesday, June 7, 2022, 7:00 P.M.**  
**Westbrook Middle School – Performing Arts Center**  
**471 Stroudwater Street**

**This meeting will be offered as a hybrid meeting, accommodating both in-person and remote participation.**

Where public comment is permitted, members of the public attending remotely will have the opportunity to provide remote oral testimony. If you wish to speak during a Public Hearing or Public Comment, use the “Raise Hand” function through Zoom (or dial \*9 on your phone) when instructed by the Planning Board chair.

**Zoom Link:** <https://us02web.zoom.us/j/81700741385>

**Dial-in (audio only):** 1-646-558-8656

**Webinar ID:** 817 0074 1385

#### AGENDA

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

#### NEW BUSINESS

3. **2020.30 – Site Plan / Subdivision Amendment / Village Review Overlay District – Mechanic Street Parking Garage & Subdivision – City of Westbrook + TDB, LLC:** The applicant is proposing an amendment to the approved Site, Subdivision and Village Review application to revise the garage façade elevations and relocate the residential units to the easterly end of the site. No changes are proposed for the horticulture use, Vertical Harvest. Tax Map: 032 Lot: 007A Zone: City Center District; Village Review Overlay Zone Use: Horticulture, Dwelling, Multiple Family, Retail Class 1 and Parking Facility
4. **2020.41 – Site Plan, Subdivision, Conditional Use – Brooks Edge Farm Subdivision – Wormell Farm, LLC:** The applicant is requesting to amend the Conditions of Approval to support a phased development for a 118-unit subdivision along Brook Street approved January 18, 2022. Tax Map: 016 Lot: 002 and Tax Map: 019 Lots: 029 and 029B Zone: Residential Growth Area 2; Shoreland Overlay District – Resource Protection
5. **2022.14 – Conditional Use – 2 Stonewall Way – Joel Richardson:** The applicant is requesting a Home Daycare Use located at 2 Stonewall Way. Tax Map: 021 Lot: 114 Zone: Residential Growth Area 3 Use: Home Daycare Provider

#### WORKSHOP

6. **2022.17 – Subdivision – 680 Methodist Road – Methodist Homes, LLC:** The applicant is requesting a 10-lot residential subdivision located at 680 Methodist Road. Tax Map: 009 Lot: 014
7. **2022.18 – Site Plan, Subdivision – Rivermeadow Residential Development Phase 1B – WORG, LLC:** The applicant is requesting an 8-unit single family condominium development with access from a private driveway, Arnie’s Alley. Tax Map: 037 Lot: 001 Zone: Residential Growth Area 1, Lincoln Street Overlay District Use: Dwelling, Single-Family

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

8. **2022.19 – Site Plan, Subdivision – 984 Spring Street Residential Development – Tom Watson & Co., LLC:** The applicant is requesting a 204-unit residential complex with associated site improvements and amenities located at 984 Spring Street. Tax Map: 003 Lot: 005 Zone: Highway Services Use: Dwelling, Multiple-Family
  
9. **2022.20 – Amendment to the Land Use Ordinance - §335-1.8 Definitions; § 335-2.18 Lot partially in two districts; §335-2.23 One unit, one household; New Section §335-2.31 Utilities; § 335-3.5 Nonconforming lots; § 335-3.6 Nonconforming lot design standards; Article V Zoning Districts; Article XII Review of Private Ways:** City Staff are proposing several amendments to the Land Use Ordinance to clarify ambiguous language, revise the existing Land Use “Utility” to include public infrastructure and allow private ways to provide frontage for more than 3 lots with additional standards.



## Planning & Code Enforcement

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### PLANNING & CODE ENFORCEMENT

DATE: June 3, 2022

TO: Planning Board  
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Assoc. Planner  
Cc: Plan Review Team

RE: June 7, 2022, Planning Board Meeting

- 
1. **2020.30 – Site Plan / Subdivision Amendment / Village Review Overlay District – Mechanic Street Parking Garage & Subdivision – City of Westbrook + TDB, LLC**
  2. **2020.41 – Site Plan, Subdivision, Conditional Use – Brooks Edge Farm Subdivision – Wormell Farm, LLC**
  3. **2022.14 – Conditional Use – 2 Stonewall Way – Joel Richardson – Home Daycare**
  4. **2022.17 – Subdivision – 680 Methodist Road – Methodist Homes, LLC**
  5. **2022.18 – Site Plan, Subdivision – Rivermeadow Residential Development Phase 1B – WORG, LLC**
  6. **2022.19 – Site Plan, Subdivision – 984 Spring Street Residential Development – Tom Watson & Co., LLC**
  7. **2022.20 - Amendment to the Land Use Ordinance - §335-1.8 Definitions; § 335-2.18 Lot partially in two districts; §335-2.23 One unit, one household; New Section §335-2.31 Utilities; § 335-3.5 Nonconforming lots; § 335-3.6 Nonconforming lot design standards; Article V Zoning Districts; Article XII Review of Private Ways**

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1. **2020.30 – Site Plan / Subdivision Amendment / Village Review Overlay District – Mechanic Street Parking Garage & Subdivision – City of Westbrook + TDB, LLC**

### **PUBLIC HEARING**

Tax Map: 032 Lot: 007A  
Zone: City Center District; Village Review Overlay Zone  
Use: Horticulture, Dwelling, Multiple Family, Retail Class 1 and Parking Facility

### **Project Description**

The applicant is proposing an amendment to the approved Site, Subdivision and Village Review application to revise the garage façade elevations and relocate the residential units to the easterly end of the site. No changes to the horticulture use, Vertical Harvest, are proposed. See attached memos for more information.

### **Project History**

August 26, 2020 – Neighborhood Meeting  
September 15, 2020 – Planning Board Workshop

September 17, 2020 – Recreation and Conservation Commission  
 October 7, 2020 – Village Review Overlay Committee  
 October 15, 2020 – Recreation and Conservation Commission  
 October 20, 2020 – Public Hearing  
 November 3, 2020 – Regular Meeting  
 April 6, 2021 – Site/Subdivision Amendment – Public Hearing  
 May 11, 2022 – Village Review Overlay Committee  
 May 17, 2022 – Site Plan/Subdivision/Village Review Amendment  
 June 7, 2022 – Site Plan/Subdivision/Village Review Amendment – Public Hearing

**Staff Comments:**

1. Landscaping plan
  - a. Final species and location of street trees to be approved by City Arborist
  - b. Verify water feeds for irrigation system.
2. Drainage
  - a. Need more information on the connection of CBs to the UD system on vertical way. Split flow between MH in Mechanic and Existing MH in vicinity of CVS drive-through? Provide explanation.
3. Fire dept review
  - a. Ensure emergency electrical shut offs have security protection -locked access.
  - b. FDC location at the easterly corner of parking garage. Final location to be approved by FD
4. Parking signage will need to be resized so that the lettering does not extend beyond second level floor.

**Motion:**

That the Site Plan, Subdivision and Village Review Amendment application for the City of Westbrook and TDB, LLC to revise the garage façade elevations and relocate the previously approved residential units to the easterly end of the site on Tax Map: 032 Lot: 007A Zone: City Center District, Village Review Overlay Zone is **(approved with conditions/ denied)** and the following findings of fact, conclusions, and conditions as stated on pages **2 through 8** of this Staff Memo dated June 3, 2022 are adopted in support of that approval.

**Site Plan – Finding of Fact**

<b>Standard</b>	<b>Finding</b>
Utilization of the site	Existing site is fully developed as a surface parking lot. Redevelopment of the site meets the intent of the Ordinance.
Handicap Access	Site is ADA compliant with sidewalk tip downs located at each crosswalk and accessible entry points. The parking garage provides sufficient accessible parking spaces, including van spaces, which is in excess of the minimum standard of 8 spaces.
Appearance Assessment	The project utilizes existing curb cuts to access the site. A landscaping plan has been provided to demonstrate the utilization of vegetated areas along the perimeter to transition from the sidewalk and public rights of way. Lighting is designed to be consistent with existing infrastructure on William Clark Drive and is in consideration of planning improvements on Main Street. Review by the Village Review Overlay Committee was held as part of the application process and the project is consistent with the standards of the District. Criteria 1-6 are met.
Landscape Plan	A landscape plan has been provided as part of the application demonstrating substantial revegetation along the public rights-of-way from existing conditions.

Odors	No odors known or anticipated outside of regular trash maintenance and collection. Trash for the future residential use will be screened either with a screened dumpster or internal to the structure. Further review of this item by Village Review required prior to site plan approval for subdivision
Noise	All proposed uses are consistent with the City Center District. No adverse impact is known or anticipated.
Technical and Financial Capacity	The co-applicant has provided a letter from Piper Sandler dated September 30, 2020 to demonstrate project viability. The applicant has retained the services of Harriman Associates which demonstrates technical capacity.
Solid Waste	Waste removal for horticulture use will be privately managed as approved. The parking garage is not anticipated to generate waste. Waste management for the residential use will be reviewed during the site plan approval. The application will not cause an unreasonable burden on public services.
Historic, Archaeological and Botanical Resources or Unique Features	None known
Hazardous Matter	None known
Vibrations	No adverse impact known or anticipated.
Parking & Loading Design and Site Circulation	Project includes a new parking structure that will facilitate parking for on-site use as well as public parking for the downtown. The site is accessed via two existing curb cuts along William Clarke Drive and Mechanic Street. The applicant has provided turning templates demonstrating adequate access for emergency vehicles as well as feasibility of delivery to the loading bay.
Adequacy of Road System	Adequate
Vehicular Access	Site ingress/egress is via two existing curb cuts along William Clarke Drive and Mechanic Street at points that have been reviewed and approved of by the City Engineer.
Pedestrian and Other Modes of Transportation	An enhanced/widened sidewalk is proposed along William Clarke Drive and Mechanic Street to accommodate pedestrian movement. Cross walk connections have been made at all points of entry to the structure along Vertical Way. Bicycle racks are proposed along the William Clarke Drive sidewalk.
Utility Capacity	With consideration of the revised utility layout, utility connections are available within the William Clark Drive right of way and Vertical Way travel way.
Stormwater Management, Groundwater Pollution	The proposed development is a net decrease in impervious area to the site, and includes a vegetated green roof to improve existing stormwater treatment.
Erosion and sedimentation Control	Adequate erosion and sedimentation control measures are shown on the plan.

## Conclusions

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe

conditions with respect to the use of the highways or public roads existing or proposed.

6. The proposed site plan **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed site plan **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed site plan **conforms** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet standards of this section.
11. The proposed site plan **is/is not** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is not** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. The proposed plan **will not** negatively impact the ability of the City to provide public safety services.

**Subdivision – Finding of Fact**

<b>Standard</b>	<b>Finding</b>
Pollution	Disposal of sewage will be via the public system. Utility stubs are provided with the current application to provide service to a future residential use. Final utility design will be reviewed as part of the residential site plan review.
Sufficient Water	Water Services are available within the William Clarke Drive ROW. Stubs for water services are provided with the current application to provide service to a future residential use. Final utility design will be reviewed as part of the residential site plan review.
Municipal Water Supply	Water Services are available within the William Clarke Drive ROW. Stubs for water services are provided with the current application to provide service to a future residential use. Final utility design will be reviewed as part of the residential site plan review.
Erosion	Adequate erosion and sedimentation control measures are shown on the plan. On-site inspections will occur during construction to ensure compliance.
Traffic	William Clarke Drive and Mechanic Street have adequate capacity to accept the traffic generated by this project. The residential use will have access to the off street parking provided by the public parking garage.
Sewage Disposal	Disposal of sewage will be via the public system. Utility stubs are provided with the current application to provide service to a future residential use. Final utility design will be reviewed as part of the residential site plan review.
Municipal Solid Waste Disposal	All residential and commercial waste will be privately hauled
Aesthetic, Cultural and Natural Values	No applicable
Conformity with City Ordinances and Plans	Subdivision is located within a designated growth area and has access to public utility and transit services in accordance with the

	Comprehensive Plan. Multi-family development is a permitted use within the City Center District.
Financial and Technical Capacity	The co-applicant has provided a letter from Piper Sandler dated September 30, 2020 to demonstrate project viability. The applicant has retained the services of Harriman Associates which demonstrates technical capacity.
Surface Waters; Outstanding River Segments	Not applicable
Ground Water	Ground water will not be adversely impacted by the project.
Flood Areas	Not applicable
Freshwater Wetlands	No wetlands have been identified on the site.
Farmland	No farmlands have been identified on the site.
River, Stream or Brook	No river, streams or brooks are present or have been identified on the site.
Stormwater	Final stormwater design will be reviewed during the site plan review.
Spaghetti Lots Prohibited	No lots within the proposed subdivision have shore frontage. N/A
Lake Phosphorus Concentration	The proposed subdivision is not located near or along a great pond.
Impact on Adjoining Municipality	The proposed subdivision does not cross municipal boundaries
Lands subject to Liquidation Harvesting	Not applicable.

#### Conclusions:

1. The proposed subdivision **will not** result in undue water or air pollution
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply
4. The proposed subdivision **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results
5. The proposed subdivision **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed subdivision **will** provide for adequate sewage waste disposal and **will not** cause an unreasonable burden on municipal services.
7. The proposed subdivision **will not** cause an unreasonable burden on the City's ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms** with a duly adopted subdivision regulation or Ordinance, comprehensive plan, development plan or land use plan.
10. The subdivider **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **will not** adversely affect the quality of any pond, lake, wetland, great pond or river, or unreasonably affect the shoreline of that body of water.
12. The proposed subdivision **will not**, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The subdivision **is not** located in a flood-prone area, as determined by the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
14. All freshwater wetlands within the proposed subdivision **have** been identified.
15. All farmland within the proposed subdivision **has not** been identified. – Not applicable
16. Any river, stream or brook within or abutting the proposed subdivision **has** been identified.
17. The proposed subdivision **will** provide for adequate stormwater management.

18. Lots in the proposed subdivision **do not have** shore frontage on a river, stream, brook, great pond or coastal wetland as defined in 38 M.R.S.A. Section 480-B.
19. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
20. The proposed subdivision **will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
21. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to 12 M.R.S.A. Section 8869, subsection 14.

**Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated May 6, 2022 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 Horticultural (Vertical Harvest) project:
  - a. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - b. 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.
  - c. 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.
  - d. Coordinate with the E911 Coordinator on addressing of the building/units.
  - e. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.
4. Prior to any site disturbance or building permits being issued for the Parking Facility project:
  - a. All Staff comments must be addressed.
  - b. All necessary State permits provided to the Planning Office and all applicable conditions met in accordance with those permits.
  - c. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate.
  - d. Provide construction management plan including staging of material and parking plan for contractors to Planning Department
  - e. Review of building elevations to be consistent with submitted documentation or testimony.
  - f. Signage study of impacted signs on public lands to determine post condition sign replacement
  - g. Internal signage and striping plan for parking structure approved of by City Staff.
  - h. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - i. 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.
  - j. 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.



- k. Coordinate with the E911 Coordinator on addressing of the building/units.
  - l. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.
5. Prior to any site disturbance or building permits being issued for the Residential/Commercial project:
- a. **Applicant must return to the Planning Board for review and approval of the Residential/Commercial Project plans.**
  - b. All Staff comments must be addressed.
  - c. Location and plan for trash removal for uses.
  - d. Copy of Recorded subdivision plan must be provided to the Planning Office.
  - e. All necessary State permits provided to the Planning Office and all applicable conditions met in accordance with those permits.
  - f. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate.
  - g. Provide construction management plan including staging of material and parking plan for contractors to Planning Department
  - h. Review of building elevations to be consistent with submitted documentation or testimony.
  - i. Signage study of impacted signs on public lands to determine post condition sign replacement
  - j. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - k. 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.
  - l. 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.
  - m. Coordinate with the E911 Coordinator on addressing of the building/units.
  - n. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.
6. Prior to commencing any work in the City Right-of-Way, the applicant must obtain a road-opening permit from the Public Services Department.
7. Prior to the first Occupancy Permit issuance, for each use:
- a. Verify final USPS locations and mail/package delivery parking/drop off area
  - b. Garage internal striping plan approved by City Public Services and implemented.
  - c. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval. (This includes all paving, lighting, striping, crosswalk, signage, sidewalks, off-site associated improvements, benches etc.)
    - i. All necessary sewer testing and sign off from Wastewater Department.
  - d. All site improvements must be installed, unless a performance guarantee amount is held in the amount of the remaining improvements.
  - e. Radio testing to be conducted to ensure adequate ability of public safety to communicate into the building.
  - f. Provide documentation of agreement with Metro for removal/replacement/relocation of bus shelter - Coordinate with Metro for future of Bus Rapid Transit expansion. (Garage Project only)
  - g. Finalized trash removal plans and agreements with providers.
8. Prior to release of a performance guarantee for each project:
- a. The site will be inspected and signed off by City Staff to assure compliance with the approved plan and as-built plan provided in City approved format for the GIS system.

9. At the discretion of Police, work resulting in lane closures may require night work depending on level of impact.
10. Fencing construction site is necessary to prevent conflict with pedestrian traffic. Provide a protected walkway around credit union and along perimeter as necessary to keep pedestrian flow available during construction as well as provide signage along William Clarke Dr to close crossings as needed.
11. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.
12. All signage located within the public right of way to be approved by the Public Services Director or their designee for style, material, and color.
13. City to take possession of any existing City property (signs, lights, etc) that it wishes to keep prior to start of construction.
14. Safety Plan to be reviewed by Public Safety regarding signage, lighting and security internal to the parking garage.
15. Existing lighting along Vertical Way and Mechanic Street are considered part of offsite improvements.  
**Placement of lighting to be reviewed and approved of prior to execution of lighting work.**

## 2. 2020.41 – Site Plan, Subdivision, Conditional Use – Brooks Edge Farm Subdivision – Wormell Farm, LLC

### REGULAR BUSINESS

Tax Map: 019 Lots: 029  
Zone: Residential Growth Area 2

#### Project Description:

The applicant is requesting to amend the Conditions of Approval to support a phased development for a 118-unit subdivision along Brook Street which was approved on January 18, 2022.

#### Project History:

November 30, 2020 – Neighborhood Meeting  
December 1, 2020 – Planning Board Workshop  
August 3, 2021 – Public Hearing  
October 5, 2021 – Regular Meeting  
January 18, 2022 – Regular Meeting – Request for final approval  
June 7, 2022 – Amendment to the Conditions of Approval

#### Staff Comments:

This application only contains revised performance guarantee amounts for each of the 5 phases and revised conditions of approval that would allow for the previously approved project to phase the performance guarantee amount over the course of the project under certain conditions. The point of the performance guarantee is to protect the future unit owners to ensure that if they purchase a unit in the complex, that the infrastructure needed to connect to their unit will be constructed in accordance with the approved plans.

It has not been a past practice to divide the performance guarantee as there is inherit risk that once a project is approved a developer could sell units to buyers for phases that are not currently under construction where a developer could default on the project leaving the owner with a unit they do not have access to. Thus, the need for the guarantee to ensure the road/utilities would be available. However, staff feel the setup of the conditions below will allow for the protection of the residents to ensure that the infrastructure is installed in accordance with the plans, if the applicant should default on their commitment.

Items remaining to be addressed, or of note:

1. Noticing Fees: \$35.00
2. NOTE: Final amount of required performance guarantees could increase based on cost of construction at the time of phase commencement. At the time of this approval, the City agrees on the following performance guarantee amounts per phase:
  - a. Phase 1 - \$2,401,051.20
  - b. Phase 2 - \$331,090.55
  - c. Phase 3 – \$593,293.05
  - d. Phase 4 - \$1,633,006.65
  - e. Phase 5 - \$643,065.55

#### Motion:

That the Site Plan, Subdivision and Conditional Use application for Wormell Farm, LLC to revise the Conditions of Approval to support a phased development for the 118-unit subdivision approved January 18, 2022 located at Tax Map: 019 Lot: 029 Zone: Residential Growth Area 2 is **(approved with conditions/ denied)** and the following findings of fact, conclusions, and conditions as stated on pages 9 through 12 of this Staff Memo dated June 3, 2022, are adopted in support of that approval.

**Conditions of Approval (We provided redlined and strikethrough to show changes from original approval):**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated July 8, 2021 and amended on May 11, 2022 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 §335-13.5.D, 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. *The signed Subdivision Plan must be recorded within 90 days of Planning Board approval, or the approval shall be null and void.*
3. **(Amended Condition) Prior to any site disturbance or building permits being issued or sale of any lot/unit for the project:**
  - a. All Staff comments must be addressed.
  - b. Copy of Recorded subdivision plan must be provided to the Planning Office.
  - c. A pre-construction meeting must be held with City Staff, 3<sup>rd</sup> party erosion control inspector and the site work contractor. Contact the Planning Office to coordinate. ~~Additional Pre construction meetings may be necessary if phased construction is not continuous.~~
  - d. Review of building elevations to be consistent with submitted documentation or testimony.
  - e. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
  - f. An inspection fee shall be made payable to the City of Westbrook for inspection of site improvements made by the Code Enforcement Officer and/or other appropriate City staff. Inspection fee shall be 2% of the total amount of performance guarantee. **\$112,030.14 (amount estimated – if Performance guarantee increases, this number would increase.)**
  - g. ~~The applicant shall file a performance guarantee with the City of Westbrook. The amount of the guarantee shall be agreed upon in advance with the City of Westbrook and shall be of an amount to ensure completion of all on and off site improvements necessary to support the proposed project. \$5,958,700.00. Format of Performance guarantee to be approved by the City.~~
  - h. Coordinate with the E911 Coordinator on addressing of the building/units.
  - i. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.
  - j. Open Space fee paid - **\$59,325.00**
  - k. **Review of individual building permit grading plans to be consistent with overall approved grading plan.**
4. **(New Condition) Prior to any site disturbance, building permit issuance or sale of any lot/unit for each phase:**
  - a. **A performance guarantee is required in an amount agreed upon by the City for that phase of development. Amount to be reviewed based on current construction cost rates.**
    - i. **The Phase 1 Performance Guarantee shall not be reduced below 10% of the initial value for the full duration of the project.**
  - b. **A preconstruction meeting must be held with City Staff, 3<sup>rd</sup> party erosion control inspector and the Site Work contractor.**
  - c. **Review of building elevations to be consistent with submitted documentation or testimony.**
5. **Prior to each building permit issuance,** the applicant shall pay the City of Westbrook a \$5,200 per unit fee (\$10,400 per duplex) to be utilized by the City toward project costs associated with the design and construction of Brook Street improvements.
6. **Prior to 1<sup>st</sup> building permit being issued for each phase:**
  - a. Road system must be constructed to a vehicular passable standard for Codes, and Public Safety access. (Base gravel)
7. **(Amended Condition) Prior to any combustible products being brought on-site,** a the Fire Hydrant must be charged and tested **within 800 feet of the staging location and/or location of a structure under construction.**
  - a. Required flow rate: 1,000 gal/minute
  - b. Documentation provided to City's satisfaction. (Coordinate with Fire Department – Mike Corey)

8. **Prior to commencing any work in the City Right-of-Way**, the applicant must obtain a road-opening permit from the Public Works Department.
9. **Prior to the first Occupancy Permit issuance for each phase:**
  - a. Verify payment of all fees related to project.
  - b. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval (to include but not limited to sidewalks, lighting (installed & lit), striping, signage (one side of streets no parking, etc.), **stormwater management features**, off-site improvements etc.
  - c. Road system must be base paved for entire phase.
  - d. All signage including Stop Signs, Driveway Names and No Parking along one side of driveway installed.
  - e. All water and sewer lines fully tested and approved.
  - f. All other site improvements must be installed unless a performance guarantee amount is held for the full amount of any remaining improvements.
  - g. Provide copy to Planning Office of recorded Homeowners association by laws & Declaration of Covenants and Restrictions unless sale of first unit has not occurred.
    - i. Provisions in HOA that HOA is responsible for Maintenance of vegetation along the property frontage to keep site distances valid for driveway onto Brook St.
  - h. Documentation (executed contracts) provided to the Planning Department of private curbside pickup for trash management services.
  - i. Documentation (executed contracts) provided to the Planning Department of private snow plowing/removal services.
  - j. Documentation of maintenance contractor for Stormwater Best Management Practices with the Homeowners Association.
  - k. Verify final USPS locations for mailbox
10. **Immediately following the First Unit Created or Sold:**
  - a. Provide copy to Planning Office of recorded Homeowners association by laws & Declaration of Covenants and Restrictions
    - i. Provisions in HOA that HOA is responsible for Maintenance of vegetation along the property frontage to keep site distances valid for driveway onto Brook St.
11. **(New Condition) Prior to the issuance of the final certificate of occupancy within a phase**
  - a. **Road system shall be final paved for entire phase.**
  - b. **Documentation of maintenance contractor for Stormwater Best Management Practices.**
  - c. **Verification that a valid performance guarantee is held in an amount in excess of the remaining project related improvements and inclusive of any other monetary conditions of this approval.**
12. **(Amended Condition) Prior to release of the Phase 1 performance guarantee:**
  - a. Developer shall provide written notice to the City stating the project is complete.
  - b. The site will be inspected and deemed by City staff to be in compliance with the approved plan and as-built plan provided in City approved format for the GIS system. Applicant to provide as-builts to City in paper copy, dwg file and pdf.
  - c. Documentation of maintenance contractor for Stormwater Best Management Practices.
  - d. **Verification that all fees, and conditions of this approval have been fully addressed.**
13. **(New Condition) Any site work within a phase, or sale of a lot or unit within a phase that occurs prior to a performance guarantee is provided and accepted by the City for that phase constitutes a violation of this approval and will result in an immediate Stop Work Order on all phases of development, regardless of performance guarantee status, until such time that a performance guarantee for the phase where the violation incurred has been provided to the satisfaction of the City. No Occupancy Permits shall be issued while a Stop Work Order is in place.**
14. **(Amended Condition) Catch Basin rims shall be set at base pavement during construction and brought up to final finish grade at the time final pavement is placed.**
15. Guardrails required at all points adjacent to 3:1 slopes. Guardrail may be required at end of hammerhead as determined by on-site conditions post construction. Determination of the need for additional guardrail are at the sole discretion of City Staff.

16. All road drainage shall stay in gutter line and may not backfeed into unit driveways.
17. Railing may be required at top of retaining wall if wall height is 30" or more as measured at an offset point of 3-feet from the base of the retaining wall
18. Provide 3<sup>rd</sup> party inspection consultant for erosion & sediment control and maintenance of ponds.
19. Additional BMPs may be required to address erosion and sediment control during construction. Determination of the need for additional measures are at the sole discretion of City Staff.
20. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.
21. The applicant shall comply with Chapter 37, the local Post Construction Stormwater Management Ordinance. A copy of the maintenance log for the previous year for the stormwater treatment features associated with this project needs to be provided to the Planning Office in accordance with Chapter 37 requirements.
22. Any requirements of the Portland Water District or the Westbrook Sewer Department in their ability to serve letters are conditions of this approval.

### 3. 2022.14 – Conditional Use – 2 Stonewall Way – Joel Richardson

#### **PUBLIC HEARING**

Tax Map: 021 Lot: 114  
Zone: Residential Growth Area 3  
Use: Home Daycare Provider

#### **Project Description:**

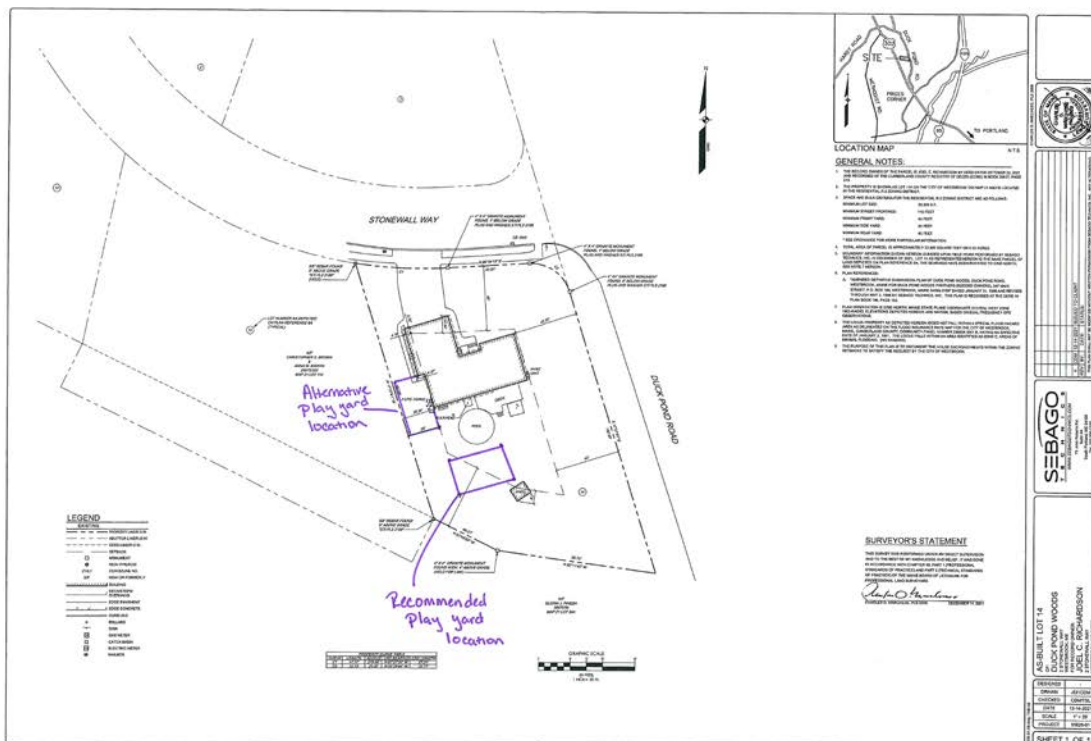
The applicant is requesting a Home Daycare Use for up to 12 children which would be in the existing residential structure at 2 Stonewall Way.

#### **Ordinance History:**

May 3, 2022 – Planning Board Workshop  
June 7, 2022 – Public Hearing

#### **Staff Comments**

1. Noticing Fees: \$195.00
2. Staff finds the use does not pose an interference with the existing bus stop located along Duck Pond Road at the intersection with Stonewall
3. Staff does not support the location of the play yard as proposed in the application. and would recommend as follows:
  - a. A survey of the property shows a distance of 12' from the edge of the walkway to the property line rather than 18' as measured by Mr. Richardson. Staff finds this narrow stretch does not provide a functional play area. An alternative if the applicant wishes to maintain direct access from the garage/daycare door to the play yard would be to install the fence in direct line with the corner of the garage and continue southerly. However, the applicant would need to provide protection around the propane tanks that would otherwise be located within the play area.
  - b. Due to the size restrictions and propane tanks, it is Staff's recommendation the play area be located further to the rear of the structure to provide a (minimum of) 20' x 30' play area that clear of hazards.



4. The play area must be located entirely on the property of 2 Stonewall Drive as shown on the survey plan. Based on the measurements provided by Mr. Richardson, it appears the rock wall is not be an accurate identifier of the property line. Mr. Richardson should utilize the survey measurements when determining fence location to avoid encroaching on the neighbor's yard and thus having to remove and relocate the fence at a later date.
5. Installation of the 4' fence is required prior to issuance of the certificate of occupancy by the Code Enforcement Officer. Contact Planning Department for inspection following installation.
6. Site access/egress is permitted via the driveway only – Daycare clients may not drive over the yard or enter/exit the property at any location other than the approved driveway curbcut.
7. This review/approval is for the land use only. Applicant must still receive all other necessary approvals (including but not limited to, all necessary State licensing, any permits needed from the code office/fire department for interior alterations, etc.)

**Motion:**

Motion to grant a Conditional Use Permit for Joel Richardson to allow a Home Daycare use located at 2 Stonewall Way Tax Map 021 Lot 114 Zone: Residential Growth Area 3 is **(approved with conditions/denied)** and the following findings of fact, conclusions and conditions as stated on pages **14 through 15** of this Staff Memo dated June 3, 2022 are adopted in support of that approval.

**Conditional Use – Finding of Fact**

Standard	Finding
Landscape Environment and Enhancement	The home daycare operation is within the limits of the existing structure. The only site modifications proposed at the time of approval include a secondary emergency egress from the second floor of the garage and the installation of a play area on the westerly side of the house. All applicable improvements will require a building permit from Code Enforcement and must meet the applicable zoning standards of the RGA 3 district.
Surface Water Drainage	If required, a surface drainage plan will be reviewed at the time of building permit submission for the secondary egress.
Water, Air, Soil Pollution	No known or perceived impacts to water, air or soil pollution are anticipated.
Soil Integrity	No changes or alterations to the grading or impervious cover are proposed.
Natural Environment	Not applicable.
Nuisance Factor	None anticipated
Special Features	Not applicable
Vehicular Access	Site access/egress is permitted via the driveway only – Daycare clients may not drive over the yard or enter/exit the property at any location other than the approved driveway curb cut.
Parking and Circulation	The application demonstrates off-street parking is available in excess of Ordinance requirements for the addition of a 12 child home daycare to the existing single-family residential use.
Public Services	The use does not generate an unreasonable burden on available public services. Waste removal in excess of the single-family residence allowance shall be privately hauled.

**Conclusions**

1. The landscape **is** preserved in its natural state insofar as practicable and **is** designed so as to stabilize the slopes and buffer the site, where necessary.
2. Surface water drainage **does not** have an adverse effect on surrounding properties, downstream water quality, soil stability or the storm drainage system.



3. The development **will not** cause unreasonable water, air or soil pollution
4. The development **will not** cause unreasonable soil erosion or reduction in the capacity of the soil to hold water.
5. The development **does not** have an unreasonably adverse effect on a historic site or irreplaceable natural areas
6. The development **does not** cause unreasonable noise, odors, dust, gas, fumes, smoke, light, or other annoying or dangerous emissions.
7. Exposed storage areas, machinery installation, service and loading areas and similar facilities **are** set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses.
8. The site layout **does** provide for safe vehicular access and egress, including that for emergency vehicles.
9. The layout of vehicular and pedestrian traffic patterns **does** provide for safe interior circulation, separation of pedestrian and vehicular traffic and storage of plowed snow. Parking **does** comply with the parking requirements set forth in the Ordinance.
10. The development **does not** impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities and other public services or facilities.

**Conditions:**

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated April 7, 2022 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. Installation of the 4' fence is required prior to issuance of the certificate of occupancy by the Code Enforcement Officer in accordance with the Staff recommendation location, unless otherwise amended by the Planning Board.
3. Site access/egress is permitted via the driveway only – Daycare clients may not drive over the yard or enter/exit the property at any location other than the approved driveway curb cut.
4. This review/approval is for the land use only. Applicant must still receive all other necessary approvals (including but not limited to, all necessary State licensing, any permits needed from the code office/fire department for interior alterations, etc.

#### 4. 2022.17 – Subdivision – 680 Methodist Road – Methodist Homes, LLC – 10 Lot Subdivision

#### **WORKSHOP**

Tax Map: 009 Lot: 014  
Zone: Rural District

#### **Project Description**

The applicant is requesting a 10-lot residential subdivision off of a proposed public street located at 680 Methodist Road. This lot was previously before the board as a duplex condo project, however due to project financials the applicant has chosen to redesign the layout to be lots off of a proposed public street.

#### **Project History**

May 31, 2022 – Neighborhood Meeting  
June 7, 2022 - Planning Board Workshop

#### **Staff Comments**

1. Noticing Fees: \$42.00
2. Current assessing documentation shows lot in an open space tax status. If accurate, lot will need to be removed from this tax status as open space prior to issuance of first building permit and will be subject to tax penalty (applicant to work directly with Assessing Dept for more detail).
3. Cluster calculations shown on plan to demonstrate the open space lot includes land area (gross land area and net residential) to support the reduction of lot sizes. Open Space requires conservation easement to ensure land shall remain open in perpetuity. Easement shall be shown on recorded plan and included with HOA.
4. Subdivision Open Space Requirement – In addition to the open space required as part of the cluster provision, project must comply with subdivision open space requirements. Open Space lot may count toward subdivision open space requirement if the usable land is in excess of cluster requirements.
  - a. Amt. Req: 27,858sf
  - b. Fee in lieu of open space: \$46,686
5. Cluster/Open Space calculations need to be based on the number of units proposed for each lot. Lot 5 has sufficient land area to support a duplex development. Lots 1-4 and 6-10 would need to utilize open space lands to support additional units.
  - a. Final plan shall include open space table to show land area and memorialize the distribution of usable land within the open space lot (density/subdivision open space requirement)
6. Provide square footage for wetland located within the Open Space lot. Visual depiction appears to show wetland to be greater than 1/3 of total lot.
7. Provide a turning template for cul-de-sac to demonstrate adequate emergency access
8. Methodist Road is under moratorium through September 2024.
  - a. Concern water main connection and installation may not be feasible without damaging pavement – provide plan for review
9. Ledgeway Drive is not an acceptable street name – Please provide 3 alternatives for E-911 review
10. Driveway widths are too narrow. Show widths at maximum allowed (22' at radii)
11. Street length is too long – maximum length is 800' from Methodist Road centerline to edge of cul-de-sac pavement.
12. Sidewalk on one side of road required – no esplanade. Sidewalk side should align with mailbox for safe access.
13. Provide location for cluster mailbox on northerly (sidewalk side) of the road. Final location to be approved by USPS

14. No landscaping is permitted in center of cul-de-sac, unless such maintenance is agreed to be maintained by the association. If so, maintenance responsibilities should be included with draft association docs.
15. Show building envelope on Lot 9 – needs to be outside of limits of the non-significant vernal pool to demonstrate no impacts.
16. 25' vegetative setback required along Methodist Road
17. Provide 30' setback required along property lines for abutting properties
18. Drainage easement required from storm outlet into forebay – show on plan.
19. Concrete base for forebay
20. Provide draft association docs to include trash management and snow removal (requirement of association until such time the street is accepted as public), maintenance of stormwater BMPs, clear/safe access to mailbox (including winter months), etc.
21. DEP/ArmyCorp review required for wetland impacts
22. Final plans require P.E. Stamp
23. Subdivision plan requires surveyor's stamp
24. Stop and street signage at intersection with Methodist Road
25. With final application – provide how rock faces will be stabilized.
26. Street lighting required, minimum at intersection with Methodist and terminus of street. May require more depending on topography. Coordinate with CMP on light pole and fixture.
27. Elements required with final submission:
  - a. Provide a landscape plan – 2 street trees required per lot. Trees should be located within the ROW. Tree species and final location to be reviewed & approved of by City Arborist
  - b. Cost Estimate
  - c. Copy of deed to demonstrate ownership
  - d. Letter of financial capacity

### **Board Action**

Provide feedback to Applicant and Staff

## 5. 2022.18 - Site Plan, Subdivision – Rivermeadow Residential Development Phase 1B – WORG, LLC

### WORKSHOP

Tax Map: 037 Lot: 001

Zone: Residential Growth Area 1, Lincoln Street Overlay District

Use: Dwelling, Single-Family

### Project Description

The applicant is requesting an 8-unit single family condominium development with access from a private driveway, Arnie's Alley.

### Project History

June 7, 2022 - Planning Board Workshop

### Staff Comments

1. Noticing Fees: \$238.00
2. Application Fee due at next submission: \$700 (\$300 sketch fee + \$2,400 subdivision fee (\$300/unit) - \$2,000 provided on 5/12/2022)
3. Procedural - Approval of Phase 1b cannot occur until Phase 1 is approved as the site is dependent on infrastructure improvements included in Phase 1.
4. Elevations do not provide sufficient variation.
  - a. Color variation should stretch further than a grey scale.
  - b. Possible opportunity to provide varied rooflines.
  - c. General note – Houses are situated very close to one another. Take measures to avoid windows directly aligning. Possible mirroring of units?
5. Extension of front porch would facilitate seating and create a usable porch
6. Rear decks are too small - widen to be more functional for residents
7. More information needed on the connection of FM (will be included with the Phase 1 application)
8. Arnie's Alley Association –
  - a. Provide draft documents for Association. Documents provided as part of Phase 1 approval were not inclusive of the Phase 1B Condominiums. Association should call out maintenance responsibilities for Arnie's Alley as well as private snow removal and trash hauling for Condominiums and the single-family house lots.
  - b. Questions on BMP maintenance – Will the maintenance of the two filterbeds be sole responsibility of Arnie's Alley Association or will this be a part of the overall association? If overall association – draft documents needed.
  - c. Draft documents for sub-association that is specific to the 8-unit condominium and common elements
9. Confirm Access Easement to benefit Condo 1B and Lots 18 – 29 includes all of Arnie's Alley and the visitor parking pods – access easement needs metes and bounds. Update note on condo plat to include Condo 1B with easement.
10. Recommend slipform concrete curbing
11. Verify turning template from Lopez to Arnie's Alley to confirm hydrant service from Mayberry hydrant to Condo Unit 1B.1.
12. Performance guarantee needed for all site work. Provide cost estimate for Phase 1B site improvements. Phase 1B site work commencement will be contingent on submission of the Arnie's Alley PG. Arnie's Alley and Phase 1B PGs can be combined.
13. Provide a landscaping plan
14. Development signage at entrance (if applicable).

**Board Action** - Provide feedback to Applicant and Staff

**6. 2022.19 - Site Plan, Subdivision – 984 Spring Street Residential Development – Tom Watson & Co., LLC:**

**WORKSHOP**

Tax Map: 003 Lot: 005  
Zone: Highway Services  
Use: Dwelling, Multiple-Family

**Project Description**

The applicant is requesting a 204-unit residential complex with associated site improvements and amenities located at 984 Spring Street.

**Project History**

June 1, 2022 – Neighborhood Meeting  
June 7, 2022 - Planning Board Workshop

**Staff Comments**

1. Noticing Fees: \$32.20
2. Provide Open Space Plan and narrative with all recreational elements for Rec and Con review (needed with final application submission) 61,200 sf required (fee equivalent \$102,562.00);
3. Provide documentation of neighborhood meeting (attendance sheet and minutes) to planning office.
4. Project requires review and approval by LCWMD;
  - a. Concern of dog park in close proximity to Long Creek
5. Site requires secondary access to function as emergency site egress in the event the primary access is closed. Possibility of extending beyond the edge of parking lot adjacent to building #1 or building #3 to connect to Spring Street with mountable curb instead of utilizing existing curb cut to minimize maintenance needs post construction. Access should be gated with Knox box to only be utilized on an emergency basis. Site access points must have a minimum separation of 75', radii to radii
6. Ability to serve letters required for PWD and CMP. Recommend early coordinate with CMP on ensure capacity to serve the development.
7. Provide offsite improvement plan for required sewer upgrades in Spring St and Thomas Drive
8. Photometric plan shows some dark areas around building entrances – verify wall packs will be provided on buildings
9. Provide cutsheets for proposed lighting including pole colors (Black or bronze recommended)
10. Provide blowup of entrance driveway in relation to the existing CB in Spring Street to ensure no impact to drainage pattern.
11. Confirm CMP pole and DOT signage does not conflict with location of proposed site entrance
12. Irrigation needed for esplanade for grass survival
13. Final review of dumpster location needed to verify dumpsters are serviceable. Dumpsters may not be located within setback.
14. Concern chloride loading into Long Creek; Provide a plan of how project will desalinate runoff prior to Long Creek
15. City requests an access easement for Westbrook School Dept. for bus turnaround
  - a. Consider providing a seating area for bus pickup at clubhouse turnaround.
16. Coordinate with abutting property to provide walking path for pedestrian connectivity to Thomas Drive.
17. Traffic impacts
  - a. Provide traffic analysis.
  - b. Possible need for left turn pocket within Spring Street ROW. Provide stacking analysis during peak hours

18. Further coordination needed with E-911 coordinator to determine building addressing. Project may require a named driveway. Provide 3 potential driveway names to utilize, if necessary.
19. Wayfinding signage will be needed throughout site
20. Surveyor stamp missing from boundary survey
21. Provide variation in color/line weights for enclosed parking to differentiate from structures.
22. Provide documentation of neighborhood meeting (minutes and attendance sheet) to Planning Department.

**Board Action**

Provide feedback to Applicant and Staff

7. **2022.20 - Amendment to the Land Use Ordinance - §335-1.8 Definitions; § 335-2.18 Lot partially in two districts; §335-2.23 One unit, one household; New Section §335-2.31 Utilities; § 335-3.5 Nonconforming lots; § 335-3.6 Nonconforming lot design standards; Article V Zoning Districts 335-5; Article XII Review of Private Ways §335-12**

## **WORKSHOP**

### **Ordinance Description**

City Staff are proposing several amendments to the Land Use Ordinance to clarify ambiguous language, revise the existing Land Use “Utility” to include public infrastructure and allow private ways to provide frontage for more than 3 lots with additional standards.

### **Ordinance History**

June 7, 2022 - Planning Board Workshop

### **Staff Comments**

Staff have grouped the amendments into 5 general categories and will provide further explanation on each amendment.

#### *1. Lot of Record & Nonconforming Lots*

*Ordinance: §335-1.8 Definitions;*

The current wording of the lot of record definition states a parcel must have been a part of a Planning Board approved subdivision **and** have met prior zoning requirements. This is not an accurate definition of Lot of Record as it should not be both. A lot of record is a parcel that is recognized as legal (thus buildable) when it is a part of a Planning Board approved subdivision **or** having met the zoning requirements at the time of the lot’s creation. The proposed language seeks to clarify the two and further defines the lot’s creation with having met the zoning requirements at the time of the deed’s recording rather than a variable “at the time this chapter was adopted”.

*Ordinance: §335-3.5 – Nonconforming Lots*

The current ordinance §335-3.5 Nonconforming Lots utilizes the term Nonconforming Lot and Lot of Record interchangeably. However, these are two separate terms that sometimes may cross, but not always. All nonconforming lots are lots of record but not all lots of record are nonconforming lots. This section of the ordinance is addressing standards for nonconforming lots, so the proposed amendment replaces all references to “lots of record” with “nonconforming lot”. Additional minor changes to wording are proposed for clarity and consistency with language utilized throughout the ordinance.

*Ordinance: §335-3.6 - Nonconforming lot design standards*

The design standards outlined in nonconforming lot design standards are specific to residential building construction and design. The proposed amendment specifies the RGA 1 and RGA 2 districts as these are the two districts within the City that are primarily comprised of interconnected, residential neighborhoods (City Center does not have a minimum lot size or road frontage requirements and therefore there aren’t any nonconforming legally created lots within the City Center District). This section of the Ordinance also removes the provision for Yard Setbacks §335-3.6.C(7)(b) as this appears to be a typo (states a 15-inch setback is required rather than 15 feet) and further Staff supports utilizing the setbacks defined in the base zone when building on a nonconforming lot. In the event that a building envelope on a legally nonconforming lot is too small to be functionally utilized §335-3.5.C affords the property owner the ability to seek a variance through the Zoning Board of Appeals.

## 2. *Lot Partially in Two Districts*

*Ordinance: §335-2.18 Lot Partially in Two Districts*

The wording of this section is vague and has resulted in confusion when working to interpret. The proposed amendment clarifies that the performance standards of the primary district shall be utilized for lots that bisect two zoning districts while land uses that are only permitted in the Primary District may not extend more than 30 feet beyond the zoning boundary where they are permitted.

## 3. *One Unit, One Household*

*Ordinance: §335-2.23 One unit, one household*

The proposed amendment addresses a cyclical statement within the Ordinance. §335-2.23 states no more than one household may live in a dwelling unit, however a household is defined as a group of individuals living in a dwelling unit. By that definition, it would be impossible for more than one household to reside within a dwelling unit because the dwelling unit defines the household, therefore this definition is pointless and is proposed for removal.

## 4. *Private Ways*

*Ordinances: §335-12.4 Reviewing Authority §335-12.6 General Provisions sections A. C. D. and E(4)*

The proposed amendment removes the 3-lot limit and would allow a private way to provide access and frontage to however many lots that can be legally created within the base zone, with the standard that a private way providing frontage to 4 or more lots must meet the local street standard which requires larger travel ways and a 5.5' sidewalk. The amendment further clarifies responsibility of trash and snow removal is with the HOA for all private roads, regardless of the type of development. Final edits were made to correct grammatical errors and remove gendered language within the Ordinance.

In looking at recent development inquiries it became clear that the 3-lot maximum resulted in private way development demanding oversized lots. All roads, regardless of public or private development, should be afforded the ability to develop in accordance with the standards of the district in which they are located. Further, a development who wishes to retain the rights of a roadway should be afforded that ability, where the Ordinance currently **requires** a development with access/frontage to more than 3 lots be accepted by the City as a public street.

There have been no changes to the reviewing authority for private ways, however the Ordinance is proposed to be amended to more clearly state that private ways may be reviewed at a Staff level by the Private Way Review Committee only in instances where subdivision review is not required. Where subdivision review is required, a private way would be reviewed as part of the site plan/subdivision application review.

## 5. *Utilities*

*Ordinances: §335-1.8 Definitions; New Performance Standard §335-2.31 Utilities; §335-5.1 City Center District; §335-5.2 Residential Growth Area 1; §335-5.3 Residential Growth Area 2; §335-5.4 Residential Growth Area 3; §335-5.5 Prides Corner Smart Growth Area; §335-5.6 Rural District; §335-5.7 Highway Services District; §335-5.9 Gateway Commercial District; §335-5.10 Industrial Park District; §335-5.11 Manufacturing District; §335 Attachment 1 Table 1 Land Use Table*

The proposed amendment inserts Utilities as a permitted use in every zone so all utility services (power lines, substations, pump houses, etc.) are conforming. Staff is recommending a parcel setback for utility structures (does not apply to subsurface utilities or electrical infrastructure) of 5-feet on private lots (or 0' for parcels located within the case of the City Center District, in accordance with the standards of that district).

Previously, Calpine was permitted in the MD as a 'utility'. However, it is not the intention of this amendment to allow large scale power generation companies in every district. In looking at the land use definitions, Staff finds the operations of a business such as Calpine is more appropriately classified as Industry. Therefore, Staff is



proposing an amendment to the definition of Industry to further define the parameters of the industrial operations and to better differentiate the Industry and Light Manufacturing land uses, where industry is the production of goods or materials (that may require further production prior to sale to consumer) and Light Manufacturing is the production of a finished product or part ready for retail sale.

The Industry use is permitted within the Industrial Park District and Gateway Commercial District as a permitted use, and within Highway Services as a Conditional Use. Staff is recommending Industry be added to the Manufacturing District to address the existing businesses within that zone. Additionally, Staff is recommending Industry be removed from the Highway Services District as the majority of parcels zoned Highway Services directly abut a parcel that is either residentially zoned or used and these parcels are typically small lots.

In looking at the Manufacturing District, the ordinances lists Permitted, Conditional and Prohibited Uses. The Manufacturing District was written prior to the adoption of §335-2.26, which states that any use that is not expressly allowed as a permitted or conditional use is prohibited. With the adoption of §335-2.26 it is redundant to include Prohibited Uses within a zoning district as any use not permitted is inherently prohibited.

However, it is clear the intent of this section was to protect this district from specific industries that may otherwise be defined by an umbrella term (such as Light Manufacturing) that could cause an unreasonable burden or nuisance. To address this, the proposed amendment includes a clarifying statement that within the Manufacturing District the terms Light Manufacturing and Industry shall not include the industries previously defined as Prohibited Uses.

**Board Action**

Provide feedback to Staff