



Planning & Code Enforcement

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PLANNING & CODE ENFORCEMENT

WESTBROOK PLANNING BOARD
Tuesday, December 5, 2023, 7:00 P.M.
Westbrook High School – Room 114
125 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

NEW BUSINESS

2. **2023.25 – Amendment to the Land Use Ordinance - §335-5.7 Highway Services District; §335-13.5 Site Plan Design and Performance Standards – NLM Enterprises, LLC** The amendment removes the driveway standards for parcels located within the Highway Services District and expands site access requirements within Site Plan Review to clarify compliance with MDOT Standards.
3. **2023.26 – Amendment to the Land Use Ordinance - §335-1.8 Definitions; New Section §335-2.15 Residential Care Facility; §335-7.5 Residential Growth Area 2 Service Business Overlay Zone – Unified Properties, LLC** – The amendment replaces the Residential Growth Area 2, Service Business Overlay Zone with a proposed Residential Growth Area 2 Medical Office Overlay District and proposes a new use, Residential Care Facility, as a permitted use within the overlay district. The amendment further expands the overlay district to incorporate the parcel located at 271 Cumberland Street where a Residential Care Facility is requested.
4. **2023.31 – Amendment to the Land Use Ordinance: Extended Care Facility- §335-1.8 Definitions, Article V Zoning Districts, §335 Attachment 1 City of Westbrook Table 1: Land Use Table – City of Westbrook, & §335-13.6 Site Plan Review Design and performance Standards B. (1) Table of Off-Street Parking– City of Westbrook:** The proposed amendment removes the use “Nursing Home” and inserts a new use “Extended Care Facility” where Nursing Homes are currently permitted to provide consistency in terminology within the Land Use Ordinance.

WORKSHOP

5. **2023.29 – Site Plan, Subdivision – HTM Partners & Flaherty Property:** The applicant is requesting 38-unit subdivision comprising of single-family & duplex style dwellings located off of Berkshire Way. Tax Map: 019 Lots: 031, 033, 034 and Tax Map:059 Lot: 042 Zone: Residential Growth Area 2 Use: Dwelling, Single-Family; Dwelling, Two-Family
6. **2023.30 – Site Plan, Subdivision – Waterhouse Farm Preserve – Dog Days, LLC:** The applicant is requesting a 64-unit residential complex located at 547 Saco Street. Tax Map: 004 Lot: 013 Zone: Residential Growth Area 2 Use: Dwelling, Multiple-Family



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PLANNING & CODE ENFORCEMENT

DATE: December 1, 2023
TO: Planning Board
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Senior Planner
Cc: Plan Review Team
RE: December 5, 2023, Planning Board Meeting

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1. **2023.25 - Amendment to the Land Use Ordinance - §335-5.7 Highway Services District; §335-13.6 Site Plan Design and Performance Standards – NLM Enterprises, LLC**
 2. **2023.26 – Amendment to the Land Use Ordinance - §335-1.8 Definitions; New Section §335-2.15 Residential Care Facility; §335-7.5 Residential Growth Area 2 Service Business Overlay Zone – Unified Properties, LLC**
 3. **2023.31 – Amendment to the Land Use Ordinance: Extended Care Facility- §335-1.8 Definitions, Article V Zoning Districts, §335 Attachment 1 City of Westbrook Table 1: Land Use Table – City of Westbrook, & §335-13.6 Site Plan Review Design and performance Standards B. (1) Table of Off-Street Parking**
 4. **2023.29 - Site Plan, Subdivision – HTM Partners & Flaherty Property – Berkshire Way – 38 Unit**
 5. **2023.30 - Site Plan, Subdivision – Waterhouse Farm Preserve – Dog Days, LLC – 547 Saco Street - 64 Unit**

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1. **2023.25 - Amendment to the Land Use Ordinance - §335-5.7 Highway Services District; §335-13.6 Site Plan Design and Performance Standards – NLM Enterprises, LLC**

PUBLIC HEARING

Amendment Description

The amendment removes driveway standards for parcels located within the Highway Services District and expands site access requirements within Site Plan Review to clarify compliance with MDOT Standards.

Amendment History

November 7, 2023 – Planning Board Workshop
December 5, 2023 – Public Hearing

Staff Comments

1. Noticing Fees: \$356.85

The City received a request to amend the Highway Services District (HSD) standard regarding Traffic Impact (§335-5.7.C(12)) which prohibits driveways located within the HSD from being located 150' from another intersection or curb cut. The applicant is the owner of the parcel located at 368 Bridgton Road (058/003B). The subject parcel is currently vacant (split from 058-003 in 2020) and the Planning and Public Services Departments were approached with a request to review a preliminary concept plan for development. Upon initial review, it was

noted that there is no location along the parcel frontage where a driveway could be located so that the driveway is at least 150' from a neighboring curb cut. As this standard is located in the Zoning District, rather than a Site Plan standard, it cannot be waived by the reviewing authority during an application review process.

When reviewing any site ingress/egress to a parcel, Staff will look to MDOT standards for driveway entrances, which are determined by the speed and classification of the roadway the site gain access to. Utilizing a set requirement for distance between driveway entrances, does not take into consideration the individual attributes of each parcel or the roadway system that parcel is located on. Further, this requirement does not appear feasible with the minimum lot frontage standard of the district (100') as lots with that frontage could not each have their own site access while maintaining the 150' requirement. It appears the intent of the standard was to encourage shared driveway access within parcels; however, the City cannot *require* a private property owner to provide access to an abutting property. In the instance of the 368 Bridgton parcel for example, if neither of the abutting properties agree to a shared driveway access, then the 368 Bridgton parcel is denied access and is therefore unbuildable.

Staff supports the requested amendment to the Site Plan Review Standards to clarify that new or expanded driveways are required to meet the MDOT standard for driveways as this is a standard that is applied to all driveway/curb cuts. Therefore, Staff finds this standard to be more appropriately located within Site Plan Review standards for Vehicular Access (§335-13.6.C(2)) rather than within a singular zoning district. Its current place in the ordinance gives the impression this is a standard that *only* applies to parcels within the Highway Services District, which is not the case.

The request before the Board is for an amendment to the ordinance. Any potential development on the 368 Bridgton Road will still need to demonstrate that driveway access can meet MDOT driveway standards and all other applicable requirements of the Ordinance. The requested amendment to the ordinance does not guarantee or approve access to the subject site.

Motion: That the Planning Board recommends to the City Council for adoption an amendment to the Land Use Ordinance to remove driveway standards for parcels located within the Highway Services District, §335-5.7, and expand site access requirements within Site Plan Review to clarify compliance with MDOT Standards, §335-13.6 Site Plan Design and Performance Standards, as per the Public Hearing document titled "NLM Enterprises, LLC Highway Services District".

2. 2023.26 – Amendment to the Land Use Ordinance - §335-1.8 Definitions; New Section §335-2.28.1 Residential Care Facility; §335-7.5 Residential Growth Area 2 Service Business Overlay Zone – Unified Properties, LLC

PUBLIC HEARING

Amendment Description

The amendment replaces the Residential Growth Area 2, Service Business Overlay Zone with a proposed Residential Growth Area 2 Medical Office Overlay District and proposes a new use, Residential Care Facility, as a permitted use within the overlay district. The amendment further expands the overlay district to incorporate the parcel located at 271 Cumberland Street where a Residential Care Facility is requested.

Amendment History

November 7, 2023 – Planning Board Workshop

December 5, 2023 – Public Hearing

Staff Comments

1. Noticing Fees: \$681.65

The City was approached by Unified Properties, LLC with a request to operate a residential recovery house to specialize in substance abuse treatment at a property located at 271 Cumberland Street. This is intended to serve up to 16 individuals who have already completed the more intensive initial stages of recovery (ex: detox, in-patient treatment, etc.) but are still seeking professional support while they continue with outpatient therapeutic services and integrate back into their daily lives.

Westbrook’s Land Use Ordinance has been limited in definitions for residential health facilities. Prior to this year, the only permitted care facility was “Nursing Home” which specifically requires a “skilled nursing facility” or “intermediate care facility” license. This past April, the City adopted a new use, Short-Term Care Facility, intended to provide inpatient care and treatment for individuals where a hospital or nursing home is not required on a short-term basis. This use was approved for up to 45 consecutive days of care and placed in the Highway Services District, as requested by the applicant, and found appropriate due to the anticipated level of turnover and access to city services.

After meeting with Unified Properties, LLC, it was determined that the requested use did not fit either the Nursing Home or the Short-Term Care Facility. The applicant has therefore provided an application to amend the Ordinance to allow for a staffed facility which acts as a residence while providing guidance or counseling services as a primary focus of the facility to be permitted at the 271 Cumberland Street location.

In response, Staff has provided the Planning Board with a draft ordinance for a new use, Residential Care Facility, to be defined as “A residential facility staffed or managed on-site which provides care and services to individuals above the level of room and board because of the individual’s mental or physical condition. Said facility must be licensed as a board care, residential care facility or equivalent by the State of Maine. A residential care facility shall provide care for individuals for a period of no less than 45-consecutive days and no more than 1 year.”. Staff is recommending the use include a parking standard, with the understanding that the standard can be waived by a reviewing authority with a parking management plan depending on the needs/policies of the facility (ex: if clients are not permitted personal vehicles on site and/or a van is provided for transportation purposes).

In looking at appropriate locations for this proposed use, Staff identified the rear abutting parcel as being in the Residential Growth Area 2 – Service Business Overlay District which overlay area contains the Northern Light Medical Center campus. The Service Business Overlay District currently encompasses four parcels, a vacant parcel (044/067), the previous Northern Light Hospital (044/068), a mixed use building primarily occupied by medical/therapeutic services (044/068A) and a vacant residential structure that was once affiliated with the Mercy (Northern Light) Hospital (044/056A). Although this original overlay district was intended to allow for service businesses in this specific area within the Residential Growth Area 2 District, with the exception of one service business, the overlay area is entirely occupied by health/medical uses. Therefore, Staff is proposing a repeal and

replacement of the Service Business Overlay District and instead designate this area as Residential Growth Area 2 – Medical Office Overlay District where all medical uses are permitted, including the proposed Residential Care Facility. Service Businesses would continue to be permitted within this overlay district so as to not create a nonconformity of the existing Beauty Salon at 50 Park Road. Staff further recommend an extension of the Medical Office Overlay District over the 271 Cumberland Street parcel to allow the Residential Care Facility to operate at that location, as requested by the applicant. With this change, the zoning overlay has been revised to reflect what has organically grown at these locations.

Although the proposed Residential Care Facility use is residential in nature, it is a staffed residence and could potentially have a larger number of residents than would typically reside within a single-family structure. Therefore, staff recognize that the use is more intensive than a single-family dwelling and may not be appropriate to locate within the entirety of an RGA district. At this time, Staff are recommending this use only be located within the Medical Office Overlay District, with the understanding that by creating a use there is a possibility of expanding the use into other districts if/when it is appropriate or requested. Additional performance standards could then be determined/implemented at that time depending on the proposed location(s).

Motion: That the Planning Board recommends to the City Council for adoption an amendment to the Land Use Ordinance §335-1.8 Definitions; New Section §335-2.28.1 Residential Care Facility; §335-7.5 Residential Growth Area 2 Service Business Overlay Zone to allow a new use, Residential Care Facility as a permitted use within the retitled “Residential Growth Area 2 – Medical Office Overlay District”, per the Public Hearing Document titled, “Unified Properties, LLC – Residential Care Facility” and further recommends an amendment to the City of Westbrook Zoning Map to include the parcel located at 271 Cumberland Street, Tax Map: 044 Lot: 064 as part of the renamed Residential Growth Area 2, Medical Office Overlay District.

3. 2023.27 - Amendment to the Land Use Ordinance: Extended Care Facility- §335-1.8 Definitions, Article V Zoning Districts, §335 Attachment 1 City of Westbrook Table 1: Land Use Table – City of Westbrook, & §335-13.6 Site Plan Review Design and performance Standards B. (1) Table of Off-Street Parking

PUBLIC HEARING

Amendment Description

The proposed amendment removes the use “Nursing Home” and inserts a new use definition “Extended Care Facility” where Nursing Homes are currently permitted to provide consistency in terminology within the Land Use Ordinance.

Amendment History

November 7, 2023 – Planning Board Workshop

December 5, 2023 – Public Hearing

Staff Comments

With the adoption of the Short-Term Care Facility use and the proposed Residential Care Facility, Westbrook is modernizing terminology to better support and reflect the needs of the local and regional communities. Previously, inpatient medical care was filtered into two categories, Hospitalization and Nursing Home Care. Hospitalization was intended to provide immediate, short-term convalescent care and Nursing Home was more specific to the needs of long-term care for aging individuals. As we are now seeing, the need for inpatient care can often extend beyond those two specific life events and thus the process of updating our Ordinances to reflect and support the needs of those who reside in and around Westbrook.

With this in mind, Staff is recommending a revision to the existing Nursing Home use to retitle to “Extended Care Facility”. An Extended Care Facility is proposed to be more broadly defined as “full-time chronic care or health care under medical supervision for 24 hours a day”. This allows the definition to follow the continuum of inpatient care definitions that have been created by distinguishing the intensity or duration of care.

To compare our terms of “Care Facilities” we provide the following:

- Short Term Care
 - o Specific to high level of care over a short-term duration.
 - o 24 hour/day monitored care with a total duration of stay: 24 hours – 45 days.
 - o Higher impact to land use
- Residential Care
 - o Staffed facility
 - o More of a residential vs. clinical setting (individuals may not require 24-hour/day monitoring)
 - o Clients reside for a duration of 45 days – 1 year.
 - o Moderate impact to land use
- Extended Care
 - o Long-term “chronic care” where 24 hour/day monitored care is required.
 - o Moderate impact to land use

Motion: That the Planning Board recommends to the City Council for adoption an amendment to the Land Use Ordinance to update and retitle a definition as Extended Care Facility which would be permitted where Nursing Homes are deemed permitted, per the Public Hearing document titled, “Definitions & Uses – Nursing Homes – Extended Care Facility”.

4. 2023.29 - Site Plan, Subdivision – HTM Partners & Flaherty Property

WORKSHOP

Project Description

The applicant is requesting 38-unit subdivision comprising of single-family & duplex style dwellings located off of Berkshire Way.

Project History

December 5, 2023 – Planning Board Workshop

Staff Comments

1. Noticing Fee: \$67.20
2. Hydrants are required at 800' intervals.
3. Provide a turning template to demonstrate adequate access for emergency vehicles.
4. Two driveway (street) names required. Provide 4-5 proposed driveway names for E-911 review and show locations of street sign on plan.
5. Stop signs required at intersection with Berkshire Way and internal intersection.
6. Street/safety lighting required at intersections and end of roadway – show on final plan.
7. One side of each “road” to be designated/signed as no parking – show on final plan.
8. Pedestrian Improvements.
 - a. Pedestrian connectivity to Brook Street as shown cannot be maintained and is not acceptable. Provide a formalized pedestrian facility to connect to Brook Street
 - b. Any future expansion of the subdivision will require vehicular connection to Brook Street to facilitate emergency response – recommend the pedestrian connectivity to Brook Street take into consideration the location of a future vehicular access.
 - c. Project is required to participate in Brook St/Route 302 reconstruction and pedestrian improvements. Each unit is subject to an impact fee of \$1,500 due at the time of building permit issuance.
9. Solid waste proposed to be managed via curbside toter service.
 - a. Recommend contracted recycling services to be provided as well.
10. HHE-200 required with final submission.
 - a. Provide a plume analysis with final submission to demonstrate no impacts or trespass to the wetlands.
11. Final plan cannot show generalized building footprint & grading plan – final plan set required to show actual proposed building footprints.
12. Provide proposed building elevations. Elevations to demonstrate variety in color/architectural design throughout development.
13. Unit 16 driveway conflicts with internal intersection. Recommend a duplex style with units 15 & 16 to provide greater separation.
14. Open space – 11,400 sf (\$19,105 fee in lieu). Open space to be usable space. Areas not accessible/developable cannot be utilized for required open space unless project can demonstrate high value for conservation.
15. Show zoning standards and net residential density calculation on site plan.
16. Signature block on site plan
17. Provide a landscape plan with final submission.

5. 2023.30 - Site Plan, Subdivision – Waterhouse Farm Preserve – Dog Days, LLC

WORKSHOP

Project Description

The applicant is requesting a 64-unit multifamily residential complex located at 547 Saco Street.

Project History

December 5, 2023 – Planning Board Workshop

Staff Comments

1. Hydrant required internal to the site toward the rear of the project.
2. All buildings required to be sprinkled & full fire alarm system.
3. Provide a turning template to demonstrate adequate access for emergency vehicles throughout development.
4. Dumpster locations at end of hammerheads will conflict with winter snow plowing – consider alternative options.
5. Recommend the inclusion of recycling services with dumpsters.
6. Provide safety lighting throughout development.
7. Sewer
 - a. Sewer connection into public main required to be into a structure.
 - b. Sewer to connect to public main in most direct manner possible/feasible. Project cannot enter public right of way at driveway and run along main to manhole further north on Saco St.
 - c. Sewer pretreatment is required prior to entering the public system.
 - i. Existing house may maintain existing sewer connection and is not subject to pretreatment requirement.
8. Driveway required to meet MDOT entrance standards for new access. Existing driveway does not provide access to new/expanded use of the property.
 - a. Driveway for existing house may need to be relocated (i.e., access from project drive, not Saco St) to meet separation of access standards.
9. Pedestrian improvements
 - a. Installation of a driveway southerly on Saco St to a crosswalk on Spiller Drive is not acceptable. Project is responsible to provide pedestrian connectivity (sidewalk) north to connect with the existing driveway at Elmapple Drive. Sidewalk plan required with final application submission.
 - b. Internal sidewalks required throughout entire development to access all parking areas and buildings.
10. Development requires named driveways for addressing – consult with E-911 officer on the number of driveway names that will be required. Provide 4-5 proposed driveway names for E-911 review.
11. Show zoning standards and net residential density calculation on site plan.
12. Provide signature block on site plan.
13. Provide building elevations with final submission.
14. Show mailbox location on final plan.
15. Provide table with total number of parking spaces proposed with development.
16. Provide a landscape plan with final submission.
17. Open Space – 19,200 sf of open space required.
 - a. Provide an open space plan to address the open space requirement. Staff would support the conservation of rear area with a maintained trail to access the stream located at the rear of the property. Open Space plan to be reviewed by the Recreation and Conservation Commission prior to public hearing with the Planning Board.