



WESTBROOK PLANNING BOARD
TUESDAY, FEBRUARY 2, 2021
WESTBROOK MIDDLE SCHOOL



**WESTBROOK PLANNING BOARD
TUESDAY, FEBRUARY 2, 2021, 7:00 P.M.**

MINUTES

Present: Rene Daniel (Chair) (At Large), Rebecca Dillon (Vice-Chair) (Ward 1), Jason Frazier (Ward 2), Joseph Marden (Ward 3), Larry McWilliams (Alternate), Nancy Litrocapes (Alternate)

Absent: Robyn Tannenbaum (Ward 4), Ed Reidman, (Ward 5), John Turcotte (At Large)

Staff: Jennie Franceschi, Planning & Code Director; Rebecca Spitella, Associate Planner; Linda Gain, Office Coordinator

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

Rene Daniel called the February 2, 2021 Planning Board meeting to order.

- 1. Call to Order**
- 2. Approval of Minutes September 1, 2020, October 6, 2020 and January 5th, 2021**

Rebecca Dillon move to approve September 1, 2020, October 6, 2020 and January 5th, 2021 Planning Board minutes.

2nd by Joseph Marden

The vote is 6-0 in favor to approve minutes as presented

OLD BUSINESS

Rebecca Spitella introduced item:

- 3. 2020.26 – Subdivision – Greenfield Place – Bramblewood, LLC: The applicant is proposing a 3-lot and 28-unit condominium development on a private driveway located on New Gorham Road. Tax Map: 027 Lots: 184, 184B and 184C Zone: Residential Growth Area 1 Use: Dwelling, Single-Family; Dwelling, Two-Family**

Joseph Marden asked to be recused as I am the owner of the parcel that is being discussed.

Rene Daniel may I have a motion to recuse Joseph Marden?

Nancy Litrocapes so moved

2nd by Larry McWilliams

The vote is 6-0 in favor

Joseph Marden is recused from the discussion

Dustin Roma, DM Roma Consulting Engineers, on behalf of Bramblewood, LLC. Provided aspects of the subdivision named Greenfield Place. The applicant is proposing a 3-lot, 28-unit subdivision comprising of a new 26-unit condominium development and an existing 2-unit building, created within the five-year subdivision regulation, on a private driveway located on New Gorham Road. Tax Map: 027 Lots: 184 and 184C Zone: Residential Growth Area 1. Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below: <https://westbrooktv.viebit.com/player.php?hash=sGAMpsqtRXvs>

Rene Daniel Staff comments?

Jennie Franceschi Project Description:

The applicant is proposing a 3-lot and 28-unit condominium development on a private driveway located on New Gorham Road. The developer Bramblewood, LLC is creating the Greenfield Place Homeowners Association that will own the property, with the houses being owned as Condos, and maintenance responsibilities associated with the project. A lot previously split from the original parcel, Map 27 Lot 184C, is also included in this review process and will be served by the infrastructure provided with this project.

The project has opted to utilize the open space fee in lieu of providing for the required open space on the site.

Project History:

- July 2020 – Neighborhood Meeting
- August 4, 2020 – Planning Board Workshop
- January 5, 2021 – Public Hearing
- February 2, 2021 – Planning Board meeting (continued)

Staff Comments:

1. Noticing Fees Due: \$372.95
2. Lighting fixtures not shown to be connected to power. Revise utility plan to show connection to closest transformer.
3. Architectural Elevations –
 - a. Since the 1/5 Planning Board meeting the applicant has designated building type and location as well as provided a fourth color option.
 - b. Board can provide any further feedback to the applicant. Any required elements by the Board that are not currently shown would require addition of a condition of approval.
4. Sewer
 - a. Ability to Serve needed for sewer – in process.
5. Intersection with New Gorham Rd
 - a. Concern stands regarding potential ponding on the westerly side of the sidewalk at the New Gorham Road-Greenfield Dr. intersection based on in-field changes to the

grades. Recommend relocating both CBs to the base of the driveway to capture water at low point and divert to the ditch line behind the sidewalk which is where the flow had historically flowed prior to the sidewalk installation.

6. E/S control plan.
 - a. Based on construction conditions, additional measures along the easterly property line may be necessary. Item included as a Condition of Approval
7. Signage designating one side of driveway as no parking required – Item added as a condition of approval prior to first c/o.
8. Final mailbox location to be reviewed/approved by USPS.
9. Final revised plan set with signature blocks and conditions of approval (to be provided on/around Friday, 1/29) in the following format: 1-full size mylar set, 1-full size paper set, 2 additional paper copies of the subdivision plan (SB-1) for recording.

Rene Daniel open Public comment

No Public comments

Rene Daniel closed Public Hearing

Rene Daniel Board comments and discussions?

No Board Comments

Rene Daniel thank you for making all the changes to the project that the Board asked for. Do I hear a motion?

Rebecca Dillon move that the Planning Board approve the Site Plan and Subdivision application for Bramblewood, LLC for a 28-unit condominium development located adjacent to 167 New Gorham Road, Tax Map: 027 Lots: 184, 184B and 184C Zone: Residential Growth Area 1 is approved with conditions and the following findings of fact, conclusions and conditions as stated on pages 2 through 7 of this Staff Memo dated January 29, 2021 are adopted in support of that approval.

Site Plan – Findings of Fact

Standard	Finding
Utilization of the site	The proposed development is positioned so as to work with the site topography and minimize impacts to existing wetlands. The development is within the allowable density afforded by the site.
Handicap Access	The site is ADA compliant and provides for detectable warning at tip downs located at intersection of driveway and New Gorham Road.
Appearance Assessment	1. Unit 1 façade fronting New Gorham Road includes enhancements to facilitate a street presence on the public right of way. All units are oriented toward the

	<p>Greenfield Drive driveway representative of public street standards.</p> <ol style="list-style-type: none"> 2. The project provides connection to New Gorham Road for abutting property 27/184C through deeded access over the Greenfield Drive Driveway. Structures are located so they do not impede with existing easements and natural resources. 3. A landscaping plan has been provided as part of the application demonstrating a vegetative buffer to the westerly abutting property and enhancements along the New Gorham Road driveway representative of public street standards. 4. Lighting is proposed at the intersection of Greenfield Drive and New Gorham Road as well as by both overflow parking areas. Lighting post and style are consistent with City Standards for street lighting. 5. Stop and Street Signage is provided at the intersection of Greenfield Drive and New Gorham Road as depicted on the grading & utility plan 6. Property is not located within the Village Review Overlay District – standard is not applicable.
Landscape Plan	A landscaping plan has been provided as part of the application demonstrating a vegetative buffer to the westerly abutting property and enhancements along the New Gorham Road driveway representative of public street standards.
Odors	No odors known or anticipated
Noise	Noise levels will be consistent with the residential nature of the abutting properties. No adverse impact known or anticipated.
Technical and Financial Capacity	The applicant has provided a letter from Machias Savings Bank dated November 30, 2020 to demonstrate financial capacity. The applicant has retained the services of DM Roma Consulting Engineers, which demonstrates technical capability.
Solid Waste	Trash removal to be privately hauled via curbside totes for each Condo unit - pickup along Greenfield Drive. No totes permitted on New Gorham Rd. Map 27 Lot 184C trash included in HOA.
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	The site meets for the Ordinance requirement of 2-parking spaces per unit via a driveway and/or an attached garage. 13-

	additional spaces have been provided via two parking pods on opposite ends of Greenfield Drive for overflow parking.
Adequacy of Road System	New Gorham Road has adequate capacity to accept the traffic generated by the proposed development.
Vehicular Access	Access to the site is via an existing curb cut. The access point is shared with the abutting property 27/184C by deeded right which reduces curb cuts on New Gorham Road.
Pedestrian and Other Modes of Transportation	A sidewalk internal to the project is provided on the westerly side of Greenfield Drive from New Gorham Drive and around the cul-de-sac. The internal sidewalk connects to the existing infrastructure on New Gorham Road.
Utility Capacity	An ability to serve letter has been provided by Portland Water District. Additional ability to serve letters will be provided to the City upon receipt.
Stormwater Management, Groundwater Pollution	Stormwater management is provided by two underdrained soil filters located to the rear of the site.
Erosion and sedimentation Control	Adequate soil & erosion control measures are shown on the plan.

Conclusions – Site Plan

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 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

Standard	Finding
Pollution	Disposal of sewage is via the public system accessible from within the New Gorham Road right-of-way. ABS letter will be provided to the City upon receipt.
Sufficient Water	Water services are accessible from within the New Gorham Road right-of-way and will serve the development via a public main located within a 40-foot easement to PWD along Greenfield Drive. An Ability to Serve letter from PWD has been provided as part of the application.
Municipal Water Supply	Water services are accessible from within the New Gorham Road right-of-way and will serve the development via a public main located within a 40-foot easement to PWD along Greenfield Drive, An Ability to Serve letter from PWD has been provided as part of the application.
Erosion	Adequate soil & erosion control measures are shown on the plan.
Traffic	New Gorham Road has adequate capacity to accept the traffic generated by the project. Access to the parcel is via an existing curb cut.
Sewage Disposal	Disposal of sewage is via the public system accessible from within the New Gorham Road right-of-way. ATS letter will be provided to the City upon receipt.
Municipal Solid Waste Disposal	This project will address waste removal through privately managed curbside toter collection along Greenfield Drive for each condo unit. No impact to the municipal Solid Waste Disposal System is anticipated.
Aesthetic, Cultural and Natural Values	N/A
Conformity with City Ordinances and Plans	All required plans, permits and legal documents have been provided as part of the final application. Plan conforms with City Ordinances & Comprehensive Plan
Financial and Technical Capacity	The applicant has provided a letter from Machias Savings Bank dated November 30, 2020 to demonstrate financial capacity. The applicant has retained the services of DM Roma Consulting Engineers, which demonstrates technical capability.
Surface Outstanding Segments Waters; River	No adverse impact known or anticipated to the wetlands located on site.
Ground Water	No adverse impact known or anticipated.

Flood Areas	The parcel is not located within a flood zone.
Freshwater Wetlands	All wetlands located on site are been identified on the plans.
Farmland	No farmlands have been identified on the site.
River, Stream or Brook	No rivers, streams or brooks have been identified within the boundaries of the site.
Stormwater	Stormwater management is provided by two underdrained soil filters located to the rear of the site. Applicant has received their MDEP Stormwater Permit for the impacts of this project.
Spaghetti Lots Prohibited	The subdivision does not have shore frontage.
Lake Phosphorus Concentration	The subdivision is not located near a great pond.
Impact on Adjoining Municipality	The subdivision does not cross municipal lines.
Lands subject to Liquidation Harvesting	Not applicable.

Conclusions – Subdivision:

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:

22. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated December 3, 2020 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.
1. 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. The signed Subdivision Plan must be recorded within 90 days of Planning Board approval or the approval shall be null and void.
2. Prior to any site disturbance or building permits being issued 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 and the site work contractor. Contact the Planning Office to coordinate.
 - 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.
 - 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.
 - 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 - \$14,077

3. Prior to commencing any work in the City Right-of-Way, the applicant must obtain a road-opening permit from the Public Works Department.
4. Prior to any combustible products being brought on-site, the Fire Hydrant must be charged and tested.
 - a. Required flow rate: 1,000 gal/minute
 - b. Documentation provided to City's satisfaction. (Coordinate with Fire Department – Mike Corey)
5. Prior to the first Occupancy Permit issuance:
 - a. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval. (This includes all paving, lighting, striping, sidewalks, off-site improvements etc.)
 - b. All signage including Stop Sign, Driveway Name and No Parking along one side of driveway installed
 - c. All water and sewer lines fully tested and approved.
 - d. All other site improvements must be installed, unless a performance guarantee amount is held for the full amount of any remaining improvements.
 - e. Provide copy to Planning Office of recorded Homeowners association by laws & Declaration of Covenants and Restrictions unless sale of first unit has not occurred.
 - f. Documentation of private trash management, inclusive of 027/184C and return of City property to Public Services.
 - g. Verify final USPS locations for mailbox
6. 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
7. Prior to release of the performance guarantee:
 - a. The site will be in compliance with the approved plan and as-built plan provided in City approved format for the GIS system
 - b. Documentation of maintenance contractor for Stormwater Best Management Practices.
8. 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.
9. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.
10. 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.

2nd by Jason Frazier

The vote is 5-0 in favor (Joseph Marden recused)

NEW BUSINESS

Rebecca Spitella introduced item:

4. ~~2020.39 – Site Plan, Subdivision, Conditional Use – 511 Bridge Street – Chase Custom Homes & Finance – Public Hearing: The applicant is proposing the demolition of the existing structure and construction of 9-unit subdivision consisting of 3 duplex units and 1 triplex unit. This application supersedes the previously approved 100-child daycare facility proposed at the same location. Tax Map: 048 Lot: 046 Zone: Residential Growth Area 2 Use: Dwelling, Two-Family; Dwelling, Multiple-Family~~

Applicant requested to postpone to March meeting due to the inclement weather.

Rene Daniel asked for a motion to continue the 2020.39 – Site Plan, Subdivision, and Conditional Use – 511 Bridge Street item to the March 2nd meeting.

Nancy Litrocapes so moved

2nd by **Joseph Marden**

Rene Daniel any discussion?

Larry McWilliams I noticed that the 511 Bridge Street building was already demolished. I do not know how to proceed prior to approval of the plans. How do we handle that?

Jennie Franceschi traditionally you need to wait for the application that you are working through if you are demolishing a structure that is more than 3,000 square feet. The applicant was unaware of the restriction. The Code Enforcement Office as far as the Demo permitting component. The applicant has addressed the matter.

Larry McWilliams is there any of penalties that is going to be enforced?

Jennie Franceschi double the permit fee.

Larry McWilliams a fine is a similar thing?

Jennie Franceschi it is double the permit fee.

Larry McWilliams thank you

Rene Daniel is there a demolition permit that has been applied for?

Jennie Franceschi there is a demo permit that has been processed.

No further comments

The vote is 6-0 in favor

Rebecca Spitella introduced item:

5. **2020.40 – Site Plan, Subdivision, Conditional Use – 98 East Bridge Street – Chase Custom Homes & Finance – Public Hearing: The applicant is proposing a 3-unit subdivision with associated parking and site improvements located at 98 East Bridge Street. Tax Map: 048 Lot: 074 Zone: Residential Growth Area 2 Use: Dwelling, Multiple Family**

Applicant requested to postpone to March meeting due to the inclement weather.

Rene Daniel asked for a motion to continue the 2020.40 – Site Plan, Subdivision, and Conditional Use – 98 East Bridge Street item to the March 2nd meeting.

Nancy Litrocapes so moved

2nd by **Joseph Marden**

The vote is 6-0 in favor

Rebecca Spitella introduced item:

6. **2021.01 – Zoning Map Amendment – Rocky Ledge Capital Westbrook Seavey Main, LLC – Public Hearing: The applicant is proposing to include parcel 040/135 (Lot #4 of the approved subdivision located at 35 Seavey Street) and the portion of parcel 040/208 located between Main Street and the Pan Am rail line in the Village Review Overlay Zone. The area is proposed to be designated as Downtown District since the merged parcel has Main Street frontage. The proposed amendment does not change the underlying City Center District zoning of either parcel.**

Ryan Caruso RMC Properties LLC (seller) as Adam Cope and Andrew Ginsberg could not attend. I am presenting the request that the zoning be extended on railway and Sappi property. Expanding the zone to let us propose the increase density for higher use for development. Presentation is on file at the Westbrook Planning Department and on the Westbrook Website link shown below:
<https://westbrooktv.viebit.com/player.php?hash=sGAMpsqtRXvs>

Rene Daniel Staff Comments?

Jennie Franceschi Staff is supportive to incorporate the VROZ standards to the Downtown district.

Project Description

The applicant is proposing to include the following City Center District parcels in the Village Review Overlay Zone:

- Parcel 040/135 (Lot #4 of the recently approved subdivision located at 35 Seavey Street) and
- 452 Main Street which was part of the RR siding heading towards Warren Ave 040/208 located between Main Street and the Pan Am Main rail line.

The subject parcels are proposed to be designated as “Downtown District” in the VROZ since the newly merged parcels have Main Street frontage (452 Main St). The proposed amendment does not change the underlying City Center District zoning for either parcel.

Project History

January 5, 2021 – Planning Board Workshop

February 2, 2021 – Public Hearing

Staff Comments

1. Noticing Fees Due: \$205.55

The applicant, Rocky Ledge Capital Westbrook Seavey Main, LLC, have a purchase and sale agreement with RMC Properties, LLC to purchase the subject parcels for the purposes of residential development.

Currently the VROZ district line ends at the back of the Stockhouse Station parcel. When the City had proposed the new Downtown District within the VROZ, it was not envisioned at the time that the Pan Am Railroad would ever sell off any of their land or that SAPPI would sell their siding parcel along Seavey Street. With private developers approaching both entities shortly after the City's VROZ process concluded, the City was pleasantly surprised to hear back that those parcels have now been merged together to afford a future project in the heart of our community. If those parcels had been in merged ownership at the time of the VROZ rewrite, Staff would have recommended to include those parcels in the Downtown District due to the 452 Main St parcel having Main Street access. Staff had stated during the first VROZ process that we would look to expand the VROZ in the future over other CCD parcels once we had exercised the Downtown District for a few projects.

The applicant is now making a request to extend the VROZ district over the 2 merged City Center District lots. The VROZ/Downtown District affords the increased density allowance (from 2,500 sf/unit to 500 sf/unit) that we are encouraging in the Main Street area to boost development where:

- Utility infrastructure already exists
- Efficient land usage is necessary and is the intent of the Downtown District
- Our Comprehensive Plan goals align with density in our urban areas to support our downtown commercial operations
- Transit is located at the front door of this parcel to assist with mobility options for residents

Additionally, by placing the VROZ over these parcels, the standards of the Downtown District are now placed upon these parcels, which currently they are not. This project provides a new project at the eastern end of Main St where most of the activity we have seen on Main Street has been westerly.

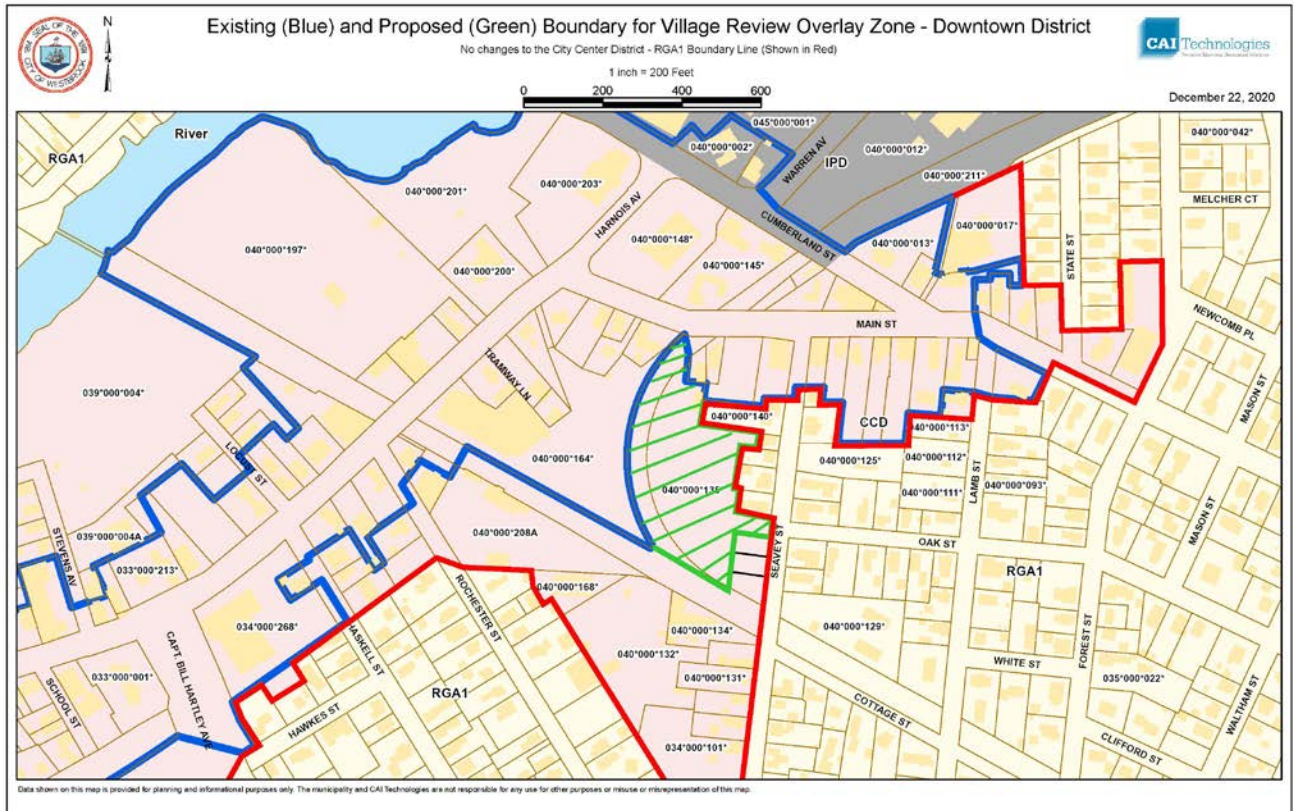
The applicant has provided examples of how a development plan could look under the Village Review Overlay Zone – Downtown District standards, though this plan is not part of this process and a future project proposal would follow up with a site plan/subdivision process at a later date.

The application before the Board is only to discuss the VROZ extension, with the Downtown District, over the subject parcels. See attached map showing specifically the location of the VROZ expansion.

Map Legend

- Blue Outline - Existing limits of Village Review – Downtown District
- Green Outline - Proposed limits of Village Review – Downtown District

- Red Outline – Existing City Center District / RGA1 Boundary Line (no changes)
- City Center District – Pink shading of parcels
- RGA1 District – Light Orange shading of parcels



Rene Daniel opened Public Hearing.

No comments

Rene Daniel closed Public Hearing.

Board comments?

No Board comments

Rene Daniel do I hear a motion?

Rebecca Dillon move to Recommend the Zoning Map amendment to place the VROZ/Downtown District overlay over the parcels as shown on the attached map (Tax Map: 040 Lot: 135 (Lot #4) & Tax Map: 040 Lot: 208).

2nd by Jason Frazier

Rene Daniel Board comments?

Jason Frazier where is this project?

Jennie Franceschi there has been two projects that has come forward recently. One was this project for the creation of the three duplex lots and then we have the project at 48 Seavey the two four-plex buildings. There have been two projects near this vicinity.

No further comments

The vote is 6-0 in favor.

WORKSHOP

Jason Frazier move to workshop

2nd by Joseph Marden

The vote so 6-0 in favor

Rebecca Spitella introduced item:

7. **2021.02 – Amendment to the Land Use Ordinance - §335-5.9 Gateway Commercial District – Dirigo Center Developers, LLC: The proposed amendment clarifies the definition of Medical Office, creates and defines a new use ‘Medical/Diagnostic Center’ and adds the uses Hospital and Medical/Diagnostic Center as permitted uses in the Gateway Commercial District**

Brandon Frazier Perkins Thompson presented the request that amendment clarifies the definition of Medical Office, creates and defines a new use ‘Medical/Diagnostic Center’ and adds the uses Hospital and Medical/Diagnostic Center as permitted uses in the Gateway Commercial District. Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below:

<https://westbrooktv.viebit.com/player.php?hash=sGAMpsqtRXvs>

Rene Daniel Staff Comments?

Jennie Franceschi Ordinance Description

The proposed amendment clarifies the definition of Medical Office, creates and defines a new use ‘Medical/Diagnostic Center’ and adds the uses Hospital and Medical/Diagnostic Center as permitted uses in the Gateway Commercial District.

Ordinance History

February 2, 2021 – Planning Board Workshop

Staff Comments

1. Noticing Fees Due: \$218.70

The applicant approached the Zoning Administrator seeking clarification on use classification for several potential medical industries looking to come into Westbrook on the Rock Row site. In analyzing the definitions of Medical Office and Hospital, it became apparent there was a gap in classifying services that are more intensive than a Medical Office, but not yet to the level of Hospital. Such examples include pharmaceutical, ambulatory, pulmonary or radiology services where limited inpatient care, medical research and/or the administration of drugs may be appropriate. Staff worked with the applicant to identify tiers of medical classifications utilized in other municipalities to address the gap within the Westbrook Ordinance in a manner that also meets the needs of the applicant's proposal. Further, the amendment clarifies the current definitions of Medical Office and Hospital to clearly differentiate the three uses in an effort to limit overlapping uses.

Per the request of the applicant, the application is proposing to include the newly defined "Medical/Diagnostic Center" and "Hospital" as permitted uses within the Gateway Commercial District, which will then also permit them in the Rock Row Contract Zone. Both uses are consistent with the uses currently permitted in the Gateway Commercial District, such as Medical Office, Veterinary Clinic and Research and Development. The Gateway Commercial District intersects several major transportation modes and routes, which would support regional medical care. This proposal also includes clarifying the definition of Medical Office.

The application does not propose to add the Medical/Diagnostic Center to any other districts other than Gateway Commercial. Staff would not recommend the inclusion of this use into any other

Staff are supportive of this proposal and find the added uses and amendments to definitions to be consistent with the Ordinance and Comprehensive Plan.

Board Action:

1. Provide feedback to the applicant on this proposal as it moves forward to a Public Hearing.

Rene Daniel opened Public comment

No comments

Rene Daniel closed Public comment

Rene Daniel Board comments?

Joseph Marden are there any facilities in Westbrook that is considered a diagnostic center in the District?

Jennie Franceschi there are none currently in that district at this time. The new definition does not go to the level of what the Hospital is. This use is a higher level than a medical office is. The Medical Diagnostic is one step down from a Medical Office. The Gateway location is the best location to have this use going forward for any development.

Rene Daniel anyone else?

Rebecca Dillon Convenient MD I am assuming that was permitted under a medical office.

Jennie Franceschi yes

Rebecca Dillon after this use definition is added, would Convenient MD be defined as medical diagnostic?

Jennie Franceschi we would have to look at some of the components of that use. I believe we would still call them a medical office. The point of the medical diagnostics or looking at Convenient MD can only go so far. Once triggered they would have to go to a hospital environment. The medical diagnostic will be close to a hospital environment. We are still working within what our ordinances allow but are opening ourselves up to other potential uses that are now needed in the medical area.

Rebecca Dillon I agree that our health care is changing where these types of facilities are going to be used more. I think this is a great idea to have this added to our ordinance in general.

Rene Daniel just a follow-up, would physical therapy, is that a different level?

Jennie Franceschi that could fall under a straight medical office. But if you plan to open a holistic practice, there may be a physical therapy in this use. This new use encompasses a whole host of medical areas that are included in the host of the medical family. If a major medical facility that has outpatient surgery, chemo, they could have physical therapy that has a whole host under their umbrella that would work under the new definition. But if someone opened just a physical therapy, they would fall under the medical office definition.

Rene Daniel like on Route One the Maine Medical Health Systems campus in Scarborough be similar?

Jennie Franceschi I do not know what is on the campus and what they are doing as far as their procedure level, but if they are doing outpatient surgical procedures, a whole host of medical, doctors ad applications, like infusions those are elements that can be a component. I believe that was one we were told to go and check.

Rene Daniel I know there is day surgeries, infusions and cancer treatment that are performed there. That gives me a better concept.

Larry McWilliams with the changeover to Gateway Commercial Zoning, I have interest with a dispensary / drugstore and I know that there is one medical dispensary that is allowed would that be something as a conditional use be offered in this Gateway Commercial change in the Ordinance?

Jennie Franceschi this would not change the medical marijuana ordinance as we currently have it. The marijuana would stand on its own.

Larry McWilliams but it is in the Gateway District. It could be a conforming use. If the zoning was changed to Rock Row Gateway District, then a conforming use could possibly be for a medical marijuana dispensary there?

Jennie Franceschi if a medical marijuana dispensary wanted to open on the Rock Row site because it is Gateway Commercial that would be a permitted use as long as it is outside the five hundred foot sensitive uses component such as private or public schools. We have to review the surrounding uses to Rock Row occasionally. The Gateway Commercial is the location for the Medical Marijuana Dispensaries.

Rene Daniel anyone else?

No comments

Rene Daniel how do you want to proceed?

Jennie Franceschi if there is no further feedback for the applicant then we would be looking to move this item to a Public Hearing in March. There is no action at this time that the Board needs to take,

Rene Daniel then we schedule a Public Hearing in March and then if found favorable we would have a motion to recommend to City Council.

Jennie Franceschi yes

Rene Daniel thank you and we will schedule the Public Hearing.

Rebecca Spitella introduced item:

8. **2021.03 – Amendment to the Land Use Ordinance - §335-1.5 Zoning Change – City of Westbrook: The proposed amendment revises the notification requirements for amendments to the Land Use Ordinance to more closely align with the processes of other municipalities while upholding standards set forth by State Statute. The proposed amendment does not alter or otherwise change the notifications requirements for Site Plan, Subdivision or Conditional Use review.**

Jennie Franceschi

Ordinance Description

A referral from the City Council through the Administration: This proposed amendment revises the notification requirements for amendments to the Land Use Ordinance to more closely align with the processes of other municipalities while upholding standards set forth by State Statute. The proposed amendment does not alter or otherwise change the notifications requirements for Site Plan, Subdivision or Conditional Use review.

Ordinance History

January 4, 2021 – City Council Referral

February 2, 2021 – Planning Board Workshop

Staff Comments

The amendment to Section 335-1.5 is a repeal and replace. The current language was generated out of a land use process many years ago that did not go particularly well where zoning districts

were changed without proper notification to property owners and ultimately ended with the City in a Court case that reversed rezoning actions of the City. As a response to that process, the current ordinance was then put forth with mailing notification requirements that don't just slightly exceed State Statutes but requires such a burdensome notification process that the City has avoided undertaking necessary ordinance amendments due to the excessive cost it places upon the City for mailing notices to every property owner in City for a "use or performance standard amendments".

The City has wanted to look at modern uses (or updating our current use labels) that need to evolve with the times to include in our zoning land use tables. For Example, recent advances in Solar Energy has pushed staff to look at how to afford this use to our citizens, with performance standards. Currently, we can only place Solar Arrays in the Manufacturing District as we have to define Solar Arrays, from a land use perspective, as "light manufacturing".

The City should have the ability to adjust land uses in zoning districts once vetted through a Planning Board and City Council Process and provided those uses are in line with our Comprehensive Plan. To take on the initiative to place Solar Arrays in all of the districts (again under specified standards), the notification cost to the City for this one initiative would cost roughly \$10,000 for the notices to be mailed to every property owner in the City for all the meetings. This is not the intent of the State Statute Notification requirements. The State requires posting of meetings in newspapers of regular circulation in the community you are in, plus posting in public locations. The requirement to mail notice for a "use or performance standard ordinance change" is exceptionally burdensome on the community, and is unlike any of our surrounding Maine Communities, namely South Portland, Gorham, Windham, Biddeford, Portland, Cumberland, to name a few. There have been many Planning initiatives we have wanted to conduct since I arrived 5 years ago but have not moved forward due to this issue.

A "Solar Array" is not the only land use we need to deal with from a City-Wide use perspective. "Utilities", as a use, is missing from our ordinance as well, and we could not take on an initiative in a piecemeal manner by adjusting the land use table as a zoning district have been under review because then we would cause nonconformance issues in other zones. These type of use amendments should be addressed on a City-Wide level, which is where our City leadership comes in.

The Planning Board and the City Council are the reviewing bodies for any process involving the ordinance. In the cases of altering uses or performance standards in zoning districts, it is the purview of these bodies to act on behalf of the community, while ensuring the uses being added or adjusted are compatible in those districts and compliant with the intent of the Comprehensive Plan.

In re-writing this section, we reviewed the State Statute as well as the ordinances of several of the communities listed above to take the best of what all do, and yet make it work for Westbrook. As the rezoning process was the point of contention years ago that drove these mailing notification requirements, we still have the provision in this proposal that if a "rezoning of property is to occur", than the property or properties that are proposed for rezoning are mailed notices as well as 500' around those properties to be rezoned. Additionally, we still retained the City Council notice

process, which is not required by State Statute nor used by other municipalities, as an additional measure above traditional noticing requirements.

The additions above the minimum State Statute requirements (Mailings on rezoning, and the City Council notice process) would appear to address the local matters of concern, yet still affords the allowance by the City Leaders to move necessary amendments to the land use ordinance forward without the major financial implications to the City, while still in accordance with Maine State Statute and in line with our surrounding Maine communities.

In discussing the issues Staff have been dealing with due to the current ordinance, it was the recommendation of the Administration to move this item forward with a referral from the City Council for discussion and ultimately a recommendation by the Planning Board to provide to the City Council.

Board Action:

1. Provide feedback on this Ordinance Proposal to move forward to a Public Hearing.

Any questions?

Rene Daniel opened Public comment

No comments

Rene Daniel closed Public comment

Board comments?

Joseph Marden in the incidence that you are adding solar as a use in certain zoning districts, you would not notice the zone? Only if it is three or four parcels?

The other question is on 4 B about you need to wait a year to request the same zone change? Is that just standard language. I cannot imagine doing that to get denied and turn around and resubmit.

Jennie Franceschi I believe that is a provision in the Ordinance currently but we will verify that. It is a provision in many Ordinances that the Board does not want to see repetitive applications coming before the Board. It is consistent with other municipalities.

If the Board felt strongly about that it could be a discussion point.

Rebecca Spitella that is not current language. In researching many municipalities in Southern Maine, it was a common standard held in the language. That is why it was brought into the proposed language.

Rene Daniel someone else?

Larry McWilliams if denied through the Panning Board, wouldn't that be something for the Zoning Board of Appeals to hear that decision if the Planning Board denied the applicant?

Jennie Franceschi any sort of Planning appeal of goes to superior court. As it pertains to zoning that could go to ZBA. I would need to clarify with our City Solicitor where it would go from there.

Understanding that a recommendation is all that comes out of a Planning process. Ultimately it goes to City Council. The City Council makes the decision to approve or not to approve. Maybe we need to look at that provision.

Larry McWilliams I agree that we give plenty of notifications out in the paper and the 500 foot abutters. I feel that the taxpayers should not have to pay that. I think the notices are very well adequate ad people have ample ways to locate Planning items. I do not think we need to spend that kind of extra money just to have no one show up at the meetings. So I think it is a good change to the Ordinance.

Nancy Litrocapes one thing I noticed is that staff has avoided unnecessary Ordinance amendments due to excessive burden ad cost. I see this as a good attempt to clarify and simplify and streamline and saving time of the staff and not needing to be knee deep in clerical tasks. Looking ahead is a good use of your time and saving tax payers money, of course is a good idea. I am on board with this. I think it makes a lot of sense to have a cleaner process.

Rebecca Dillon the notice we are talking about to property owner's abutter to 500 feet is that typical in other municipalities you looked at?

Jennie Franceschi other municipalities do not notice to this level.

Joseph Marden the last paragraph on administrative changes. Will there be any cataloging of the change?

Jennie Franceschi now we have in the Ordinance that is online, any change to that is cataloged through their system for an adjustment or an amendment.

Rene Daniel do you believe that a Public Hearing date could be March 2nd?

Jennie Franceschi yes, we can get answers to all the questions provided to us tonight. Just as a heads up once this has been brought to the City Council and is approved, Staff will bring a solar array ordinance back to the Board as there is a lot of interest in the community to incorporate solar.

Rene Daniel that might give incentive to property owners with larger buildings to do that.

Jennie Franceschi that could provide the owners with larger roof top that can support a solar array, why wouldn't we want to see those types of utilizations ad make it as efficient as we can through a municipal process.

Rebecca Spitella introduced item:

9. 2021.04 – Amendment to the Land Use Ordinance - §335-1.6 Contract Zoning – City of Westbrook: The proposed amendment incorporates the terminology of “Conditional” Zoning to the Contract Zoning process.

Jennie Franceschi

Ordinance Description

A referral from the City Council through the Administration: The proposed amendment incorporates the terminology of “Conditional” Zoning to the Contract Zoning process.

Ordinance History

January 4, 2021 – City Council Referral

February 2, 2021 – Planning Board Workshop

Staff Comments

The proposed amendment to Section 335-1.6 Contract Zoning is to incorporate the terminology of “Conditional” Zoning vs a contract process. The two methods of zoning have been utilized in Westbrook in various “Contract zones” over the course of time, however the terminology of the process needs to be cleaned up as not all of our current “Contract Zones” have true contracts between the developer and the City. Many of our Contract Zones are in fact “Conditional Zoning” where there are only conditions placed upon a parcel, much like performance standards for a zoning district, instead of a formal contract with the City.

This amendment will not alter the processes but rather clarify procedures that have been done in the past as well as afford the City the correct terminology to utilize in this process for each future proposal that is submitted. Additionally, we are clarifying that all noticing fees must be paid by an applicant.

The notification process is not being altered, but it is referenced to follow the same procedures as the amendment in Section 335-1.5 with the necessary components required by State Law.

In discussing the issues Staff have been dealing with due to the current ordinance, it was the recommendation of the Administration to move this item forward with a referral from the City Council for discussion and ultimately a recommendation by the Planning Board to provide to the City Council.

Board Action:

1. Provide feedback on this Ordinance Proposal to move forward to a Public Hearing.

Rene Daniel opened public hearing

No comments

Rene Daniel closed public hearing

Rene Daniel Board comments?

Rene Daniel how many contract zones and how many conditional zones we have for the Public Hearing.

If we refer this approval to the Council, how will this affect the Contract zones currently?

Jennie Franceschi it will not affect the ones that are already permitted. Going forward we would call them what they are correctly.

Joseph Marden is there a definition in the Ordinance for Conditional Zone?

Rebecca Spitella there is not currently and there is no definition for Contract Zone currently. We will look at that to see if it is appropriate to add.

Joseph Marden with the two that are similar, it will define them.

Rene Daniel good point Joseph

Rebecca Dillon that was a really good point that Joe brought up. I think that makes sense so that people understand exactly what the differences are. On the second page under “C” we are striking some of the language that referred that the City Council will be holding a Public Hearing and the Recreation and Conservation, Can that be discussed as to why that is being completely removed?

Rebecca Spitella that is not being completely removed, this was a slight reorganization that is written properly. It is above the Recreation and Conservation area #3 and the City Council process is referenced in 335-1.5A.

And to Joseph’s question on the previous item, the one year limitation was called out in the Contract Zone process which we took that put it over into the Zoning Map because it was referring to Zoning Map even though it is currently written in the wrong section. On that last page, page 3 that is where it has one year stipulations.

Rebecca Dillon so if I were someone wanting to do a Contract Zone, I would have to completely understand I would have to go to 335-1A

Rebecca Spitella correct, it is actually an amendment to the Zoning Map and in addition you have the measures of the Contract Zone.

Rene Daniel anyone else?

No comments

Rene Daniel the Public Hearing date will be March 2nd.

Rebecca Dillon move to adjourn

2nd by **Joseph Marden**

The vote is 6-0 in favor

Jennie Franceschi I want to call out the Westbrook School Maintenance Department and Public Services Department that made sure that the snow was cleaned up so we were able to have this

meeting tonight and keep business moving forward. A big shout out to Public Services and the Middle School crews.

Rene Daniel next month's meeting will have the election of officers on the Agenda. Good night and stay safe.

ADJOURN

THANK YOU, respectfully submitted by Linda Gain lgain@westbrook.me.us