



**Planning & Code Enforcement**

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**PLANNING & CODE ENFORCEMENT**

**WESTBROOK PLANNING BOARD  
Tuesday, September 5, 2023, 7:00 P.M.  
MINUTES**

**1. Call to Order**

**Rebecca Dillon** I would like to call to order the Westbrook planning board meeting for Tuesday, June 6th, 2023. This meeting will be offered as a hybrid meeting, accommodating both in-person and remote participation. The link and phone number to join the meeting via Zoom is located on the Planning Board agenda, which can be found on the City of Westbrook website [westbrookmaine.com/agenda](http://westbrookmaine.com/agenda) center.

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

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

**Webinar ID:** 817 0074 1385

Where public comment is permitted, members of the public attending remotely will have the opportunity to provide remote 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. Comments will only be accepted during a Public Hearing or Public Comment period and should remain specific to the application that is being discussed.

**Roll Call – Attendance**

<b>Robin Tannenbaum</b>	<b>Present</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Present</b>
<b>Nancy Litrocapes</b>	<b>Present</b>
<b>John Turcotte</b>	<b>Present</b>
<b>Jason Frazier</b>	<b>Present</b>
<b>Karen Axelsen</b>	<b>Present</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Present</b>
<b>Chair - Rebecca Dillon</b>	<b>Present</b>

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

**2. Approval of Minutes**

**Robin Tannenbaum** move to approve **September** July 18, 2023, minutes.

**2<sup>nd</sup>** by **Karen Axelsen**

**Roll Call Vote**

<b>Robin Tannenbaum</b>	<b>Yes</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Yes</b>
<b>Nancy Litrocapes</b>	<b>Yes</b>
<b>John Turcotte</b>	<b>Yes</b>
<b>Jason Frazier</b>	<b>Yes</b>
<b>Karen Axelsen</b>	<b>Yes</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Yes</b>
<b>Chair - Rebecca Dillon</b>	<b>Yes</b>

The vote is unanimous in favor 8-0

Rebecca Dillon let the record show it is unanimous in favor.

**REGULAR BUSINESS**

- Rebecca Spitella reads item into the record 2023.21 – Site Plan Approval Extension Request – Stacy Symbol Apartments - Westbrook Development Corporation: The applicant is requesting a 6-month extension to the completion date for the Stacy Symbol Apartments off Nicklaus Lane approved August 2, 2022. Tax Map: 037 Lot: 001 Zone: Residential Growth Area 1; Residential Growth Area 1 Lincoln Street Overlay**

**Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below:**

<https://vimeo.com/showcase/3075539/video/778681994>

Tyler Norad presented the project extension request.

**Tyler Norad** I am the Director of Development for Westbrook Development Corporation. Thank you for having me here tonight. We are just asking for a six-month extension of our permit.

We are under construction right now. We are working on our foundation. We estimate that our construction's going to last through December 24th. This would push us out through January, we think that's plenty of time and am hopeful for your support tonight.

But if you have any questions about any part of the project or where we are, we are happy to answer those questions. And just as a reminder, it is 60 units of affordable housing for seniors out in the old golf course.

**Rebecca Dillon** thank you. Any staff comments?

**Jennie Franceschi** Staff sees no issue with the proposed extension. The motion is on page two of your memo for the board's consideration.

**Staff Comments**

Due to the time needed to secure Maine Housing funding the project did not commence until July 2023 and is therefore requesting a 6-month extension of the completion date. Per the Ordinance, Site Plan approval expires if work is not substantially completed within 2-years of project approval.

**Rebecca Dillon** Thank you. Do we have any board comments or questions? It doesn't look like we do. Since we don't, as Jennie mentioned, we have a motion on page two of the memo. If someone would care to make a motion on this.

**Robin Tannenbaum** **move to approve** the request from Westbrook Development Corporation for a 6-month extension on the completion date of the Stacy M. Symbol apartments project at 68 Nicklaus Lane approved August 2, 2022. Tax Map: 037 Lot: 001 Zone: Residential Growth Area 1; Residential Growth Area 1 Lincoln Street Overlay District.

**Rebecca Dillon** Do I have a second?

**2nd by Susan Roma**

**Rebecca Dillon** Roll call vote please.

**Roll Call vote:**

<b>Robin Tannenbaum</b>	<b>Yes</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Yes</b>
<b>Nancy Litrocapes</b>	<b>Yes</b>
<b>John Turcotte</b>	<b>Yes</b>
<b>Jason Frazier</b>	<b>Yes</b>
<b>Karen Axelsen</b>	<b>Yes</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Yes</b>
<b>Chair - Rebecca Dillon</b>	<b>Yes</b>

**The vote is unanimous in favor 8-0**

**Rebecca Dillon** let the record show it is unanimous in favor.  
Rebecca Spitella, please read the next item into the record.

**NEW BUSINESS**

- 4. **Rebecca Spitella reads item into the record** 2023.20 – Site Plan Amendment - 619 Bridgton Road – 619 Bridgton, LLC: The applicant is requesting a 10,000-sf expansion to the equipment and material storage area and associated stormwater facilities. Tax Map: 018 Lot: 029B Zone: Prides Corner Smart Growth Area.

**Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below:**

<https://vimeo.com/showcase/3075539/video/778681994>

**Willie Audet** This is my son Jake, the owner of Audet Enterprises. We were here back in March of 2021 for the approval of the construction of the headquarters of the operation. Since opening in June of last year, things have developed as we thought they would, and things are growing.

We spoke with the neighbor, Larry Dahms and he has agreed to sell us some additional land. The site plan that you see shows the details of the engineering of that extra space. The purpose of it is to store material. It is a two-acre site that we have now, and it is going to add another a little bit half an acre, but it is needed space.

I hope the Board has been happy with the product that we put up. I think it has made a huge improvement to 302 on that outer area, and we hope to continue to beautify that, that section of 302.

If there are any questions you have, we are happy to answer them.

**Rebecca Dillon** Thank you. Any staff comments?

**Jennie Franceschi** provided a plan that we think is very complimentary to what their business model is currently operating. if you haven't had an opportunity to go buy this site, I would encourage you to do so. It's a great example of redevelopment along 302. It is a great business that we have fostered here in Westbrook.

To that end the items that are being addressed on the plan will be part of the conditions of the approval and we have a motion and findings of fact and conditions and conclusions on pages three through five of your memo. The only addition to the conditions from the original approval is that this expanded storage area will be utilized for material storage only. Any use of this area for vehicular storage will require the area to be paved.

**Staff Comments:**

1. Revise Title Block to read "Site Plan Amendment"
2. A new performance guarantee will be required and should include the cost of outstanding items from initial approval (as-built plans; final stabilization of landscaping/site).
3. Reclaim storage area only permitted for material storage. If utilized by equipment pavement will be required to protect adjacent wetland resources from oil. Staff recommends this as a condition of approval to the site plan amendment.
4. Provide cleanouts at ends of underdrains
5. Show double erosion control barrier at areas adjacent to wetlands

**Rebecca Dillon** thank you. So, this meeting is a public hearing. If there's anyone here who would like to speak, please come up to the podium and speak into the microphone, state your name and address.

The public will have one opportunity to provide comments. All comments should be addressed to the Planning Board, who will then address the applicant and staff following the public hearing.

So, with that, I will **open the in-person public hearing** and it doesn't look like there's anyone here for that.

Do we have anyone on Zoom wanting to participate?

**Rebecca Spitezza** If anyone participating via Zoom would like to make a comment, please raise your hand now.

**No comments.**

**Rebecca Dillon** So with that, I will **close the public hearing**. Do I have any board member comments or questions?

**Larry McWilliams** hats off to you guys. The building looks fantastic. I can see the pond where we never were able to see it before. You guys are doing what you said you were going to do originally. I am glad you are expanding.

I hope you're going to be in Westbrook for a long time. Your project has really brought that whole area to light and yes, kudos to you guys. It looks great.

**Willie Audet** Thanks. Well, that is our name on the buildings and our trucks.

**Larry McWilliams** Absolutely, I know you guys do great work. Thank you.

**Rebecca Dillon** Thank you Larry. Any other comments or questions?

**Jason Frazier** I have got a quick question here. I see you are going to be doing erosion control during the construction of this. What kind of erosion control measures will you have in place to protect the wetlands currently and during the construction?

**Willie Audet** I'm going to let, uh, our expert Peter Dalfonzo talk to that.

**Peter Dalfonzo** we are going to follow DEP requirements, of course, and the city requirements.

If you look at the plan along the back of the pond there and down the side, there will be silt fence and either silt fence or erosion control burn mix. It will cover so there won't be any runoff from the site that runs off without going through the silt fence or the erosion control berm.

**Jason Frazier** Great. I saw the limit the line on the plans, but it didn't say what the line was. So, it's just okay. It's good. Good to hear the offense. Those are my questions. Thanks.

Looks like a great project.

**Rebecca Dillon** Thank you. Any other questions? If not, there is a motion on page three of the memo.

**Willie Audet** Can I get a clarification on something that Jenny said? We Jake intends to store materials on this site, but he'd like to be able to put plows out there, which are non-motorized equipment and maybe trailers.

So, if you can word it some way so that we don't have someone telling us to move them, so there won't be any motorized equipment out there.

Thank you.

**Jennie Franceschi** so right now the condition is that if there's vehicular storage, so as long as there is no vehicle that is attached to the trailer or vehicle that is attached to the blades that will be resting on the site. Then we would not consider those to be otherwise a component of what we would consider to be a vehicle. So as long as the site abides by that then we would concur that is in compliance with the approval.

Does that answer the question?

**Rebecca Dillon** again, we have a motion on page three of the memo.

**Jason Frazier** with this new information, I just got a follow up question here. So, with the blades and the the other equipment stored there will there be any maintenance on like lubricating of the equipment, or anything done?

**Willie Audet** just a place to put them. Really for the off season. Once they are there, they are there and they don't get touched and then like now they would get moved out, serviced, and put back until the winter happens. But they're going to stay there for most of their life.

**Rebecca Dillon** Thank you. John, did you want to make the motion?

**John Turcotte** move That the Planning Board **approves** the Site Plan Amendment application for 619 Bridgton, LLC for a 10,000-sf expansion to the material storage area and associated stormwater facilities. Tax Map: 018 Lot: 029B Zone: Prides Corner Smart Growth Area. Approval includes the following findings of fact, conclusions, and conditions as stated on pages **3 through 5** of this Staff Memo dated September 1, 2023, which are adopted in support of this approval.

#### Site Plan – Finding of Fact

<b>Standard</b>	<b>Finding</b>
Utilization of the site	Considering the land conveyance from the southerly abutter, the material storage area is located within the limits of the parcel. Stormwater management is provided to address the disturbance to existing drainage patterns
Handicap Access	ADA access is provided to the front of the site as part of the 2021 site plan approval. The proposed expansion does not require additional ADA measures.
Appearance Assessment	The expansion does not impact existing site access or egress. Additional landscaping is shown along the rear of the new area of disturbance to provide a buffer along the rear of the site. No new lighting or signage is required as part of this expansion.
Landscape Plan	Additional landscaping is shown along the rear of the new area of disturbance to provide a buffer along the rear of the site.
Odors	The expansion will be utilized in the same manner as the existing commercial operation on the site. No adverse impact known or anticipated.
Noise	The expansion will be utilized in the same manner as the existing commercial operation on the site. No adverse impact known or anticipated.
Technical and Financial Capacity	Included with the application is a letter from Bangor Savings Bank dated July 27, 2023
Solid Waste	A dumpster is located on site to manage waste removal.
Historic, Archaeological and Botanical Resources or Unique Features	N/a

Hazardous Matter	No hazardous material will be handled or stored on site.
Vibrations	The expansion will be utilized in the same manner as the existing commercial operation on the site. No adverse impact known or anticipated.
Parking & Loading Design and Site Circulation	No additional parking need is generated by the expansion. Site circulation is not impacted by the proposed expansion.
Adequacy of Road System	No additional traffic will be generated by the proposed development.
Vehicular Access	Existing site ingress/egress is not impacted by the proposed development.
Pedestrian and Other Modes of Transportation	No impact.
Utility Capacity	No additional utilities are required for the proposed expansion.
Stormwater Management, Groundwater Pollution	Additional stormwater measures are shown on the plan to reroute impacted existing drainage paths
Erosion and sedimentation Control	With consideration of Staff comments, sufficient 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 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.

**Condition:**

1. All conditions of the March 16, 2021, approval are conditions of this approval.
2. The expanded storage area shall be utilized for material storage only. Any use of this area for vehicular storage will require the area to be paved.

**2<sup>nd</sup> by Susan Roma**

**Rebecca Dillon** can I have a roll call vote please?

**Roll Call Vote:**

<b>Robin Tannenbaum</b>	<b>Yes</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Yes</b>
<b>Nancy Litrocapes</b>	<b>Yes</b>
<b>John Turcotte</b>	<b>Yes</b>
<b>Jason Frazier</b>	<b>Yes</b>
<b>Karen Axelsen</b>	<b>Yes</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Yes</b>
<b>Chair - Rebecca Dillon</b>	<b>Yes</b>

**The vote is unanimous in favor 8-0**

**Rebecca Dillon let the record show it is unanimous in favor.**

With that, may I have a motion to go into workshop?

**Larry McWilliams** so moved.

**2<sup>nd</sup> by Jason Frazier**

**Roll Call Vote:**

<b>Robin Tannenbaum</b>	<b>Yes</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Yes</b>
<b>Nancy Litrocapes</b>	<b>Yes</b>
<b>John Turcotte</b>	<b>Yes</b>
<b>Jason Frazier</b>	<b>Yes</b>
<b>Karen Axelsen</b>	<b>Yes</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Yes</b>
<b>Chair - Rebecca Dillon</b>	<b>Yes</b>

**The vote is unanimous in favor 8-0**

**Rebecca Dillon let the record show it is unanimous in favor.**

Rebecca Spitella, can you read the next item into the record?



## WORKSHOP

5. **Rebecca Spitella reads item into the record 2023.22 – Community Green Space Designated Parcels – City of Westbrook – Westbrook Recreation and Conservation Commission: The Westbrook Recreation and Conservation Commission requests to present a proposed amendment to the Westbrook Code of Ordinance §295-Article 2 Forest to clarify language and retitle ‘Community Green Space’ and provide the Planning Board with parcels recommended by the Westbrook Recreation and Conservation Commission to be designated as “Community Green Space”.**

Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below:

<https://vimeo.com/showcase/3075539/video/778681994>

**Amanda Azar**, the Chair of Recreation and Conservation presented the requests to present a proposed amendment to the Westbrook Code of Ordinance, to clarify and retitle Community Green Space.

**Jennie Franceschi** and **Rebecca Spitella** reiterated the Community Green Space. See below.

Section §295-Article II (“Forest”) of the Ordinance charges The Recreation & Conservation Commission with the task of inventorying City owned property to recommend parcels to be dedicated as “City Forest”. It appears this Ordinance was never enacted and there has been some confusion as to what areas are meant to be included under the ordinance. A common thought was that this was referring specifically (and only) to what is commonly referred to as The City Forest (approximately 75 acres located behind the Community Center – Map/Lot 010/029 & 011/005B) however, the ordinance states that the purpose is “to provide open space areas in the City for recreation, timber harvesting, wildlife, watershed protection, scenic beauty and affiliated educational uses” and that land shall be formally dedicated through a collaborative process with the Recreation and Conservation Commission, Planning Board and City Council. While this certainly could apply to City Forest, it does not appear to be limited to that. That the Ordinance and City Forest share a name appears to be coincidental.

Therefore, to avoid confusion Staff is seeking an amendment to §295-Article II to revise the Ordinance Title from “Forest” to “Community Green Space” and clarify the intent of the Ordinance.

*The ordinance amendment has been provided to the Planning Board for reference, as the Planning Board does not make a recommendation on this ordinance as it is not part of the Land Use Ordinance, and therefore not within the purview of the Planning Board.*

General summary of amendment to §295-Article II:

- Rename section to “Community Green Space” (CGS)
- Reorganize layout
- Clarify implication of CGS designation
- Remove outdated/unnecessary language

Essentially, this Ordinance provides an extra layer of protection for lands that the City deems as valuable for the purpose of recreation and/or environmental protection/conservation. The primary implications of CGS designation area as follows:

## General Summary of CGS Designation

- Rec and Con may (but are not required to) develop management plans for parcels holding CGS designation.
- Except for general maintenance/repair of existing structures/facilities and except for any subsurface utility work, Rec & Con review/recommendation required for the development of parcels with CGS designation to ensure development is in line with intent of the Ordinance.
- Land with CGS designation cannot be conveyed out of public ownership unless/until CGS designation is removed.
  - o Removal of CGS designation requires a 2/3 vote of Rec & Con, Planning Board ***and*** City Council. (This standard currently exists (§295-19) – Staff is not proposing this as a new policy)

Per the existing (and amended) Ordinance, land proposed to be designated as CGS shall be presented to the Planning Board by recommendation of the Recreation and Conservation Commission. After review, the Planning Board then provides a recommendation to the City Council who ultimately determines the designation. Therefore, beginning in January 2022 Rec and Con, in conjunction with Staff, began an extensive review of all City owned parcels to provide a recommendation for parcels that they found met the criteria of the Ordinance.

Recreation and Conservation Commission inventoried each parcel with the following criteria:

- Recreation (hunting, fishing, trails, ballfields, playgrounds, etc.)
- Trail Connectivity
- Water Quality Protection
- Water Recreation (boat launch & swimming access)
- Habitat Protection
- Scenic Beauty
- Timber Management
- Educational Use (non-school use)

The inventoried parcels were presented to a Staff group that included the Administration, Economic Development, Planning, Public Services & Community Services for review. Staff supports the CDS designation on parcels that do/are not:

- Located in the City Center Heart District
- Have existing surface utility functions (i.e., pumpstation)
- Lots that demonstrate high value for future development potential (and do not include resource protection or other high value habitat)
- Parcels significantly encumbered by subsurface private utility services.

This collaborative review resulted in a recommendation of 36 parcels, approximately 350 acres, of public land to be included with this Community Green Space designation. If approved, this will nearly ***double*** the level of protected land area within the City.

Included with your Board packets is a map created by our Rec & Con Chair that shows all 36 parcels recommended for designation. Recommended parcels are identified as yellow and are numbered with hatching. Parcels that are yellow without hatching are City owned parcels that are not recommended for designation and parcels that are yellow and dotted are educational facilities. Only those parcels that are **numbered** are recommended for designation.

Staff are in support of the designation of the 36 parcels as recommended by Rec and Con.

**Rebecca Dillon** we are having public comment as part of this. If there is anyone here who would like to come up and make a comment, please speak into the microphone. Remember to state your name and address, a public has one opportunity to provide comments.

All comments should be addressed to the planning board who will address the applicant and staff following the public hearing. So, with that, I will **open the public comment** and I don't see anyone here.

**No comments**

**Rebecca Dillon** do we have anyone on Zoom that would like to participate?

**Rebecca Spitella** If anyone participating via Zoom would like to make a comment, please raise your hand now.

**No comments.**

**Rebecca Dillon** So with that, I will close the public comment. We don't have any responses required for the public. Do we have any board comments, questions and or discussions?

**Karen Axelsen** Thank you, Madam Chair. I believe number 13 on East Bridge Street didn't use to have organized sports there. Like once in a while, you'd see people kind of conjugate and, and play, and now I've noticed they have nets out. Just my comment was I noticed that people are parking on the grass, and they hadn't done that in the past. And there was a sign saying not to park in there, but now they are parking in there.

**Amanda Azar the Chair of Recreation and Conservation** I know the answer to that question, we talked about it a lot in Rec and Con about what the restrictions perhaps might be on that property. And we learned something in our review of these properties that if you want to talk about them, that Board of Appeals approval, I think.

There was a previous restriction on organized sports there, but that was due to a Board of Appeals decision at some point in time, it's now a permitted use by right in that zoning district.

So that was actually through this process and working through that and actually initiated from Rec and Con organized sports are permitted there.

I agree that there is a lack of parking out there. And I think that right now, to my knowledge the little league sometimes uses it for practice, but before they can go forward and, do more games and organize events like that there would need to be parking address because that is what is lacking in that location.

**Karen Axelsen** I loved seeing sports. I was just wondering do they really want to park on the grass. If, you know, they do seem to have it roped off. The sign is gone. I wonder if the sign's still here that says you shouldn't park and that's not there, but the sign about these organized sports is still there. So, I thought that was odd. Hmm.

**Amanda Azar the Chair of Recreation and Conservation** I'll follow up on that.

**Robin Tanenbaum** I agree. This is terrific and I can imagine how much work it is. It looks really cool. I'm just not clear. I'm curious, mainly, like if I look at one six and three, which are like playing fields across, on the edge of Presumpscot downtown, what are those now?

If they weren't protected, does that mean they're vulnerable without this? Are they in some capacity where they could be developed if they don't get this designation?

**Amanda Azar the Chair of Recreation and Conservation** yes.

**Robin Tanenbaum** That's shocking, I mean, there are some provisions, I believe in Shoreland zoning where that puts a little bit of a higher threshold over like Riverbank Park, or Cornelia Warren. Yep. Um, so one is Riverbank. the Warren Baseball field and there is Frazier Field.

I mean there are elements of land and water conservation that have put money into three and six that have some level of protection, some federal, like, you'd have to go through a very onerous process in order to eliminate those protections. But this just provides just another layer. Um, so that is also a very open and transparent process.

And I would just add that while some of these have that already on there, that's sort of the overlapping with some of the currently protected land, a lot of these parcels don't, and maybe they're not easily developed, but as we get on, we are seeing more and more parcels that are more difficult to develop that are coming through.

So, it does provide that level of protection for the parcels that maybe aren't seen as the most desirable to develop. But they could be, or they could be sold to an abutter, they could be transferred out of city ownership in some other manner.

And may I just ask a follow up question, mainly out of interest, a lot of the smaller parcels that are identified as City of Westbrook, did the Rec and Con decide not to take those? Did you have a threshold for size?

**Amanda Azar the Chair of Recreation and Conservation** No, it wasn't based on size at all. It was those seven criteria in the ordinance that helped us prioritize really if they were this significant.

Certainly, I think larger parcels, you know, offer greater opportunities. But I think if anything it was educational for all of us to understand. And I still have that curiosity on how these came into city ownership for a number of them.

**Robin Tanenbaum** well, thank you for the effort.

**\*\*Editor's Note** further discussion such as other City owned parcels. public access, crossing over private property, open space master plan, additional conservative lands, super majority vote between the three Boards.

**Rebecca Dillon** I don't think we have a motion to go over anything.

**Jennie Franceschi** This is the workshop right now. This will be to let you learn about this a bit more. See if you're in agreement with the list if there's anything you'd change to it. Ultimately we'd be bringing this back at the October meeting for a vote before going to City Council who city council will then be looking at the ordinance as well.

So, this does not require a vote from the planning board, but we just wanted to make sure that you were familiar with the implications of the designation.

So, once we have a recommendation from the board on the parcel list, we'll take the parcel list and the ordinance amendment together to city council.

**Rebecca Dillon** Thank you. May we have the next and last item read into record, please?

6. **Rebecca Spitella reads item into the record** 2023.23 – Introduction to Requirements of State Law LD 2003 Housing Bill and Amendment to the 2012 Comprehensive Plan: Staff will discuss the requirements of LD 2003 and propose an amendment to the 2012 Comprehensive Plan Chapter 10 Future Land Use Plan and Proposed Growth Areas and Rural Areas Map to expand the Rural District, Reduce the Growth Area and incorporate Transitional Areas into the map.

Presentation on file at the Westbrook Planning Department and on the Westbrook Website link shown below:

<https://vimeo.com/showcase/3075539/video/778681994>

**Jennie Franceschi** presented the following Power Point presentation to the Board.

- **LD 2003  
Comp Plan & Ordinance Amendment Process**
- Jennie P. Franceschi, P.E.
- Rebecca Spitella, AICP
- August 2023
- **History & Process**
- Overview of LD 2003
- Westbrook's journey with LD 2003
- LD 2003 Implementation
  - Comprehensive Plan Amendment
  - Ordinance Amendment
- **LD 2003 – What is it?**
- Maine State Legislature approved a Housing Bill to provide incentives to developers and homeowners to increase affordable housing options.
- Four Components were included in the Statute
  - Accessory Dwelling Units (ADUs) allowed where Single-Family homes are permitted.

- Prohibiting Single-Family (SF) ONLY Districts in Growth Areas
  - Allowance for more than one principal structure/unit on a lot
- Affordable Housing Density Bonus in Growth Areas
- Ensure Federal Fair Housing Laws are followed
- **Land Use Regulations that do not support housing growth (barriers)**
- Standards that:
  - Prohibit ADUs
  - Prohibit multiple Primary Structures on a lot
  - Increase setback for denser development
  - Prohibit multifamily or duplexes in residential growth districts
  - Increase land requirements for more than 1 unit per lot
  - Create Low Density Allowances in Sewered Areas
- **Westbrook's Current Status**
- Westbrook's Current District Densities are very progressive & provide opportunities for affordable housing
  - 2004 – Ordinance re-write & Map Update
- Westbrook uses various Land Use Tools to support affordable housing
  - Contract Zoning
  - Overlays (I.e. Lincoln Street)
  - Lots of Record – historic subdivision
  - ADU allowance
- **Westbrook's Population Growth**  
**Graphic credit: City of Saco, ME - Planning Dept**
- **Westbrook's Growth – Planning Permits**
- Tracking Growth over the last 10-11 years
- 11 years = 1817 Permitted Units (165 Ave/yr.)
- Affordable = 405 Units
  - 23% of housing in the last 10 yrs.
- Increase in Permits this summer
  - Backlog of projects moving forward
- Projection 2023 = 376 Units

- Largest Year on record
- **Westbrook's Journey - LD 2003**
- Of the four areas of the Statute - Only 2 parts need to be addressed.
- Accessory Dwelling Unit (ADU)- Already Allow
  - Need to include in the Ordinance the parking exemption:
    - No additional parking can be required for the ADU above what is required for the Single-Family Unit
  - Allowance for New Structures Constructed as ADUs to be detached from Primary Structure
    - Structure needs to meet all Code Requirements
- Affordable Housing Development - Density Bonus
  - Definition: 51% of the units provided are rented at 80% AMI or sold at 120% AMI.
  - Update Ordinances & Comprehensive Plans to provide specific locations to encourage development in Designated Growth Areas. – 2.5 X Base Density
    - 2,500 sf/unit could become 1,000 sf/unit
    - A 10,000 sq ft lot (100'x100') that could have 10 units could allow 25 units
  - Parking Limit – Cannot Require more than 0.67 Spaces Per Unit
- **Density Bonus Considerations**
  - The proposed density bonus has the potential to substantially alter the City's accepted Growth Patterns that have been established through our Comprehensive Plan processes.
    - Planning Board processes of recent have raised significant public concern with the current densities allowed, especially in established neighborhoods.
    - Density bonus should be proposed in areas that are well suited to dense development and is sustainable for our community.
    - District specific approach
    - Density Bonus should be placed to avoid Sprawl and be consistent with smart growth guidance.

Making adjustments to the Growth Area Map doesn't impact Current Zoning Standards/Development potential.

- **Comprehensive Plan**  
– **Growth Map Categories**
- Per the State Statute for Comprehensive Plans, there are 3 Growth Categories a community can use on their Growth Areas Maps.

- Growth Area – Where you will expect substantive Growth in your community in the next 10-15 years - “Desired & Expected”
- Transitional Area – Areas of established neighborhoods & where some growth can occur.
- Rural Area– Area where a community does not want to encourage Growth, though development can occur.
- **LD 2003 Implementation – Comp Plan**
- Why Are we proposing to amend the Growth Map?
- Affordable Housing Development Bonus required in Designated Growth Areas
- Comp Plan Map - Growth Area is too broad and spans the community.
  - Most other communities have a more targeted growth area map.
  - Area where Growth is “desired & expected”
  - Current Map only contains 2 districts – can include a 3<sup>rd</sup> - “Transitional”
  - Transitional should be used for established neighborhoods
  - Current Growth Map also has inconsistencies that need to be addressed.
  - Growth Area Definition in Comp Plan – “Entirety of Community exclusive of Rural & SZ”
    - Does not meet threshold of “desired & expected” Growth in viewing the current Map.

2012 Growth Map was not laid out with the intent as is now required by LD 2003

- **Comprehensive Plan**

Per State Criteria for Growth Area:

- *Lands in proximity to existing municipal services, infrastructure, schools, and major transportation networks;*
- *Areas in which developable lands are readily available to accommodate future growth; and*
- *Areas devoid of critical natural resources and visual/cultural resources that should be preserved*
- Map Inconsistencies to Address:
  - RGA3 District Standards are more restrictive than Rural District.
  - Areas shown in Growth that are in Rural Districts.
- **Comprehensive Plan**
- Draft Plan
  - Yellow Proposed Growth Area
  - Pink Proposed Transitional Area



- Green/Gray Proposed Rural Area
- Encourage Growth in areas to meet the intent of LD 2003
  - Public Sewer
  - Public Water
  - Readily Available Transit access
    - Parking Limitation on Affordable Housing Development Projects of 0.67 Spaces per Unit drives the need for transit access.
  - Transportation system can absorb growth
  - Thoughtful approach to existing growth patterns
- **Comp Plan Map**
- Review existing conditions
- Orange are City Center District, Gateway Commercial, Industrial District, Manufacturing District and Southern Highway Services District
- Pink – Darker Pink established neighborhoods, Lighter pink – non- sewerred area or areas with limited development potential
- Green – Current Rural Districts or areas to be changed to Rural in future rezoning efforts.
- **Density Bonus – Examples of Recent Projects**
- **Comprehensive Plan**
- Process:
  - Goal is to be completed by January 1, 2024
- Planning Board Workshop – Comp Plan - September 5<sup>th</sup>
- City Council Workshop – General Overview - Sept/Oct
- Planning Board Workshop – Ordinances -October 3<sup>rd</sup>
- Planning Board Public Hearing – Nov 7th
- City Council – 2 Readings in Nov/Dec
- **To Recap**
- Map does not change underlying zoning standards.
- Map provides the approach to use the density bonus to encourage development in the core of our community.
- Ordinance amendments are needed to complete the process for the density bonus. The Growth Map is step one.
- Future adjustments can always be made.

## **Memo to the Board**

### ***L.D. 2003 – State Housing Bill and the Ordinance Changes we need to implement to be in Compliance.***

Before we can get into the details of implementing the standards required by LD 2003, it is important to explain the intent of LD 2003 & why we are looking at a comprehensive map amendment.

The State of Maine has taken substantive steps to address the housing shortage. In 2022 the State Legislature passed a law commonly known as L.D. 2003, which mandates state-wide legislation on various land use standards. With the adoption of this law, municipalities are now required to amend local land use ordinances to be in compliance with this State Law. Further discussion on the implications of each of these standards will follow, but in summary every municipality is required to:

1. Allow multiple dwelling units on lots where housing is allowed.
2. Allow an accessory dwelling unit on any lot where a single-family dwelling unit is allowed.
3. Allow a density bonus for certain affordable housing developments.

The standards of LD 2003 are an effort at the State level to remove barriers to development that were previously under the jurisdiction of local zoning regulations possibly in response to efforts of some communities to limit growth and prohibit multifamily development. Municipalities are expected to amend all applicable local land use ordinances by January 1, 2024, when the state law goes into effect.

Westbrook's Land Use Ordinance is (and has been) housing progressive and already includes multiple strategies to encourage growth. In a recent study of communities located in the Southern Maine area by the Greater Portland Council of Governments (GPCOG) on "Barriers to Housing Development", Westbrook's Ordinances have the least amount of barriers to development (Multifamily Housing and Land Use Regulation Report by Jeff Levine, 2021) and as such, based on the 2020 Census Data, Westbrook as a community has grown at a faster rate than our surrounding communities (16% increase in population from 2010 to 2020). Accordingly, Westbrook has already been doing the work that was intended to come out of the LD2003 process.

In response to the intent of LD 2003 Westbrook's Ordinances are ahead of the curve:

1. Westbrook permits multi-family dwelling units in all districts where residential use is permitted and where public sewer is available.
2. Westbrook does not limit any conforming parcels to a single primary structure (aka, "single-family only zoning") nor does the community set increased density standards for duplexes or multifamily structure (which incentivizes single-family only development).
3. Westbrook already allows for Accessory Dwelling Units in all residential districts.
4. Westbrook has increased density in the Downtown District.
5. Westbrook has already implemented increased densities in residential districts to encourage further growth in our sewerred areas which provides the ability to construct affordable housing.
6. Westbrook has memorialized Lots of Record to create infill opportunities for old, recorded subdivisions.

For communities that are on the other end of the regulations spectrum where they have standards that create barriers or limit growth in their communities, these barriers raise the cost of the available housing stock and furthers housing inequities. The strategies implemented in Westbrook's Land Use Ordinances

are intentional to promote equitable growth and due to these efforts, most of the requirements of LD 2003 have minimal to no impact on Westbrook because our ordinances are already compliant with the newly formed State statute.

Although we have a very progressive ordinance and we had hoped through the Legislative process that we could be provided an exemption from the standards on that basis, there are some elements of LD2003 that do need to be added into Westbrook's Ordinance & Comprehensive Plan, the most notable being the affordable housing development density bonus.

With the passing of L.D. 2003, the State Statute designated all areas labeled as "Growth Area" within a municipality's comprehensive plan as eligible for a density bonus for projects defined as "Affordable Housing projects". An Affordable Housing project is defined as a project where at least 51% of the units provided are rented at 80% AMI or sold at 120% AMI. This program affords an affordable housing development a density bonus of 2.5x the base density and further *limits* the parking requirement a municipality may impose to no more than 0.67 spaces/unit. This density bonus thereby incentivizes denser growth and results in an increase in **both** the total number of market rate and affordable units. The intent of attaching a density bonus to a designated growth area identified in a municipality's comprehensive plan was to require the permitted higher density growth in areas that the municipality has already determined growth is *desired and expected*.

As part of the Future Land Use Plan (chapter 10) of the 2012 Comprehensive Plan, the City split the community into two districts, Growth and Rural. A Growth Area, by definition, is meant to represent the area within a community where the majority of the expected growth over the next 10 years would occur. This is to represent where growth within a community is "desired and expected". The City of Westbrook's 2012 Comprehensive Plan called out "All but those areas planned and zoned Rural, or within the Shoreland Zone, are designated as Growth Areas". As performance standards within the Rural district are growth limiting, and there are not as many permitted/conditional uses allowed, this action at the time met the standard of "placing the portion of the community where the majority of growth is desired and expected within a growth area".

However, the entirety of the City's land area, exclusive of the land zoned Rural/within the Shoreland Overlay Zone, does not all meet the threshold of "desired and expected" for most of the growth as currently defined in the Comprehensive Plan.

For example, infill developments within existing neighborhoods exist and are permitted, however these projects do not contribute to where dense developments are expected. Most of the vacant parcels within existing neighborhoods are smaller, which would lend themselves to a smaller scale development as compared to the 100 – 200-unit projects that require larger parcels, preferably with direct access to a major connector road. Similarly, development in the areas of the community that do not have public sewer is still permitted and does occur, but these areas are not "expected" in the same scale that the development of a 50-acre parcel with access and frontage on Spring Street would, for example. **In short, the City's Growth Area Map was not laid out in 2012 with the intent of using it in the way that the 2022 LD 2003 State Statute now requires.**

Another component of LD 2003 that we would need to incorporate into our ordinance is the parking standard of no more than 0.67 space per unit can be required of any affordable housing project (51% min affordable housing). Although this parking ratio can work in dense urban areas where transit is available, or for senior housing where parking needs have been demonstrated to be less, Staff sees significant concern in the placement of this standard City wide where there isn't the off-site infrastructure (i.e., public parking lots, transit, etc.) to address a project's true parking need. This piece will be discussed later in the rationale for the proposed locations of the density bonus.

To provide the Board and the public with a means of understanding the implications of LD 2003’s density bonus, the following table has been assembled. The table shows all residential projects approved in 2023\* to demonstrate what was approved, vs what could be approved under the L.D. 2003 State Law if these projects had proceeded as an Affordable Housing project (minimum of 51% affordable units required):

\*For the purpose of this exercise we have omitted recently approved projects located in the City Center District – Downtown District has the density overlay in this location already provides a density bonus greater than 2.5x the base density.

Project Name/Address	Number of units approved	Number of units permitted on lot based on current density requirements (Gross Density).	Required parking spaces for Approved Units	Number of units that would be permitted for an Affordable Housing Project at 2.5 times the base density	Required parking spaces for an Affordable Housing project at 2.5x Base Density
Conant Street	9	9	14	22	15
185 Park Road	11	20	22	50	33
40 Bell Street	10	10	15	25	17
41 Arlington Avenue	3	3	6	7	5
984 Spring Street	204	230	306	575	386

Given the success seen in the City’s growth and development trends, Staff is concerned with inserting a density bonus of this scale (essentially) throughout the entire community, as would be required with our current Growth Area Map per LD 2003, because this could substantially alter Westbrook’s current growth patterns as established in the Comp Plan. The density requirement of the RGA1 District (our most dense of the “Residential Districts”), for example, is 1 unit per 5,000 sf. With the affordable housing density bonus this would result in a density of 1 unit per 2,000 sf which is among the highest densities of our Commercial Districts that allow for residential use (City Center, Gateway Commercial and Highway Services Districts (where sewerred)). Also, development could be approved with a drastically reduced parking requirement causing overflow parking onto adjacent streets on existing narrower, residential roads which may not have adequate width to support regular parking use. If the development is outside of transit routes, the residents couldn’t rely on public transportation to address their transportation needs.

It is with these thoughts in mind and the progressive nature of our current ordinances that we are proposing the density bonus be afforded in our more urban, dense areas and along major corridors. Our ordinances already provide for density levels that allow affordable housing projects to be financially viable. In order to achieve the goal of placing the density bonus appropriately in Westbrook, the Comp Plan Growth Map needs to be amended to add a new term which is allowed under State law, “Transitional Areas”.

**Transitional Areas**

Staff have been very engaged over the last two years with the legislative review of L.D. 2003, specifically as it pertains to the implementation of a flat density bonus to be applied within every community in the state. Staff provided significant testimony throughout the process on concerns we saw with the previous language potentially causing a negative impact on Westbrook and the region and were successful in working with legislative members during the review process. During some of these discussions, Staff were advised of the term “Transitional Areas” or areas of limited growth within a community. Most communities have a stepped approach in their Comprehensive Plans to have Growth, Limited Growth and Rural, which our plan is lacking the Limited Growth designation.

A Transitional Area, as it sounds, is the transition between a community’s Growth Area and Rural Area. While there is not a set standard, a good rule to use is that a Growth Area is where a community expects to see at least 60% of the growth over the next 10 years to occur, with 30% in the Transitional Area. Staff were advised that all areas within a Growth Area would be treated the same under the regulations of LD 2003 and, without the utilization of a “Transitional Area” in the comprehensive plan, all of the areas shown as Growth would be subject to the density bonus as defined, which was not the intent of the legislation as this would encourage sprawl vs smart growth. Adjusting our Growth Map to include Transitional Areas would be in keeping with the intent of LD 2003.

Therefore, Staff is recommending an amendment to the 2012 Comprehensive Plan Chapter 10 Future Land Use Plan and Proposed Growth Areas and Rural Areas map to introduce Transitional Areas to designate those areas that are not Rural or Growth.

### **Rural Areas**

Although the change in the Growth Area map may appear substantive, the amendment proposed **does not** change areas currently designated as Rural to a transitional or growth area with the exception of County Rd where an Industrial Zoned parcel is shown as Rural. The amendment actually expands the Rural Area to be in line with the definition of “Rural Areas” in the Comprehensive Plan (i.e., there are areas zoned Rural District on the current zoning map that were shown as Growth Areas in the 2012 Comprehensive Plan). Where we are seeing the current comp plan is nearing the end of its useful life, it was felt to have the Comp Plan Map be accurate of current zoning where we do not see significant changes to the Zoning Map until after future Comp Plan process.

### **Growth Areas**

The Growth Area that are being proposed for the updated map are following the district lines of Commercial-Based Districts (City Center, Gateway Commercial, Manufacturing, Industrial Park Districts, and the section of Highway Services located along Spring Street) which are on major road systems that can readily absorb dense development, are sewerred areas, and are within a reasonable walking distance to transit.

All other areas zoned Residential Growth Area 1, Residential Growth Area 2, Residential Growth Area 3, and the remaining Highway Services District parcels would then be deemed as Transitional Areas where growth is permitted as the base density allows. This would avoid drastic impacts within existing established neighborhoods where a 2.5 multiplier on the base zoning would substantially alter the growth patterns of these communities and was not the intent of the LD 2003 legislation.

The rationale of the split in Highway Services District is to include those Highway Services parcels that are adjacent to/surrounded by other Growth Areas in the Growth Area with the remaining Highway Services in the same Transitional Area as the adjacent parcels.

With these changes to the Comprehensive Plan Map and Growth area descriptions, we would then move forward with the ordinance amendments necessary to codify the language to incorporate the requirements of the LD 2003 Housing Bill.

**How is this Process Proceeding?**

Goal is to be completed by January 1, 2024 – Deadline set by Legislature.

Comp Plan Discussion & General LD 2003 explanation

- Planning Board Workshop - September 5th
- City Council Workshop – Sept/Oct

Ordinance

- Planning Board Workshop – Ordinance Language– October 3

Comp Plan & Ordinance Public Hearings

- Planning Board Public Hearing – Nov 7th
- City Council – 2 Readings in Nov/Dec

**Closing Thoughts**

- Comp Plan Map amendment does not change underlying zoning standards – Development can still continue to occur in any Transitional Area as currently allowed.
- Map provides the approach to use the density bonus to encourage development in the core of our community.
- Ordinance amendments are needed to complete the process for the density bonus. The Growth Map is step one.
- Future adjustments can always be made to expand these designations, especially if more zoning districts are created in future comprehensive plans.

**\*\* Editor’s Note:** Board members thanked Staff for the presentation and all their hard work.

**Rebecca Dillon** we need a motion to adjourn.

**Karen Axelsen** so moved.

**2<sup>nd</sup> by Nancy Litrocapes**

**Roll Call Vote:**

<b>Robin Tannenbaum</b>	<b>Yes</b>
<b>Vice Chair - Larry McWilliams</b>	<b>Yes</b>
<b>Nancy Litrocapes</b>	<b>Yes</b>
<b>John Turcotte</b>	<b>Yes</b>
<b>Jason Frazier</b>	<b>Yes</b>
<b>Karen Axelsen</b>	<b>Yes</b>
<b>Kevin Price</b>	<b>Absent</b>
<b>Susan Roma</b>	<b>Yes</b>
<b>Chair - Rebecca Dillon</b>	<b>Yes</b>

**The vote is unanimous in favor 8-0**

**Rebecca Dillon** the meeting is adjourned.

**7. ADJOURN**

*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 and [lgain@westbrook.me.us](mailto:lgain@westbrook.me.us)*