



City of Westbrook

DEPARTMENT OF PLANNING, ENGINEERING AND CODE ENFORCEMENT

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WESTBROOK PLANNING BOARD MINUTES TUESDAY, MAY 30th, 2006, 7:00 P.M.

Present: Ed Reidman, (Chair), Rene Daniel (Vice-Chair), Greg Blake, Anna Wrobel, Brian Beatti, Luc Bergeron (At-Large), Corey Fleming, Dennis Isherwood

Absent: Paul Niehoff (Alternate)

Staff: Rick Gouzie, Brooks More

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School. Mr. Reidman asked the attorney to explain why the Planning Board is meeting this evening.

1. Call to Order.

Natalie Burns explained that the Board was here to consider a remand in the case Reed Street Housing LLP application. The Superior Court has remanded to the Planning Board its prior denial of the project, with instructions to articulate the basis for its determination that the proposed use will not burden existing ways yet will cause unreasonable highway or public congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed; or it will approve the sub-division portion of the application. If the latter, the Planning Board will there after proceed to the consideration of the plaintiffs' site plan application. The two standards just read; one of them is the standard for the conditional use approval and the other is the sub-division approval. As the Board may recall you did grant the approval for the use, then denied the sub-division application and did so sighting the traffic standard as the reason for the denial. So tonight the Planning Board is going to start by reviewing those two standards and determine if the members feel there is a distinction between those two in this case and if so articulating what that difference is and further adding additional facts that support that conclusion. As noted by the Court, the Board also has the ability to make the determination that there is no

difference between the two and if so the Board will have to go ahead and review the site plan and presumably post pone this matter to a future date in order to do that.

Rene Daniel moved to adjourn to Executive Session according to MRSA 405.6E with our Counsel and our Staff.

2nd by Luc Bergeron

The vote was unanimous in favor 8-0

2. Adjourn to Executive Session

Executive Session - The Board will consider a motion to go into Executive Session under the provisions of 1 M.R.S.A. § 405(6)(E) in order to consult with its attorney concerning the Board's legal rights and duties concerning the action on the remand by the Superior Court of the Clearwater Bend development application by Reed Street Neighborhood Housing, LP.

Rene Daniel moved that the Planning Board return to Regular Session

2nd by Greg Blake

The vote was unanimous in favor 8-0

Continuing Business

3. Return to regular session

Ed Reidman explained which members would be voting and that four positive votes are required to approve an application.

Luc Bergeron - Discussed the standards of traffic.

P. 10 of the City Planner's memo. The Gorrill-Palmer traffic study stated that existing ways would not be burdened. The special exception standard dealt with pure numbers at peak and non-peak hours.

P. 2 of the City Planner's memo-subdivision review. If you look further, under the standards set forth on.

P. 4, there is a major difference between the two standards. It is a safety issue as compared to a raw data issue. When looking at intersection of Route 302

and Reed Street, one can see that Reed Street is much smaller. Adding this many new trips would create an unsafe condition. The Board took public comment on the safety conditions at the intersection. He has seen backups at the intersection many times in which drivers had to make "jackrabbit" starts to enter onto Route 302. The additional traffic would only make this worse. The proposed increase in trips will make for more risky maneuvers as people on Reed Street will have to wait longer and thus become more frustrated. Corsetti's makes the intersection functionally a four-way intersection. An additional hazard is that Corsetti's is full during rush hour and cars slip around each other to get by traffic turning left from Route 302 onto Reed Street. There is also a pedestrian safety issue at the intersection, which will increase with more homes being added. Improvements being made on Route 302 at this time will not alleviate the conditions at the intersection or on Reed Street. A left-turn lane is not being added on Route 302.

The subdivision traffic standard goes deeper than the special exception standard and deals with traffic and pedestrian safety. The special exception standard only deals with the number of trips that the road can handle. Route 302 can handle an increased number of trips, but Reed Street cannot handle double the number of existing trips without safety problems.

Anna Wrobel - The special exception standard only says that traffic will not burden existing ways. This is very simple and short. This is a generic standard. The Traffic Study showed that the road could handle the trips and not burden the way. She sees this standard as dealing with a continuous road length.

The subdivision standard is much more involved. It uses terms like safety and congestion. There are points along a continuous way where there is greater congestion. The 302/Reed St. Intersection is one of those points, because of both Reed Street and Corsetti's. This standard is way more specific and complex. It requires a review of use and safety, not just a quantitative analysis.

Corsetti's is also a safety issue at this point of congestion. She has seen this condition through site visits.

Rene Daniel - Asked Luc Bergeron to further clarify the reasons for pedestrian safety issues at the intersection.

Luc Bergeron - With increased residents, there will be more pedestrians walking across the road to Corsetti's. With increased population comes increased pedestrian traffic, including more children waiting at the bus stop. Thus, there will be a greater pedestrian safety issue than there is now.

Rene Daniel - agrees with statements of Luc Bergeron and Anna Wrobel. He has grave safety concerns and that is part of his primary focus for this application. The subdivision standard for safety is much higher than the special exception traffic standard.

Brian Beattie - He agrees that the special exception standard deals with raw numbers. It is not until the subdivision plan that the Board starts to look at the safety and congestion issues. Can the road handle the number of trips? Yes, it could. What this standard does not get into is the safety and congestion issues. This includes both the vehicular traffic and pedestrian traffic. This was the feeling and intent for the positive vote on the special exception and the negative vote on the subdivision.

Ed Reidman - The only items that have to be cited are those dealing with traffic. The motion should include the differences that the Board sees between the subdivision and special exception applications.

4. Final Subdivision Plan, Final Site Plan, & Special Exception - Clearwater Bend - Mitchell & Assoc., on behalf of Reed Street Neighborhood Housing LP, for the creation of 23 dwelling units and community building on a 7.07 acre site located at 27 Reed Street. Tax Map: 56, Lot: 42, Zone: RGA2.

Luc Bergeron - moved that the Board vote to differentiate between the Special Exception traffic standards and Subdivision traffic standards for the following reasons:

1. The special exception traffic standard is general and makes use of quantitative analysis only. The subdivision traffic standard is more specific and requires we go beyond the raw data into practical usage.
2. The subdivision traffic standard addresses the safety issue, both traffic and pedestrian; which the special exception does not.

2nd by Rene Daniel

Vote 4-2 in favor of the motion. (Ed Reidman and Greg Blake Opposed)
(Corey Fleming and Dennis Isherwood not voting)

Luc Bergeron moved the Subdivision application for Clearwater Bend on Tax Map 56, Lot(s) 42 is to be denied with the following findings of fact and conclusions.

POLLUTION AND SEWERAGE DISPOSAL

- The project will be connected to the municipal sewer system. Therefore, it should not produce undue amounts of groundwater pollution.

B. WATER

- The Portland Water District confirmed its ability to serve the project in a letter from Jim Pandiscio dated December 28th, 2005.

C. SOIL EROSION

- The City Engineer has approved the erosion control plans.
- Due to the proximity of the project to the ravine, Staff requests that a third party inspector be hired by the applicant to inspect erosion control devices during the construction process. Staff recommends that the Cumberland County Soil and Water Conservation District be retained.

D. TRAFFIC

- The project's driveway will be located on Reed Street.
- The applicant will reclaim and repave Reed Street from Route 302 to the project's entrance.
- Gorrill-Palmer Consulting Engineers conducted a traffic assessment. They concluded that, "Based on the findings of this study, it is the opinion of Gorrill-Palmer Consulting Engineers, Inc. that the existing traffic network can accommodate the additional traffic generated by the proposed residential subdivision."
- The Planning Board accepts numbers wise that the amount of traffic generated by this and number of cars on the road can be handled, however given the safety issue of additional pedestrians in the neighborhood plus this plan nearly doubling the amount of residents thus doubling the amount of traffic on the road that is not going to see any improvement there is an unsafe condition that already exists and is only going to be exacerbated by the addition of this project. Namely the vehicles that will have to jump out into traffic and the pedestrian safety crossing route 302, as well as pedestrians walking on the side of the road and school children are waiting for buses in the morning.
- Anna Wrobel suggested that the neighborhood testimony and the personal experience of Planning Board members witnessing the unsafe conditions at this intersection provide support for this decision is added to the motion.

E. SEWERAGE

- The project will connect to the municipal sewer system via a gravity line system.
- The applicant will replace approximately 60 feet of the existing clay pipe in Reed Street with PVC pipe to accommodate the increase in sewage from the site.

F. SOLID WASTE

- Solid waste will be the responsibility of property owner.

G. AESTHETICS

- Brian Lewis, Fishery Specialist, of the Maine Department of Inland Fisheries and Wildlife (IF&W) communicated in a letter dated March 18, 2005 that, "there are no know fisheries resources within the proposed project area."
- Toni Bingel Pied, GIS Specialist/Assistant Ecologist, of the Maine Department of Conservation, communicated in a letter dated March 28, 2005 that, "According to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area."
- Scott Lindsay, Asst. Regional Wildlife Biologist, of the Maine Department of IF&W communicated in a letter dated April 8, 2005 that, "Based upon a review of our most current wildlife habitat data, the 7.07 acres you have identified as this potential development site, does not occur within or adjacent to a known essential or significant wildlife habitat, nor any documented occurrences of rare, threatened or endangered wildlife species."
- Earle G. Shettleworth, Jr. of the Maine Historic Preservation Commission, in a letter dated February 15, 2005, stated that the project will have no effect upon site or structure of historic architectural or archaeological significance as defined by the National Historic Preservation Act of 1966.
- Appearance Assessment:
 - (1) Project to Site - The landscaping provides for a smooth transition through plantings along the driveway. This being said, an abutter to the project has communicated dislike of the proposed plantings along the entrance drive.
 - (2) Project to Surrounding Property - Plantings have been placed to provide screening for abutting properties on Reed Street. A fence

buffer has been proposed for the rear property line of the lots fronting on route 302.

- (3) Landscape Design - The design has been prepared by a registered Landscape Architect.
- (4) Lighting - Lighting cut-sheets have been provided.
- (5) Signs - A project sign has been proposed on Reed Street. This sign must conform to the standards for signs in residential districts.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- **Comprehensive Plan:**
 - The project appears to meet following goals of the comprehensive plan:
 - "Reduce strip residential development along roads in favor of interior lot development patterns using clustering and open space preservation techniques (p. 8-20).
 - The space and bulk and performance standards as they were finalized in the Residential Growth Area 2 zoning district (p. 12-3 through 12-4).
 - The project does not appear to meet the "higher end" part of the following goal:
 - Balance lot size and density bonuses with the need to provide a transition to higher end housing development (p. 8-20).
- **Land Use Ordinances** - The plan meets the setback and net residential density standards of the zoning ordinance.
- **Recreation & Open Space** - The Recreation & Conservation Commission reviewed the plans at its February 17, 2005 meeting. Their recommendation is to accept the open space as depicted on the plans.
- **Community facilities impact analysis** - The applicant has submitted a detailed community facilities impact analysis that concludes that the project will not burden the municipal infrastructure and services.
- **Fire Code**
 - No written comments.

I. FINANCIAL AND TECHNICAL CAPACITY

- Two letters demonstrating financial capacity have been supplied by Camden National Bank, dated October 4th, 2004, and Maine State Housing Authority, dated February 3rd, 2005.
- Community Housing of Maine has completed a similar project in Rockland, Maine.

J. RIVER, STREAM OR BROOK IMPACTS

- **The project will be built next to a wetland/stream channel that feeds Mill Brook. For this reason, and based on similar projects, Staff recommends that a third party erosion control inspector be hired for this project.**

CONCLUSIONS

1. **The proposed site plan will not result in undue water or air pollution.**
2. **The proposed site plan has sufficient water available for the reasonably foreseeable needs of the site plan.**
3. **The proposed site plan will not cause an unreasonable burden on an existing water supply.**
4. **The proposed site plan will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.**
5. **The proposed site plan will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.**
6. **The proposed site will provide for adequate sewage waste disposal.**
7. **The proposed site plan will not cause an unreasonable burden on the municipality's ability to dispose of solid waste.**
8. **The proposed site plan will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.**
9. **The proposed site plan conforms with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.**
10. **The developer has adequate financial and technical capacity to meet the standards of this section.**
11. **The proposed site plan is not situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.**
12. **The proposed site plan will not alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.**
13. **The proposed site is situated entirely or partially within a floodplain.**
14. **All freshwater wetlands have been shown on the site plan.**
15. **Any river, stream, or brook within or abutting the site plan has been identified on any maps submitted as part of the application.**

16. The proposed site plan will provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
18. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
20. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.
21. The proposed subdivision will not negatively impact the ability of the City to provide public safety services.

CONDITIONS

1. Prior to the commencement of any site work, the applicant will sign a contract with a third party soil and erosion control inspector that is approved by City Staff.
2. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated March 1, 2005, as amended April 6th, 2005, and supporting documents and oral representations submitted and affirmed by the applicant, and conditions, if any, imposed by the Planning Board, and any variation from such plans, proposals and supporting documents and representations are subject to review and approval by the Planning Board.

Luc Bergeron accepted additions.

2nd by Rene Daniel

Vote - 4-2 in favor (Ed Reidman and Greg Blake, Opposed) (Corey Fleming and Dennis Isherwood not voting)

5. Adjourn

Respectfully submitted by Linda Gain PECE Secretary

Westbrook Planning Board Minutes
May 30, 2006

MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE RECORDING MAY BE OBTAINED BY CONTACTING THE ENGINEERING, PLANNING AND CODE ENFORCEMENT DEPARTMENT. THANK YOU