



City of Westbrook

DEPARTMENT OF PLANNING

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WESTBROOK PLANNING BOARD TUESDAY, JULY 8, 2008, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Paul Emery (Ward 3), Cory Fleming (At Large), Anna Wrobel (Ward 4), Michael Taylor (Alternate)

Absent: Scott Herrick (Alternate), Greg Blake (At Large)

Staff: Molly Just, Richard Gouzie

Chairman Reidman called the Westbrook Planning Board meeting to order at 7:00 p.m. in Room 114 of the Westbrook High School.

1. Call to Order

Continuing Business

2. Contract Zone and Comprehensive Plan Amendment – Stroudwater Place – 500 Westbrook LLC, for the phased development of a mixed-use project on approximately 60 acres generally located at 528 Stroudwater Street. Tax Map: 9, Lots: 3 and 3A, Zone: Business Professional Office District.

Ed Reidman the Comprehensive Plan amendment has already been scheduled for a public hearing on July 29th. Tonight we are going back into looking at the definitions, that we did not have definitions for. If there are any questions or comments we will discuss them, if there were no questions or comments we accepted them as is.

My understanding is that if we add the definitions, they would have to be added to the Ordinance and not part of the conditional zone.

Molly Just I do not think that there is a hard and fast rule on that. If we wanted too as these uses might occur elsewhere in the City, include them in the regular definition section we could. Alternatively, I do not see a problem with keeping the newly added definitions just to the contract zone.

Ed Reidman that decision will be made later on, but they will be definitely being in the Contract Zone. Shall we start with the discussion on Class A lounge, the definition as follows?

Class A Lounge – An establishment which holds a Class X liquor license from the State of Maine, which qualifies as a “Class A Lounge” under the provisions under title 20A of the Maine revised statutes and is licensed by the department of health and human services as required by 28A MRSA 1065 (5) This category includes but is not limited. Establishments commonly known as pubs, brew pubs, wine bars, and cocktail lounges.

Excludes bottle clubs and restaurants that allow patrons to bring and consume their own alcoholic beverages.

That is the definition. Is this definition acceptable to the City?

Molly Just at this point yes.

Ed Reidman is this acceptable to the proponents?

Chris Vaniotis yes.

Ed Reidman does anyone have any problems with the definition?

Rene Daniel asked if the Board is just agreeing to the definition, or are we in agreement to the category.

Ed Reidman we are looking at just the definition

Rene Daniel said he does not have any problem with the definition.

Ed Reidman the next item is a Conference/exhibition facility.

i. Conference/exhibition facility. A facility used for conferences, seminars and exhibitions, and entertainment, which may include accommodations for sleeping, food-preparation and eating, recreation, and meeting rooms, and retail sales and services that are offered primarily for the convenience of persons attending conferences, seminars or exhibitions at the facility. A conference/ exhibition facility which includes sleeping rooms for guests shall also be considered a hotel/motel, subject to the requirements of this ordinance applicable to hotels/motels.

Ed Reidman Molly, the City is ok with that?

Molly Just yes

Ed Reidman Mr. Vaniotis

Chris Vaniotis yes

Ed Reidman members of the Board, I think the definition of the sleeping rooms is covered under the hotel/motel type of situation. All set? OK

Ed Reidman the next one is extended stay hotel

ii. *Extended stay hotel. A hotel or motel in which the rooms contain kitchen facilities provided with cookware and utensils, which includes washers and dryers or laundry facilities on the premises and which is designed and intended to provide temporary lodging for transients who may occupy a room for up to 180 days in any 365-day period.*

Molly Just I disagree with the number of days. I think that we have expressed before that some City Staff have an issue with the use on the site. Just in terms of the definition IU think that stay is way too long.

Ed Reidman asked the proponent their comments.

Chris Vaniotis that is entirely up to the Board, I will explain the rationale as we think the definition is appropriate the way it has been presented. This extended hotel could be used by business people on temporary assignment.

Ed Reidman how do you enforce the 180 days?

Chris Vaniotis it is like anything else, if it starts to be a problem, the Code Enforcement Office will review the hotel records to check how long people have been registered there.

Ed Reidman we should note that this piece of the definition is a concern to the Board and Staff.

Anna Wrobel asked Molly Just for input. . Have you found any alternative definitions?

Molly Just business officials would rent of an apartment if they are in the area for six months or more. The definition that talks about the amount of time is extreme. Rick Gouzie our Code Enforcement Officer has heard of abuse of that time limit in nearby communities. We do not have the manpower to enforce something like that. If we can avoid extra layers of manpower for our staff that may not be absolutely necessary we certainly prefer it.

I am against the use for the time frame. If you are going to have the use I suggest a much shorter stay, one or two months maximum.

Paul Emery my younger brother is a consultant for banks. He is presently on assignment in Buffalo, New York. He has completed his current stay and the company that employs him asked him to stay until the end of the year which is an additional six months, possibly going into next year. This particular facility if he was working on a project would work well. I do not see anything that would be gained by moving him around due to his length of stay. What purpose would this serve?

Ed Reidman do we except the definition as written tonight and put it on the re-visit list?

Anna Wrobel I am wondering if that makes sense it seems we be wasting time. I would like to hear from other Board members.

Ed Reidman I have stayed at a hotel for an extended period time and have sympathy for the Code Officer to try to enforce this issue, I think this would be very difficult. I guess I would ask that we put this on hold tonight and ask our staff for a different proposed number of days. I do not wish to put staff on the grid this evening.

Is everyone comfortable with that?

Cory Fleming I want to ask a procedural question. At one point we were discussing showing two versions of issues to recommend to the Council. Will this be an option? There is the issue with the definition and then an issue of whether we want the use permitted. I suspect that the definition is mute to some of us as we do not want that use permitted in the Contract Zone. That is the issue that I want to resolve. Do we present both packages?

Ed Reidman does the extended stay hotel; do we feel we want that in the package? If we do not want the extended stay hotel in the zone, then it does not make a difference if there is 180 days or not defined as part of the extended stay hotel.

Cory Fleming I am torn. I know that there are many upscale, white collared extended stay hotels out there. But I also know from experience in another community that disreputable extended stay hotels can be problematic.

Mike Taylor said I know that Portland is building an extended stay hotel and I know that there are other hotels that are in the planning stages. I know that in Westbrook we have no good extended stay hotels. If we want to attract good quality businesses with good quality jobs, we need to have a high quality extended stay hotel that will be cater to people like Idexx who have their consultants and engineers who stay more than a month in the area. If we want to attract high quality businesses and jobs we need to have a high quality hotel on this site.

Paul Emery I agree with my colleague.

Rene Daniel I disagree. Based on the conference center use, you will have a quality hotel associated with the conference center itself. I have a problem with the length of time that you can stay at the extended stay hotel. I do agree that we need a classy hotel, I am not against that. Just be aware that an extended stay hotel could end up being a destination for individuals who need temporary housing and would put an extreme burden on the tax payers of the City of Westbrook.

Dennis Isherwood agrees with staff maybe a 180 days is too long. Thirty to sixty days is what I would consider an extended stay. I have never stayed at an extended stay hotel. I want to bring back an old memory about an extended stay hotel, right near here. I think it was the Marriott and they had a problem shortly after opening they had an issue and it was

a brand new extended stay hotel and the issue was with bed bugs. They had to close the place and it stayed vacant for about four or five years. It was right around the corner from us, so please keep that in mind as to what can happen and how close to us that this did happen. I would agree with thirty to sixty days would be an appropriate time.

Anna Wrobel I am in agreement with Rene as to keeping the language more general and keeping an extended stay hotel out of this zone all together. I would like to see the amount of times more restrictive. I would like to see a much shorter time frame in that definition, then vote against it. In case it passes I would like to see the time more limited.

Molly Just if you do choose to table this definition, Rick Gouzie can call around to other jurisdictions to see how they do handle it, what their experience has been.

Chris Vaniotis the reason we put this definition in the Ordinance as we decided to think what may be developed on this property; remember we are not committed to build an extended stay hotel, it is one of the uses we thought would be useful. If you look at the current definition of hotel in the Westbrook Ordinance, it is extremely restrictive:

201.48 **Hotel, Motel.** *A structure providing lodging, for a fee, on a daily basis. Accessory uses may include restaurants, meeting rooms, function halls, and associated recreation facilities. For purposes of this ordinance, a Hotel/Motel shall include any lodging structure consisting of one (1) unit or more per lot. Hotel units that have cooking and sleeping facilities, commonly referred to as efficiency units or suites, shall be rented on a daily basis for short-duration lodging.*

That definition excludes the possibility for the consultants from Idexx to stay there as they are not paying on a daily basis. We were trying to distinguish from this definition so the opportunity would be there. In terms of the number of days allowed to stay, we can work through that issue. We will be willing to talk to the staff or this Board for a different number.

Ed Reidman that is the point we reached and Mr. Gouzie please call around to get some information as to how other communities handle the enforcement of this issue and the definition is on the table.

The next item on the agenda is:

iii. Health club. *A facility where members or nonmembers use equipment or space for the purpose of physical exercise. This term includes facilities commonly known as fitness centers or wellness centers.*

The next item on the agenda is:

iv. Intermodal passenger transportation facility. *A building, structure or location where two or more modes of transportation intersect and passengers can transfer between modes.*

Ed Reidman next definition:

- v. Kiosk Vendor. *An outdoor vendor selling food or general merchandise from a wheeled cart or a kiosk (a small structure with one or more open sides).*

Mike Taylor is this kiosk permanent or mobile?

Chris Vaniotis this definition was designed too allow both.

Ed Reidman I apologize Molly; I did not ask you if you agreed with the prior definitions.

Molly Just staff and the developer have agreed on the vast majority of the definitions.

Anna Wrobel do we need at this time to define “general merchandise” as a term within kiosk vendor? Do we have an opportunity to place limits on that, or will we have opportunity in the future to define the limits of what we mean by general merchandise.

Molly Just you could do that at the site plan level.

Ed Reidman does that create a problem for you Mr. Gouzie, on general merchandise? Do you have a generic definition in your mind on what you would consider general merchandise?

Rick Gouzie no, but I would prefer to have some kind of definition for general merchandise.

Ed Reidman Mr. Vaniotis will add that to his list of additional definitions.

Chris Vaniotis we will work with staff.

Ed Reidman the next definition:

- vi. Library. *A public and/or non-profit facility in which literary, musical, artistic or reference materials (such as books, manuscripts, recordings or films) are kept for use but not normally for sale.*

Ed Reidman Staff approves

Molly Just yes

Ed Reidman next definition:

- vii. Museum. *A building having public significance due to its architecture or former use or occupancy or a building serving as a repository for a collection of lasting interest or value arranged, intended and designed to be used by members of the public for viewing with or without an admission charge.*

Ed Reidman Staff approves

Ed Reidman next definition:

viii. Outdoor farmers market. *An area designated for the seasonal selling at retail of vegetables, produce, flowers, orchard products and similar agricultural products, or farm-related products such as jams, jellies, syrups, dairy products, etc.*

Paul Emery would any area have a permanent structure? This came up in 1985 in the Town of Freeport which did have along the side after crossing the bridge a farm stand itself. There became an issue of the proper disposal of farm goods, in other words spoiled food. Are they going to be temporary, are they going to be permanent? Is the farmer or the vendor going to bring the display in, open, sell, close, then clean up and move the items?

Pratap Talwar I have seen farmers markets work in both configurations. I do not know what the preference of this town is. We showed you picture that showed you both. The key issue for a farmers market as you pointed out needs to be up to code for health reasons. The vast amounts of farmer's stands I have seen are temporary. The structure may be seasonal structures, but they can be removed. The vast majority tend to be sold off a truck. I have seen a very wide range happening. This could be discussed in the Site Plan level.

Ed Reidman Mr. Gouzie do we still have a farmers market down town?

Rick Gouzie we do have a definition for this in our Code of Ordinances and yes we have a farmers market down town.

Ed Reidman is there any problems?

Rick Gouzie no problems

Ed Reidman Staff approves

Ed Reidman next definition:

ix. Museum. *A building having public significance due to its architecture or former use or occupancy or a building serving as a repository for a collection of lasting interest or value arranged, intended and designed to be used by members of the public for viewing with or without an admission charge.*

Ed Reidman Staff approves

Ed Reidman next definition:

x. Outdoor farmers market. *An area designated for the seasonal selling at retail of vegetables, produce, flowers, orchard products and similar agricultural products, or farm-related products such as jams, jellies, syrups, dairy products, etc.*

Ed Reidman Staff approves

Ed Reidman next definition:

- xi. Outdoor performing arts venue. An area designed and arranged so that it may be used for outdoor concerts or performances. It may include a bandstand, band shell, stage or other shelter for performers, and seating or seating areas for audiences, any of which may be permanent or temporary.*

Ed Reidman Staff approves

Ed Reidman next definition:

- xii. Public or private indoor or outdoor recreation or sports facility. An indoor or outdoor space, which may be publicly or privately owned, that is designed and equipped for the conduct of sports and leisure time activities, excluding water slides, amusement parks and racetracks, and which may include spectator sporting events.*

Ed Reidman Staff approves

Ed Reidman next definition:

- xiii. Research and development. A laboratory or similar facility for investigation into the natural, physical or social sciences, which may include engineering and product development. Such use shall not involve the mass manufacturing, fabrication, processing or sale of products.*

Paul Emery how is the goat facility on Anderson road handled? Where does that fall under Code and Zoning?

Rick Gouzie falls under the Windham jurisdiction.

Paul Emery the town line is near there I understand.

Ed Reidman Staff approves

Ed Reidman next definition:

- xiv. Theater. A building or part of a building used to show motion pictures, or for drama, dance, musical or other live performances. This term includes multi-screen cinemas, but excludes drive-in theaters.*

Mike Taylor if you wanted to do an outdoor performance use in a movie theater kind of atmosphere would that be included or not included? Some places use an outdoor facility, but they come to see a movie. Some other towns have an outdoor movie theater not a drive-in; you bring your lawn chair, kind of things like that.

Molly Just I am wondering if you are getting to sound issues as well.

Ed Reidman this one here is defined as a building or part of a building, so that means it is indoors. We need to go back and look at the other definitions which are the outdoor ones.

Chris Vaniotis the definition of Outdoor performing arts venue is what I think the Board member is looking for: *An area designed and arranged so that it may be used for outdoor concerts or performances. It may include a bandstand, band shell, stage or other shelter for performers, and seating or seating areas for audiences, any of which may be permanent or temporary* it. I think what you are talking about on an occasional basis in the public space a classic movie could be shown or something of that nature. I think it would be covered under the Outdoor performing arts venue as distinguished from a theater as the multi screens

Molly Just we are not sure if that would be covered under the Outdoor performing arts, as a movie is not a performing art.

Ed Reidman since we have passed that one, we can re-visit that.

Mike Taylor it might happen or it may not, but I know in the City of Portland they show an out door movie and they allow the public to come to that type of entertainment. Where does that type of entertainment fit in the definitions?

Paul Emery would that mean we could have outdoor concerts?

Ed Reidman I think the outdoor concert fits that. Does anyone have any objections to the Theater, where we are talking about a building in this case?

Ed Reidman that is the end of the definitions and we have gone through all the previous definitions that need to be added. We also went through at a previous meeting the definitions that are currently in the Ordinance and we still have not defined extended stay hotel.

We are moving on to the two proposed pieces in our package, one is the proposed staff language and one is the proposed developer language. Mr. Vaniotis offered to combine some of this work.

In your packet there is a letter from Mr. Vaniotis with regard too the timing of a financial feasibility data plan. He has indicated that:

"We expect to have a feasibility data available during the City Council's review of proposed Contract Zone. Because the Council has requested that information as the Council is the City's policy making legislative body has an understandable interest in the economics of the project. We see the Planning Boards role to provide input to the Council on the land use implications of the proposed Contract Zone, while the economics are more of the Councils domain. On the other hand when the Planning Board undertakes the Site Plan review the applicant will be required to fund a comprehensive economic impact study

required by the Maine's informed Growth Act which is part of the Planning Board review."

When we get closer to putting a package together and go out to public hearing we would at least like to have some type of a sketch what you expect the economic impact to be. Maybe it is just as simple as the number of jobs you are going to create and how the jobs fit into the economy.

Anna Wrobel I do not mean to back track, in terms of the economic feasibility study and what you just suggested jobs and how they fit into the economy can we get more specific where along the way we will hear such a projection or such report?

Ed Reidman I think he spells that out in his letter. They will be providing that to the Council.

Anna Wrobel not for us

Ed Reidman not for us, if the zone passes and it does move forward then we do our review of the site plan then we have the right to get that piece. The Council will have it at an earlier stage and I would assume as soon as it becomes public that we can get a copy of that.

Anna Wrobel I find it interesting quoting the letter:

We see the Planning Boards role to provide input to the Council on the land use implications of the proposed Contract Zone, while the economics are more of the Councils domain.

I understand we can put it off, but land use and the economic feasibility are intimately related. Recent journalism has been talking about excess retail space in the State of Maine and exceeding demand in the State of Maine and the Nation at large and that comes right around to land use implications. It is hard for me to advise on land use implications without thinking of the economics involved. Certainly we can put it off but I suggest that the Planning Board has the right to request that kind of input. I certainly think that is within the purview of our role if we are going to be making recommendations on land use implications.

Ed Reidman I have in front of me the document that Mr. Vaniotis passed out I have the draft of the applicants proposed language. I have the planning staff's proposed language. As I read the first part, they all read the same. As we move through the items, I would like to do it the same way we did the definitions. If there is a problem with something that is there, then we are going to discuss it and debate it. I do not think we will be able to put a final stamp on things like we have done with the definitions. I think it involves a little bit different review. I do not think we need to debate items that everyone is in agreement.

I will start with the purpose and say all three are the same.

Chris Vaniotis what I passed out this evening is our draft, so you do not need to compare this to our earlier draft. We just incorporated things from our earlier draft and incorporated

them into one document. I have highlighted some new language so you see this immediately. I think if you compare two documents as provided by Staff and this one that I just handed out; it will save you three pieces of paper.

Ed Reidman have you had a chance to scan Molly

Molly Just not really

Ed Reidman is there any discussion on the purpose section?

Anna Wrobel I have already stated my position on this, but I will re-state my position very quickly. I am opposed to this purpose; I do not see this as an authentic destination. I do not perceive this as a regional economic hub. When that is the City of Portland and when the down town area of Westbrook is an authentic destination, growing starting to be thriving, still quite fragile. I have done a lot of reading on the affect on sprawl development on downtown areas that are close by. I was in White River Junction Vermont just yesterday there is an Am Tract here a beautiful square, beautiful architecture and there is West Lebanon just a mile or two down the road and there is not a sole on the street of White River Junction. It is a town not all the dissimilar to the makeup and geography of Westbrook. I am still very, very concerned about what is going to happen to down town Westbrook with this project just a mile or two away from down town. I am really afraid that it is going to siphon off the energies that we have been working so hard to renew. I am very concerned about what is going to happen there, very concerned.

Cory Fleming in looking at the two different versions, there is one difference that I am pulling out. In the Staff language they refer to high quality in the master planned mix use development, the one from our applicant does not. Insert the word high quality. I recognize the word high quality is a subjective term but I do think is something of particular concern to this Board.

Chris Vaniotis this is a word processing glitch, we can add it.

Ed Reidman any other comments with regard to the purpose.

No comments

Ed Reidman next we go to permitted uses. The permitted uses on the Developer language, vs. the permitted uses on page 3 on the Staff's language are the same. The Extended Stay Hotel and the Class a Lounge are the two items that the Board has concerns about. Again for the general public Mr. Gouzie Class a Lounge are defined but not allowed in any zone currently.

Rick Gouzie correct

Ed Reidman when do you want to make the decision to put the Class a Lounge as a permitted use or not.

Paul Emery it is my understanding that if we go through and develop this except for a word or two change, the applicants draft 7-8-2008 it will go next to a public hearing, then to us, then to Council.

Ed Reidman the way the procedure works is after we have decided what the language generally is recommended to the Council, we hold a public hearing, after the public hearing we then debates whether everything we want is in or maybe drop some things out. After the public hearing at the same meeting it would be on the agenda to vote to make a recommendation to the council. At that point we vote and it goes to the Council level. When it arrives at he Council they hold a public hearing on the issue, then you have two readings after that in order to make the change to the zoning ordinance to allow the conditional zone.

Paul Emery so as I understand it, there will be opportunities, if there are objections from the citizens and the other businesses within the community if they have a problem with Class A Lounge and extended hotel as on the permitted use schedule the public has the right to say no or yes, I suggest leave it and let the public decide.

Ed Reidman I know there is decent amongst the Board in taking that approach, anyone else have any comments?

Anna Wrobel again I will repeat myself, we are an advisory board, and I presume that the language that we put forward will be perceived as the language that we agree with. Whether we feel that is the case, the Public will perceive it that way. If we leave a Class A Lounge in the language then it is going to be perceived that is what we are suggesting to the Council. We have taken no pole of the Board if we want a Class A Lounge or not, but I suggest if that is the language that we out in then it will be perceived that we advised the Council that such bars and pubs and saloons will be acceptable to us in this site. I am curious to the insistence to have the bars on this site. There will be restaurants and they will have liquor licenses, people will be able to get a drink and more than one if they want, I do not know why there is insistence on these bars. I assume that we are advising the Council, they can decide that they do not want to take our advise but as it is presented on paper is what will be perceived to what we advised or counseled them to do.

Chris Vaniotis I do not want to wear the Boards patience, but this is important as to what is published for the public hearing on our request. We request that the Board publish our request because that is the only way the public gets to comment on it. If you take any of these items out before it goes to public hearing then the public does not have a chance to comment. The document that goes to the public hearing is our request, not what the Planning Board has recommended necessarily, it is what the applicant has requested. This is an application for a zone change. We urge you to let the public comment on that. This is awkward and I know the Planning Board is in a somewhat awkward role as the Planning Board acts as advisors to the City Council on a zoning request. We do not have a problem with the Planning Board saying that they do not agree with the Class a Lounge, but leave it in so the Council and Public can comment. If the Class a Lounge does not go to the

Council and someone wants to add that use, we would have to re-notice the whole project and start it over again. Should the Planning Board not agree with a use make the Council aware in a memo format, but let the request go forward.

Ed Reidman I personally can argue either side of the coin. I can argue that Mr. Vaniotis request goes to the council as it is because that is what they are proposing. I also can support the other side and say that if the Planning Board truly feels that it is not an appropriate use in the City of Westbrook that we should not put it in.

Rene Daniel I guess we disagree, I agree with Anna in this particular incident. I believe that when I was asked to join this board I was asked to be an advisor, back then there was seven Planning Board members. When the present mayor decided to re-appoint me, I also promised him and the City Council that I would be there as an advisor. I live in the City of Westbrook; I have to look at the Administrative Staff that I serve right in their eyes. I promised to do the best I can to advise them based on the information enclosed by the City Planner, the Code Enforcement Officer and all the information that we have been provided. I am not going to break that promise. Being honest, there are two uses requested that I do not agree with for the project. I am not going to put my name on the document going before the City Council and the Mayor. I want to make sure that the Council and the Mayor knows that I am not in favor of the two uses in question and if it means that I continue having their trust that is fine. If that means that I get the applicant upset, so be it. That is what I perceive as my role as a Planning Board member.

Anna and I agree on this particular topic. I would much rather send something to the City Council fully realizing that they have the right and the power to change whatever they want. I will vote against the two uses that I am concerned about on this project; I am fine with the rest of the use requests.

Ed Reidman you are talking about the Extended Stay Hotel and the Class a Lounge.

Rene Daniel yes

Anna Wrobel asked a procedural question about our prior discussion. Can we alter the wording on the application before going to public hearing and the City Council?

Molly Just the idea is the Contract Zone is negotiated so ideally if the applicant were willing to make some changes, they would be made with the Contract Zone.

If you choose to advertise two sets of language you can do that. It is the applicant's application for a Contract Zone.

Ed Reidman I can remember a previous City Solicitor speaking, then would go a sit down and the Mayor would ask "What was the answer?"

Cory Fleming let me make sure I understand it. If we send the language as is as the applicant has proposed to public hearing and advertise, we then take the public's comments on the issues then we come back as a Planning Board at that point we have taken the input from the public, can we make the decision to pull the language based on

what we have heard from the public. If the public does not want a Class a Lounge can we pull it before making the recommendation to the City Council?

Ed Reidman yes the Planning Board will ultimately have a document of a proposed Contract Zone that covers all the items that we are dealing with and we will vote to send that to the City Council.

If we go with the permitted uses as shown here today, go through the public hearing and someone makes a motion eliminate Class a Lounge and Extended Stay Hotel, then the Board will vote on those motions. If four people prevail then those uses will be dropped out before sending the language to the City Council. If the vote fails, then the uses will stay in.

The question tonight is should we vote tonight to eliminate the Extended Stay Hotel and the Class a Lounge from the document we are preparing? Everything else the Board is in agreement on. If someone wants to make the motion to remove the Class a Lounge from the proposed permitted uses and it is seconded then we can vote on it.

Cory Fleming we can do it now and we can do it after the public hearing.

Ed Reidman we can do it after the public hearing also. If it is not in the document when it is advertised, you can not add it. You can always cut back from what goes out, but you can not add something in without going to the City Council then come back to the Planning Board.

Anyone care to make that motion at this point?

Anna Wrobel I wonder if we are going to get hung up on every other difference and every other issue that I see here that we are in disagreement with. I am looking at the next page, even if we have not started it yet, the setback comparison between the staff vs., the applicant are vastly different. So are we going to make a recommendation on it or are we just going to put what the applicant wants and come back later and remove it. I do not think we should do that with everything in here. We need to make a decision; I just do not see us doing that with everything in here. There is quite a bit of differences between the two proposals. I can not imagine that we are going to put out two sets of everything or just the applicants view, then come back later and say oh by the way, I like what Molly has in the staff's proposal better. I do not think we are going to be able to do that with all the things that are being disagreed about.

So I will take a risk and propose the motion.

Anna Wrobel moved to remove Class Lounges from the language that is going to be presented for public hearing.

2nd by Dennis Isherwood

Rene Daniel as much as I want to have Class a Lounge removed and Extended Stay Hotel I want to think for a moment because if we can remove it at a different stage, if we still have the ability to remove it in the future I am not afraid to have the public speak on it. I

just want to be very clear at some point in time I am definitely going to vote against the Class a Lounge and Extended Stay Hotel.

At this particular time I want to point out to the applicant at this particular time I do not agree with it. However tonight I can not vote in favor of it. I believe that we need a little more input. Tonight I am going to vote against it this evening. If it looses and it comes up again I will vote in favor of it.

Mike Taylor I want to concur with what Rene has said. I do not want to keep - the public from speaking on this item. We are here for the public and want to hear what the public has to say. I do not want to make this decision this evening without hearing what the public says. It is the public's rights to voice their opinion on the Class a Lounge. I want to here their voices before making the change now. We can always make the change after. I just want to hear what the public has to say, so we do not get the retribution on the back end by not allowing the public to voice their comments.

Ed Reidman anyone else like to comment?

Dennis Isherwood unfortunately I will not be here for public meeting. I wanted to make sure that my feelings were made known about the lounge. I think it is a matter of language, which we do not allow the lounges just to sell liquor in Westbrook. You can not do it anywhere. It is something that is not allowed so why insist to put this in front of us at a time when it is not allowed. I do not understand when you can go to City Council later and have it added. I hate to see this get hung up due to a couple items that we can not negotiate on. A restaurant that sells alcohol is fine; I do not think anyone has a problem with a restaurant that sells alcohol but a place that just sells alcohol is not a family place and I would have to vote against that no matter what the public says. I live in Westbrook and I do not want a place that just dispenses alcohol.

Anna Wrobel in the spirit of full disclosure I know how Rene feels about this and how Dennis feels, and I hate to loose Dennis's vote on this one.

Ed Reidman any other comments', seeing none the motion in front of us is to remove the permitted use of the Class A Lounge. A vote in favor will remove that; a vote opposed will leave it in, all those in favor of the motion.

The vote was 2 in favor 5 opposed (Ed Reidman, Rene Daniel, Cory Fleming, Paul Emery, Mike Taylor opposed)

Ed Reidman as we do not have the definition at this time on the extend stay hotel do we need to take a vote on that use? We will wait for the definition.

Moving forward, the next item is special exception the child care center staff. Both the Staff and Developer agree with that. Do we need to add a section on prohibited uses or is that because if a use is not defined than it can not be a use?

Molly Just I tend to agree with not addressing prohibited uses, because once you start to address a couple than you wonder what else is not there. I have heard from some people in

the community that an automobile repair shop would not be ideal here. This was covered at a prior Planning Board meeting and the applicant agrees.

Ed Reidman we will not cover prohibited uses as recommended.

Now we will discuss performance standards. The buffer zone on the front which the developer proposes 20' buffer with a 10,000 minimum lot size. We are going to strike the 10000 minimum lot size as it is a sixty acre lot.

Chris Vaniotis we will strike the minimum lot size.

Ed Reidman is that dangerous; let us stop for a moment. With no minimum lot size we know that he is talking about the contract zone and if he came in to subdivide the contract zone with leased land, without a minimum lot size he could lease as much as one hundred square feet and as I understand the law in regards to subdivisions that any divisions of a piece of property into three separate pieces by building or even leases that you would have to get a subdivision plan. Any attorney would state that you do not have any size variation or any size definition we can build on one hundred square feet. We certainly would not want that, so if the developer is willing to go along with a minimum lot size of ten thousand square feet. Shouldn't we leave it in?

Molly Just the urban would preclude that independent standard. You are saying a tenant that would want to own that area even though that store would be connected to another building.

Ed Reidman they would be connected to another building and would go along with a land lease. An example as in the mall, there are separate land leases, I believe there are three, but there maybe more and that made it a subdivision, so if they come in and you do not have a standard for a minimum sized lot you may well put yourself into a position where you do not want to be.

Chris we added this into the draft for a couple of reasons. One is as in every other zone in Westbrook including the contract zones there is a minimum lot size, so to make it consistent with the Zoning Ordinance we put in a minimum lot size.

Mr. Reidman what you stated about the Maine Mall you are absolutely correct. What we know about the Maine Mall it has several different owners of the land. You do not see them because the parking lot spreads out over them but there are several different lots.

We added the minimum lot size to keep a basic protection and with a minimum lot size in case say thirty years from now a company comes along and says they want to carve off a piece of this for some reason, it would have a minimum lot size like every other zone in Westbrook.

Molly could staff and the applicant work through that?

Ed Reidman yes, staff and the developer can work through that, but I do not think we can eliminate it, just because of the way that State law is written.

The next item is dimension and set backs from the boundaries which you have titled in yours as buffer zones from the boundaries other than set backs and do we need something on a minimum lot width. If we are going to have a minimum sized lot, do we need a minimum lot width?

Molly Just we will discuss that as part of the minimum lot size discussion.

Ed Reidman then we get back to the set backs of the boundary of the contract zone as stated:

A. Dimension Requirements:

(1) Buffer Zones from boundaries of the Contract Zone:

*(a) Front 20 feet**

(b) Rear 100 feet

(c) Side 100 feet

**The front buffer zone shall incorporate sidewalks and landscaping.*

The developer has proposed the rear of 50 feet and a side of 10 feet.

Molly Just I do not see a need for a large set back on the front of the property if you have a large project that is meant to be a high quality destination, you do want that to be right along the road. Within that set back I would recommend sidewalks and landscaping. The sidewalks will not be leading to anywhere currently, but there will be neighborhood people waking there and it helps to provide a really good first image of the project. The depths of the frontage the applicant and the staff are in agreement to, it is just what is proposed within that frontage.

Rene Daniel would the applicant want to make a comment?

Chris Vaniotis I think in terms of the front yard set back we do have difference in language here. Our draft talks about set backs and the planners draft talks about buffers. To the extent that we are talking about 20' front yard set backs we certainly agree with that number. We do not have a problem with the concept as the site plan is developed; sidewalks or landscaping could be incorporated somehow within that set back. We do not have an issue with the set back figures but we do have a concern as to the description of "buffer".

Rene Daniel Molly is that something that you and the developer can work through or will you need more guidance from the Planning Board.

Molly Just I do not see anything that needs to be talked about, guidance from you would be ideal.

Ed Reidman I think we need to be careful with this, I appreciate where you are going with your numbers but front buffer zone vs. a rear buffer zone you could feasibly develop the

property so you all had front yards. Do we want to be in that position where we have the potential for all front yards?

Molly Just I think you are getting back to the minimum lot size, is that correct?

Ed Reidman no

Molly Just in my mind this project has a front yard on the arterial and a back yard on Stroudwater Street and side yards against the abutting properties.

Ed Reidman I guess if that is the way Code Officer interprets it then

Rick Gouzie that is what we were just talking about as within the project you do not have and public streets in our zoning ordinance all your lot widths and everything to do with the lot on a couple of the streets. The only public street will be Larrabee Road or the arterial whichever term you use.

Ed Reidman you have Stroudwater Street as a Public Street.

Rick Gouzie not if the entrance and exit is on the arterial.

Ed Reidman look at the clear definition if you are going to say that you front yard is on a street, then Stroudwater Street is a street and you have the potential of that being called a front yard.

When the Planning Board, many years ago, developed Colonel Westbrook Park they indicated at that point that County Road, Route 22 was going to be a rear yard set back because of the same issue a set back from a street. It was clearly defined in the approval of the Colonel Westbrook Industrial Park.

Molly we can do that here I think that the applicant and staff have a similar intent or understanding what front, side and rear are. We can even spell it out here once we make sure we do not need a minimum lot size if it is in terms of road frontage, but I think the intent is the set backs from the arterial, Stroudwater Street and sidelines and we can spell that out here.

Chris Vaniotis we can put front parenthesis along the Westbrook arterial and rear parenthesis along Stroudwater Street. We are in agreement as to what front, rear and sides are.

We are not in agreement as to the amount of the distances.

Paul Emery on Stroudwater Street and start driving from the highway bridge with the canal on the left, the project will be on the right, now in this City, planning staff draft 7-2-08 version it talks about buffer zones, in the applicants draft 7-8-2008 it talks about setbacks. In earlier meetings we talked about berming or otherwise landscaping the rear "Stroudwater side" so that it would preserve the rural character of Stroudwater Street. How do you do that on a fifty foot set back? Effectively

Pratap Talwar if I might direct you to the applicant's draft item G:

Screening: No new building or structure (other than surface parking utilizing stabilized grass surface) shall be located within 200 feet of the right-of-way line of Stroudwater Street. In addition, a 50-foot buffer with berms and trees shall be maintained along the entire Stroudwater Street frontage, in order to maintain a continuous visual screen, except where a break in the screen is necessary to provide an emergency access route for public safety purposes.

I think this speaks to the issue you just raised.

Paul Emery I am confused. Could you indicate on the map how these two pieces fit together?

Pratap Talwar showed the members the map where the fifty foot buffer is located.

Paul Emery a person sitting in a car and traveling along Stroudwater Street towards downtown intersection, in that fifty foot strip would that give a sufficient height and landscaping so as to obscure site lines, because I am also looking at a height. On B3 you have:

(3) Maximum Height 75 feet (exclusive of architectural features)

Staff has not included architectural features

(2) Maximum Height 75 feet (including, but not limited to, architectural features and penthouses)

This reminds me of the Chrysler building and the Empire State building where a mast was erected to increase the height.

Pratap Talwar let me speak to the dimension of the buffer which is 50'. A buffer that was to obstruct the line of site of somebody in a car five feet off the ground would require a certain height. The further back you get from this buffer, the line of site would actually reduce in height. You would need a smaller buffer with the distance of the building to the roadway from point of view that would require a smaller buffer if the building was further set back.

That is why we have carefully separated the 50' buffer from the set back of the buildings which is 200' in that same language. We have taken into account what you just stated.

I think our mission is the same, there should be buildings that are created on the site should not be visible from Stroudwater Street, from somebody in a car. We are trying to do that in this language. We are trying to say that the building themselves will be setback a dimension of 200 feet from the property line.

Regarding the height of the berm itself and the width of the buffer itself, with the kind of soil bearing capacity that is here generally visible in the landscape a 25% slope is not an extraordinary slope. We are proposing to build the berm so that the buildings are not viewed from the street. That is the reason for the two dimensions included in the performance standards. One is the width of the buffer and another is the distance from the

street that the building is placed. We have provided both in our language, but I do not see that in the staff's language, therefore our language is more restrictive and we suggest that you should adopt it.

Paul Emery thank you, but I am still perplexed. I am looking at setback boundary of the contract zone rear 50'. Is it possible to erect the building 50' from the boundary line, if you follow these 50 feet? I know what is says in "G". They should match up.

Chris Vaniotis in B2 we are talking about set backs:

*(2) Setbacks from boundaries of the Contract Zone *:*

(a) Front 20 feet

(b) Rear 50 feet

(c) Side 10 feet

That is the traditional language of a set back. Within that set back, if we look at the 50' rear as we have proposed would exclude parking and exclude any construction of a structure within the set back. That will coincide with the buffer which is described in paragraph "G" on screening:

Screening. No new building or structure (other than surface parking utilizing stabilized grass surface) shall be located within 200 feet of the right-of-way line of Stroudwater Street. In addition, a 50-foot buffer with berms and trees shall be maintained along the entire Stroudwater Street frontage, in order to maintain a continuous visual screen, except where a break in the screen is necessary to provide an emergency access route for public safety purposes.

We can add the word minimum in there as this will get reviewed in the Site Plan. We would have a minimum fifty foot buffer and a minimum fifty foot set back on the rear. In addition in paragraph "G" we have put an additional building set back so that building would have to be at least two hundred feet back from the side of Stroudwater Street.

There are three different things, the traditional zoning setback which every zoning district in town has which precludes structures of all types within the setback and the buffer which fits in that setback and then the additional building setback as proposed in paragraph "G".

Paul Emery I think it would be better if you put it under subsection 2 and if you are for example going to have a difference between a structures of any kind for example an impervious pavement you wouldn't start that 50' in.

Chris Vaniotis on Stroudwater Street that is correct.

Paul Emery you are going to have 50' for impervious not including buildings or other structures above ground line and then you would have structures above ground line would be two hundred feet from the line.

Chris Vaniotis we can certainly refine this with connection of staff. Again what we tried to do is we tried to follow the same format that the City uses in all its zoning districts. When we look from Stroudwater it is the 3 tier approach, the fifty foot buffer zone, and

then the one hundred fifty feet that would be the parade area and two hundred feet would be where any building would start.

It would be two hundred feet all together; the fifty foot buffer is within the two hundred foot setback. Before you arrive at a building you will be at least two hundred feet away.

Molly Just your proposed language states 250' feet total, in "G".

Chris Vaniotis "G" says:

Screening. No new building or structure (other than surface parking utilizing stabilized grass surface) shall be located within 200 feet of the right-of-way line of Stroudwater Street. In addition, a 50-foot buffer with berms and trees shall be maintained along the entire Stroudwater Street frontage, in order to maintain a continuous visual screen, except where a break in the screen is necessary to provide an emergency access route for public safety purposes.

Paul Emery adds fifty feet too two hundred feet is how I would read it.

Chris Vaniotis they are not additive, if you read the language there is no building within two hundred feet and then within that two hundred feet...

Paul Emery it does not say "within" take out the word "addition"

Chris Vaniotis I think we can clarify that with staff. The word "addition" was not to intend math, it was meant to say "also".

Molly Just to clarify I want to make sure that the applicant conveys what they do mean to convey, you look at the graphic it looks like it is a minimum of two hundred and an additional of fifty as the building is much further than two hundred feet back. It does appear that the intent was two hundred and fifty feet.

Pratap Talwar I think I should clarify this as I drew that graph. I apologize for the delay and the confusion.

Let me be perfectly clear that purpose of the setbacks, these are performance standards. We are not looking at the diagram for measurements, but we are looking at it too illustrate it for performance standards. That is what a program diagram is, not a site plan. In the language what we are trying to do is create two levels of controls because they are necessary, in order to achieve the objectives which is on Stroudwater Street while driving, you should not be able to see a building. That objective is achieved in two ways, one by a berming landscaping buffer of a certain width and a setback from the right of way line for the buildings, a minimum setback. It could be more than that but it could not be less than that. By those two measures one will be able to ensure that buildings are not visible from the street.

Paul Emery point to point, the distance is two hundred feet, of which it gets divided into two pieces, a fifty foot berm or landscaping and a one hundred and fifty foot setback.

Pratap Talwar yes

Rick Gouzie I think it needs to be “as the rear set back 200’ feet” That is what all the zones are.

Pratap Talwar we agree

Ed Reidman we change under the staff proposed language and under the developer’s proposed language the buffer zone in one case the setback in the other under front stays at 20’ feet and under rear will go too 200’ feet, realizing the rear is the Stroudwater side of the property.

Did we define buffer zone in the ordinance?

Molly Just no

Ed Reidman I look under landscaping and we have a factor, then we go to screening but that deals with what we have been talking about on the Stroudwater Street towards the Westbrook arterial. I know you have some concept of what buffering is in your mind but...

Molly Just I think since we have narrowed the rear setback too the two hundred feet, if we can just clarify in the one hundred, based on the 20’ foot front and 200’ rear I ok with going back to setbacks. I am not ok with the 10’ side building setback.

I think that the applicant’s intent of the buffer zone is that it is a buffer especially on the side and the rear. We can define buffer zone if we need to, but if can just address the ten feet...

Ed Reidman if I understood what Pratap was saying they have already built in a fifty foot buffer or setback on the uphill side, the side that is towards the City.

Pratap Talwar that is correct. Can I speak to the side back? I would like to explain what the setbacks are, by using the diagram to be consistent with our previous conversation. Then try to describe the performance standard that these numbers are trying to inform.

I have intentionally shown you a program diagram as varying setbacks from the streets, where the minimum setback is ten feet.

Pratap showed the side setback was shown on the map, located on the west side then the side setback on the east side.

We have tried to builds a project that assures you the following concern. The City’s intent is to prevent negative impact to neighbors. Unlike Stroudwater Street where the view angle is such that the length of the property is perpendicular to the angle of view, in the other two directions you would only be viewing it from the neighboring sites not from a public road. The issue is not view but other aspects of setbacks. Things like utility corridors, like shadows, things like access and egress and so on.

This area is not surrounded by low density residential on the east and the west. It is surrounded by low density residential on the south, with one exception that I will show you on the map which is handled by the two hundred foot setback on Stroudwater. There would

be no buildings there would be irrespective aside the setback from Stroudwater Street be exceeding the setback that even the City most constrained setback requires as proposed in today's language.

The next issue has to be how to wisely use the width of the site in order to achieve all the goals we are creating.

I am going to suggest the following: this plan was designed so as to be street fronting pedestrian project, not as a campus that was originally required in the BPOD and this is an example of a number that is derived from the form based performance standards rather than the Euclidean performance standards. The form based ones are the following: to the west of this property, outside this property there is no structure that is closer than 100 feet to the property line it is already heavily wooded and we would aspire to retain more natural frontage on that side than the minimum requirement. On the east side the boundary to the east is a fifty foot Portland Water District right of way, it is actually a utility corridor already. It serves as a buffer or a shadow buffer to the property on the east. We have added to it that you might say we have shown a 60 foot buffer to the next developable parcel on the east side. I have described to you our rationale for our numbers here. Now I would like to describe to you why increasing this number would be injurious to the public's interest. By doing this we have created a minimum setback on both sides as a performance standard that is meaningful and fair to the abutters on both sides. One has ensured that the project can now face towards a street that is developed on the inside.

This is a thousand foot wide property, nominal dimensions, they vary, and this is not exactly rectangular. If you take one hundred feet as the planner is proposing on both sides of it, you have lost two hundred feet of it. If you want a real public street as illustrated with wide sidewalks and pedestrian realm that connects the three public squares that run north, south in this diagram then we would be left with developable parcels that would be less than what would be required for utility corridor and meaningful use of fronting that street rather than facing them on their side.

We have the really unusual opportunity to revising the layout that does not exist in Maine for a project of this size. There will be a sad consequence of increasing the side setbacks which will do no more to protecting the neighboring sites, than this number we have proposed does. It will injure the public access to the layout itself.

In summary the set back is a minimum setback it will vary as the parcel is not rectangular. This one hundred foot setback as proposed by the planner (which two weeks ago was fifty feet) I think is killing the shared intention to create a public corridor with uses fronting it rather than facing them on their side.

Ed Reidman staff has proposed two hundred feet of setbacks on the side and the developer has proposed twenty feet of setbacks included on the side. Is there a compromise number somewhere between those two numbers?

Molly Just I would like to ask Pratap if you have thought about loading and where it would occur.

Pratap Talwar yes a setback is a setback and there would be no loading within it.

Molly Just where would loading occur?

Pratap Talwar the loading in these cases would occur inside the buildings.

Molly Just from the back?

Pratap Talwar from the back or the side

Molly Just how would the loading occur on the eastern side of the site?

Pratap Talwar from the side; shown in the dark gray area on the diagram.

Paul Emery you have two areas where a building closes up as it comes to the line. Is the Fire Department able to access the rear of these buildings? This is not going to be paved in anyway, these strips?

Pratap Talwar that is correct

Paul Emery what about here?

Pratap Talwar that is the Stroudwater Place, I will show it too you.

Paul Emery so all of the loading...

Pratap Talwar will be serviced on the sides of the buildings.

Paul Emery so in other words this building will be supplied through a dark

Pratap Talwar through an internal lit serviced courtyard

Paul Emery to maintain the buildings, if the Fire Department would feel comfortable with the layout of the buildings by approaching the sidelines, because the abutter, for example, will have the right to put up a fence.

Pratap Talwar that is correct and this is the distinction between the performance standards and the master plan. That is why this is called a program diagram, not a site plan. This plan with the input from you and other Boards will develop those kinds of issues.

All I am asking is let us not create a Euclidian zoning place that I think we are all trying to work towards. The master plan will be developed with all the zoning issues clarified. We have the unusual opportunity for a large sized development that can be developed whose width is constrained right now; the unintended consequence to widening the side setbacks will be that you will have uses that will be facing the frontage street down the middle, on the side rather than the front.

I am not saying a fire corridor may not need to be developed, that needs to be developed, but they may not need to run through the entire site.

Rick Gouzie the fire department will require a twenty foot fire lane behind the buildings.

Ed Reidman maybe we can put a handle on this. You indicated that the depth of the lot between Stroudwater and the Arterial is somewhere around 2500 linear feet?

Pratap Talwar roughly

Ed Reidman so if you double that, that is 5000 linear feet and if you take two hundred feet off of it I come up with a million square feet? Does that seem like a reasonable number?

Pratap Talwar yes

Ed Reidman so you will loose 43 square feet per acre, you are talking about 20 acres you will loose?

Pratap Talwar that is correct, it is not just the land it is how the land then gets divided and used.

Ed Reidman we understand that but there is a severe economic impact by forcing a standard that high where it at least has to be twenty feet, Mr. Gouzie?

Rick Gouzie that is what is required around most of the commercial buildings.

Ed Reidman if you are going to require that in the buffer area, you will loose forty feet anyway. If you gave them a twenty foot buffer and the Fire Department requires another twenty feet as you can not put it through the buffer area...

Rick Gouzie that is correct you could not put it through the buffer area. It has to be something they can drive on.

Ed Reidman would you try one more time to find compromise? You can put the figures together to show the impact loosing all that space.

Molly Just I do not know that all that is necessary, I was looking at the program and I know there is intent to have trails through the property and with the building setback as they are that would allow for that. My goal would be to get the delivery trucks off the main thoroughfare.

Pratap Talwar the services will occur at a time when the place is not being used.

Molly Just I hear the intent we will need to nail the hours for delivery in the contract zone.

Ed Reidman do you have a number you are going to suggest as I do not think that ten feet is reasonable, twenty feet, twenty-five?

Molly Just how about thirty feet, you get the ten foot setback that was proposed and you get the twenty foot what will likely be required for the fire lane.

Ed Reidman then you have a setback of ten feet which would be buffered then twenty feet for emergency vehicle services?

Chris Vaniotis Mr. Chairman, can I offer an observation? I think we are getting away from zoning standards and getting into Site Plan review issues. In the Zoning Ordinance the minimum setback is a minimum, which means you can not possibly get any closer than that, but as you know when you review often time a building cause a fire lanes, because of buffering requirements or something else will be actually away from the minimum set back.

Obviously if we have to provide twenty foot fire lanes that rounds the back of every building we will have to do that but their might be a circumstance where the Fire Department will look and say, you know what you do not have to have it continuously for example along that whole side and a design might dictate that a building might be closer than the twenty foot fire lane.

If the zoning sets a ten foot minimum that is not an entitlement to go to that ten feet because we have to go to a specific design and site plan review with any buildings.

As Pratap described is an obvious attempt to give himself, as he designs this project, flexibility in the zoning requirements as the last thing we want to do is ask the Zoning Board of Appeals for a variance.

A subtle reminder too all of us that we are setting the limits here but we are not designing the project in this document.

Ed Reidman the staff has given 70% of there request and we were able to deal with the rear setback, we were able to deal with the front setback. Unless I hear an objection from the Board we will set thirty feet as the side setback for what we would propose to go for.

Jason Snyder asked to remind the Board that our concept was ten feet and there is a lot of rational as to why we need that type of dimension and Pratap has said that twenty feet is the maximum along the site on the easterly, westerly sides that we could do for this project, create the types of jobs, as well as all the public spaces. I would ask the Board to consider twenty feet.

Chris Vaniotis Mr. Chairman if I could add one more point to that as Pratap mentioned because of the Portland Water District easement the affect of even the twenty foot setback on that right-hand side as looking at it from Stroudwater Street is really seventy feet and similarly what you are protecting on the left hand side is Cemetery lands.

Ed Reidman you will secure an easement to plant on the Water District land?

Chris Vaniotis I think it is already planted

Ed Reidman we are talking about a buffer.

Pratap Talwar I did show you the slide during the original presentation. If you would like, I can offer to bring it back at the next meeting as a hard copy for your deliberations.

Chris Vaniotis to address the chairman's original question Portland Water District is very particular as to what you can do over their easements because they need to be able to get at their pipes.

The only point we were making is because of the Portland Water District right of way, no buildings can be built there and will remain as open land.

Pratap Talwar there is an existing fence on both sides.

Molly Just I do suggest that you recommend adding minimum all of these setback and percentages where necessary minimums and maximums.

Ed Reidman no problem there

Rene Daniel based on the construction for the school I am not in favor of ten feet but I would not be against twenty feet.

Dennis Isherwood I do not have an issue with twenty feet, I would rather have thirty, and I guess I can negotiate.

Anna Wrobel no issue

Cory Fleming I can do with the twenty feet, but fair warning there is going to be some thinks on landscaping design that I am going to really push the applicant on.

Ed Reidman we will set that one at twenty feet on the side as a minimum.

Ed Reidman the maximum footprint is 50 - 50 - 50 across the board both the staff and developer agrees.

Ed Reidman back to the height standards, the staff proposes seventy-five feet including but not limited to where the developer has proposed seventy-five feet exclusive of architectural features.

The staff says the building will be seventy-five feet high, the developer says the building will be seventy-five feet high minus your cupola. Is that my understanding as to where we are at?

Molly Just there are also things like pent houses for elevators that can get to as high as fifteen to twenty feet. When you have a relatively short building adding that amount of height that addition can be noticeable.

Pratap Talwar again I would like to warn of unintended consequences here. The purpose of the language we proposed was not to cheat the town to get some really tall building or something. That was not the issue. The building that we are most concerned about at this envelope is the Civic structure on Westbrook arterial. If you are going to build a fifty thousand square foot facility that must have stayed assembly codes and dimensions form

side lines for an ice rink then the bottom of structure minimum height is sixty feet. I assumed a fifteen foot of structure for a long spanned structure. I do not know today and no one should assume what mechanical devices and technologies will be available when it gets built. Therefore I would suggest a compromise following, as I see the intent is do not come back and give me a seventy-five foot roof another thirty feet along the entire coverage of all the buildings, That is not the intention. The intention is we can do both, we can create a place, we can deal with specific architectural requirements, for instance a mechanical space or maybe on the side of the building maybe in the middle of the building, its visible affect can be minimized to the architectural penthouses. The reason to create architectural features above this are public, one to create public signs along the skyline not signage I mean distinctive skyline and the other is to deal in a creative way with necessary building codes and building technologies.

It is unwise to take architectural decisions during a zoning decision; I think it would have the affect of killing a well functioning facility on this site.

Chris Vaniotis may I add something on the zoning front, Mr. Chairman? Pratap is the design person and I am the zoning person by default. In the Zoning Ordinance already the pent houses and air conditioning units and so forth are dealt with in Section 202.5 there is an exception to height limitations and it says:

202.5 Exceptions to Height Limitations. Height restrictions do not apply to chimneys, air conditioning systems, skylights, and other necessary appendages to a permitted use which are usually constructed above the roof line, except that their height is restricted to 10 feet above the roofline.

That already covers the mechanical things on top of the roof.

Ed Reidman is this a fair assessment? We do not have that many tall buildings in the City of Westbrook yet. Say someone came in to expand the Dollar Store, for example do they have air conditioning units as part of the exception above the top floor?

Rick Gouzie said Disability RMS is a good example and the building height on the river side is sixty feet.

Ed Reidman then the only question is whether an architectural feature would be added if we allow under our existing code; unless we wrote out that section of the existing code.

Molly Just this talks about necessary appendages and architectural features are not necessary. I am fine with ten feet and in my experience you do call out whether or not it does include pent houses, elevator shafts or architectural features, particularly on shorter buildings like this. .

Ed Reidman we would modify the maximum height of seventy-five feet and in some way include an additional in some way include another ten feet for architectural features?

You can tell me the next time around.

Molly Just yes

Paul Emery what about solar panels for example?

Ed Reidman I can give you another example, in South Portland on the Marriott there is a repeater sections for public safety for the public services as this is the highest point in the City. Before they put the repeater there once you went over the hill and get out onto Spring Street – Cummings Road you can not hear. Through cooperation the City of Portland has a repeater that South Portland sends it to get into the Willard Beach area. These are the possibilities that down the road come up and it is no longer before the Planning Board to make the decision. They would go before the Council because it is a need of the City.

If you could think about that Molly and give us a number in regards to the maximum height of the building. Does any Board member have any problem with seventy-five feet of the buildings? It appears that no Board members have any problems with the seventy-five feet; we just need to iron out the extra amount for architectural features.

Paul Emery one of the reasons that I do not have a problem is that it is one thousand feet wide and it will be proportioned.

Anna Wrobel I am staying out of the details on this as I have such a problem with the whole project in general. I understand what Pratap is saying about this being an urban development creation as opposed to something that is suburban. If I were in favor of it I would appreciate that as I prefer urban nature and not something that is sprawling and suburban. I am concerned in a rural area to change it to an urban area with the seventy-five to eighty-five foot skyline. I am sure it must be very surreal for the people that live in that area and the traditional geography of the area for all the generations almost overnight to become an urban skyline.

Ed Reidman we went through the maximum footprint, it was the same in all three proposals. Mr. Vaniotis, on the maximum gross density factor there was agreement between the City and the developer at 70% and now in the latest one we are talking 80%.

Chris Vaniotis I do not know when or who discovered it, but what we realized is that the numbers did not close, they did not add up. Throughout your Zoning Ordinance maximum gross density factor and landscaping factors add to 100 and our original requested factors did not add up to one hundred percent. We are still requesting a landscaping factor of 20% then looked at the gross density factor at 70% does not equal 100% so obviously we had that number wrong to begin with. It is not changing what is proposed for the project, I think what happened is we applied the Westbrook definitions from the Ordinance and find some projects that will fall into the gap between pure impervious surface such as pavement and green areas which are landscaping which will be some of the open areas.

The net result will be the landscaping factor may be a little higher but some of that may be small pockets of space that you ordinarily would count. That is the reason for that change.

Pratap Talwar this is the subject we closed on the last time we met. You had asked me a question which was: What is the difference between the two factors, landscaping and open space. Because we are proposing an urban project which is public space in it and not a

campus we have public uses for requirements deriving from those public uses. That creates a certain place requirement; I am referring to the farmer's market area that we have closed on the last time we were together. The farmers market because of its specific use requires paved areas so that they can be washed.

There are some City's that have three different kinds of surfaces, impervious, pervious and semi pervious coverage which is what we are intending to have, in the sense that it would not be laid on concrete but laid on stone, block pavers and so on. That will permit the health code to support the use for which this space is designed. Having a grass lawn will not change the build out in this space. The maximum footprint factor has not changed. We can not have a sidewalk with grass on it due to ADA rules for wheel chair access; likewise we can not have a farmer's market area with a pervious surface.

I would like to suggest that the City and our proposal are not that far apart. The intention of the City is to have 30% landscaping factors. We have reserved more than 30% open space on this site. It is treated differently and your landscaping factor definition is that of pervious space, with no other definition in the Ordinance. That is the reason for the difference. I submit for the purpose of this zone change landscaping factor to 30% with the proviso that it would permit these kinds of spaces to occur or alternatively not change the definitions of the landscaping factor and add back this percentage factor to the maximum gross density factor, for the impervious coverage.

There are no semi-pervious definitions in the City of Westbrook's Ordinance. Many towns in the northeast (due to frost and cold, freezing weather) do refer to a semi-pervious coverage. I think it is appropriate for the nature of all the public activated outdoor spaces that we are trying to create here. This is a performance factor that would be a terrible shame in order to justify a Euclidian 30% we could not support a use that everyone wants.

Ed Reidman landscaping factor/green space, the area on Stroudwater street side as roughly proposed at this point is a hundred and fifty feet of berm, and then one hundred and fifty feet of grass pavers; would you consider that as landscaping?

Basically on the Stroudwater Street side that will be green space. What bothers me about the factors are from here if you have a 20% factor and whether you pick sixty or sixty-one acres – a 20% factor is 12 acre's potentially. A 30% factor is 18 acres of the site to start with that makes that almost a third of the site.

Molly Just I personally do not have an issue with this difference. We talked about what is and what is not included in open space. The pervious surface coupled with the semi pervious surface get you to 30%; I do not have an issue with this.

Ed Reidman I agree that the numbers should add to 100. Can you accept their definition to go to 80% - 20%, or do you want to stand on 70% - 30%?

Molly Just I would stand with the 80% - 20% as landscaping is pervious.

Rick Gouzie that would all count, grasses, bushes, trees, flowers is encompassed in the landscaping.

Paul Emery when you calculate on the berms the amount of landscaping, are you using Mr. Euclid or are you using Mr. Kepler and using calculus, because the creation of a berm increases the square footage of landscaping.

Pratap Talwar Euclid of course, the set back is...

Paul Emery point to point to point

Pratap Talwar the set back is a planned dimension. This issue has to do with the treatment of materials themselves. The definition of Westbrook's use of that term landscaping factor is grass, plants and shrubs and so on. It is not a paved plaza for the enjoyment of or activation of a farmers market. That is the issue.

Paul Emery I agree with you, but if you have a lot that is 1,000 feet wide and an area that is fifty feet deep, the amount of grass is not the multiple of 50 x 1,000, it is more. The amount of grass goes up.

Pratap Talwar the intention is to make these rules in the way the City enforces them.

Ed Reidman Mr. Gouzie, I hate to put you on the spot, but on a LEED building when the roof is green (planted with grass), would you consider that as landscaping?

Rick Gouzie I am not sure.

Molly Just can we back up for a minute? I think we are all generally in the same mindset about a lot of this discussion. Not all contract zones address landscaping factors. If we just create a term and then address what that term includes then give that a percentage...

Ed Reidman what you are suggesting is to create another definition within this proposed contract zone that would describe the landscaping factor as green space.....

Molly Just we do not have to use landscaping factor, we can call it something else and say that it includes this and whatever adds up to 100.

Ed Reidman does anyone have any objections to this plan?

Chris Vaniotis we are glad to do that, it seems very complicated and we are reinventing the wheel to some extent and I think I got some sense that the planner is not objecting to the 80-20 split, using the existing Ordinance definitions understanding the nature of the project will have some gray area. We are glad to do that, but then we are adding more definitions. We are kind of creating something new.

Ed Reidman I have worked for Municipalities for a very long time. I was here when the Ordinance was re-written in the late 1970's. If the definitions are not in the Ordinance and it is not clear, it becomes a battle for the staff to defend the items that they want to have. If it takes us a little longer where we are dealing with a Contract Zone which is a special

piece that we are only going to use on that piece of land then let us take little bit of extra time and iron out these things so that when Jason comes forward with the development he knows what we are talking about. I would rather spend that extra time to clearly define the Contract Zone to enable everyone to complete the project.

Chris Vaniotis if you look at “G.” that is called screening that is talking about buffering so I will suggest changing the header on that to buffering. This is where we get into the 200 feet and the 50 feet and I know some of that is going to come back into the setbacks.

The big difference between our draft of that and the planners draft is the 100’ buffer on the Westbrook Arterial which does not make sense to us.

You are saying no, so at this point I may have mis-read that, so it is not an issue.

Ed Reidman on your memo dated in April it does say or Westbrook Arterial, on page #2 the third line down.

Molly Just that is correct, it is not talking about buffering it is talking about no building or structure.

Ed Reidman no new building or structure other than the surface parking utilizing stabilized grass shall be located within twenty feet of either end.

Molly Just said I am ok with that being taken out.

Ed Reidman we have already said it is only a twenty foot setback for a building on that end.

Molly Just that is correct.

Ed Reidman on Molly’s memo that is on page two under “F” on Chris’s memo it is on page two under “G” and we indicated that we were going to straighten out the language. Did we decide that we were going to have a fifty foot buffer with berms and trees?

Molly Just I think what it needs to say is within that 200 feet a 50 foot buffer.

Ed Reidman would you correct the language to show that

editors note both the City and the applicant agreed

Cory Fleming can we do traffic and lighting impacts as there are not any distinguishable differences between those paragraphs?

Ed Reidman on page 1 of Molly’s memo letter “E” which is lighting and on Chris’s memo page 2 letter “F” and must be They read the same. Anyone have any objections? Let them go forward

Cory Fleming we will start with parking the next time?

Ed Reidman page two under “G” traffic impact there shall be no motor vehicle access to the Contract Zone from Stroudwater Street except for emergency vehicles access as determined necessary by the City’s Public Safety people and that seems to read the same on Chris Vaniotis memo. Does any one have any problems with this language?

Seeing no objections, we are adjourned.

3. Adjourn

Respectfully submitted by Linda Gain PECE Secretary

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