



City of Westbrook

DEPARTMENT OF PLANNING

2 York St. Westbrook, Maine 04092 (207) 854-9105 Fax: (866) 559-0642

WESTBROOK PLANNING BOARD TUESDAY, MAY 6, 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), Anna Wrobel (Ward 4), Michael Taylor (Alternate), Greg Blake (At Large)

Absent: Cory Fleming (At Large) Scott Herrick (Alternate),

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. Mr. Reidman informed the audience of the purpose for the public hearing, and asked everyone who would speak to do so at the podium, being certain to speak clearly and provide the Board with their name and address. The first Public Hearing deals with Land Use. When the Board acts on this item we will be recommending to the Council for a final determination. Mr. Reidman stated that the Board would hear a presentation accept any additional Staff comments, and then receive questions and commentary from the public. Mr. Reidman noted that any questions received by the Board would be answered at the end of the public presentation. Mr. Reidman explained that any action taken at this meeting would be dependant upon time constraints.

Public Hearing - Land Use Ordinances – Status of Grandfathered Lots - Referral from the City Council seeking recommendations on a proposed land use policy to eliminate those Ordinance provisions allowing construction of houses on unimproved lots of only 5,000 square feet and/or 50 feet of frontage. The City Council also seeks Planning Board review of the Comprehensive Plan for any inconsistencies with such a change.

Molly Just presented a brief presentation:

Overview. This is a referral by the City Council Committee of the Whole requesting Planning Board consideration, public hearing, and recommendation back on a proposal to amend the Zoning Ordinance to eliminate those Ordinance provisions allowing construction of houses on unimproved lots of only 5,000 square feet and/or 50 feet of frontage. The City Council intends for the amendments to be retroactive to February 12, 2008. The Planning Board should review the City's Comprehensive Plan for any inconsistencies with such a change to the Zoning Ordinance and take all necessary action

with regard to any inconsistencies. Please see the attachment titled "Infill Lot Section Amendments 2-12-08".

Background. The proposed amendments would remove the provision in the Zoning Ordinance that permits residential construction on lots of record that don't meet the current minimum performance standards within the RGA-1 zoning district of 7,500 square feet in area and 65 feet in width and wider setback requirements than under the prior Ordinance. The current provisions, adopted in 2004, allow for the development of existing lots with a minimum of 5,000 square feet in area and 50 feet of width.

One of the policy reasons given for allowing residential construction on smaller lots was that homes built on smaller lots would be less expensive and therefore more affordable. An analysis performed by City staff revealed that the median sale price for new homes constructed on smaller lots of record and sold over the past two years is \$225,000 while the median sale prices for new homes in general is \$289,000. The range of prices for new homes constructed on lots of record is \$190,000 to \$290,000. While a median price of \$225,000 is not affordable for everyone, it is 28% lower than homes constructed on larger lots and has brought new homes to the market as low as \$190,000 with no government subsidy. In addition, towns throughout the Country have adopted "smart growth" principles which focus new development in central areas closer to jobs, entertainment and services and with existing public infrastructure. This places less of a burden on municipalities and may provide more affordably priced housing. Consistent with "smart growth" principles, the City's Comprehensive Plan directs new development in the RGA-1 Zoning Districts to take advantage of existing "infill" lots. Therefore, the existing Zoning provisions are consistent with the Comprehensive Plan, enable more affordably priced housing, and are consistent with "smart growth" principles.

Bruce Libby 8 Lewis Street asked to have the board support this change. I have a 50 x 100 lot next to my home that could be developed. This would impact the quality of his life if this additional lot would be built on and would have a negative impact on quality of neighborhood, this effects people's open space. This encroaches on private property and affects the quality of their open space. When you drive around the City and see where some of these homes have been placed, it is esthetically displeasing. The minimal increase to a lot size would produce a far greater advantage. I feel this ruling needs to be changed.

Diane LeConte 8 Louise Street owns a 50 x 100 lot that extends from the rear of our property on Louise Street onto Lucille Street. We purchased this lot many years ago for the purpose of building a small cottage when we retire. We have researched businesses that build and deliver small homes as well as building the home ourselves. As of today we have not made that decision.

We can understand your concerns with building huge grotesque buildings on these fairly small properties. However, that is where it should end. When a builder comes to City Hall for a building permit, these plans should be looked at closely. The Planning Board should not approve plans for huge homes, apartments or businesses on an inappropriate small lot. Deciding to deny someone the ability to build a small home on this size lot is not the right thing to do, but allowing someone to build a home too large for the property or

the neighborhood is the wrong thing to do. Building permits must be reviewed before they are granted to make sure the building is right for the size of the lot.

What has been irritating many people, when a developer comes in and builds a 3 or 4 condo unit, next to a simple home in a simple neighborhood that does not fit the area.

However, not allowing any building on 5,000 square foot lots would not be fair to those owners who have been paying taxes on their buildable property for many years.

I think the Planning Board should consider the plans that would come about on the property.

Marianne Anderson 9 Maple Street said she has a 5,000 square foot lot, which fronts on East Valentine Street. Have no plans at the present time to build a house there, but wish to have the option to build one if we choose to. Also, if we decide to sell that lot, we would like to be able to sell it as a buildable lot. The door has been opened and I do not think it is fair for the door to be slammed. It is like saying certain people can build, but the remaining can not. This seems like gross discrimination.

So I am here tonight to have the Planning Board and the powers that be to grandfather these lots and allow us to do what other people have done with their lots.

I understand the open space concepts, but all I can say is when these lots come up for sale, buy the lot and keep it open. I do not think it is right to tell me what I can or can not do.

Elise Kiley said her husband and I own a lot on Webster Street. This is a separately titled 50 x 100 foot lot. We purchased this lot in good faith and reliance on the City of Westbrook's Comprehensive Plan and Zoning Ordinance, which was the result of exhausted planning over several years. We are obviously concerned that if this proposal carries, we can stand to loose a significant amount of money. This can only be contributed to an arbitrary and capricious position taken by the City Council.

Our position is that it flies in the face of the principals of the Comprehensive Plan. We can not find any justifiable criteria where this proposal has been based, other than people do not like it.

There are several principals of the Comprehensive Plan that I think are important to note and were highlighted by the presentation of the staff.

1. The grandfathered lots are cost effective. They target the development where the infrastructure and services already exist. That includes sewer lines, power lines, water lines, where roads are already being maintained by Public Works. These lots are also on existing school bus routes and utilize existing schools, fire stations and police stations.
2. In this economic environment all Cities and Towns in Maine and all citizens of Maine concerned with increasing costs and carbon footprints and rising cost of fuel, it only makes sense to encourage the development in these areas where the infrastructure already exists. Where children can walk to schools, where people can live closer to there job.
3. Moreover the City generates revenue through this development, such as: street cut-ins, building permits, sewer connections, as well as the property and excise tax these developments bring.

If the City is truly concerned with streamlining costs, by eliminating this provision does not make good fiscal sense.

These grandfathered lots are equitable. They are being developed where the vast majority of houses are built on similar lots. What could be more equitable?

They also preserve the principal of equity. This facilitates non subsidized affordable housing.

This means that young families as well as Senior Citizens have the opportunity for new home ownership, in convenient locations that more affluent citizens can take for granted. These lots are environmentally sensitive, they do not displace habitat, impact scenic areas and at the same time can preserve more rural areas.

If there are concerns about the design of these houses then let's do that through design process and design standards a, as already mentioned. That is the appropriate place to do it instead of eliminating the complete provision.

I have another reason not to overturn this provision. The City through reasoned analysis, long term planning, sought to develop these lots and people like my husband and I answered the call. We relied on the City's plan in good faith. We and others have invested real dollars on these lots, with the plans to either build on them or sell them. The investments could be peoples college planning or retirement planning. By over turning this provision, the City is going to wipe out, overnight substantial investments that were made at the City's request.

That makes it even more imperative that the City at least point to some overwhelming criteria under the Comprehensive Plan that would justify this. To date I have not heard such justification. If the City wants to wipe out investment for an undefined community good it should pay for it; as the taking that it is.

I respectfully request that the Planning Board recommend that the City Council reject this proposal and do it with a specific finding that the grandfathered lot clause is squarely based on furthering the principals of the Comprehensive Plan and should be preserved.

Jamie Goddard 65 Lincoln wishes to echo the prior speaker. I own five grandfathered lots. I answered your call substantially. What is defined as an unimproved lot? I own five and feel he has improved them, even though I have not built on them yet. I paid 5,000 dollars to re-survey the lot. Which by the way a developer who put 35 houses in Mitchell Hill lots has been feeding off my survey. How many 50 x 100 lots are left in the City of Westbrook?

Ed Reidman said that is unanswerable at this time.

Jamie Goddard asked how many owners are there to the 50 x 100 lots and how many are citizens of Westbrook.

Ed Reidman said those statistics have not been put together.

Jamie Goddard said it seems we have put the cart before the horse. We have told everyone to stop, yet we do not know what we are stopping.

If this moves forward, I am looking for reimbursements that everyone has put into their property. If we put something forward, there has to be something in it for the landowners. Whether there are relaxed taxes or relief on that; whether we get to write that lot off as open space to uphold your Comprehensive Plan.

I came here to say I am in favor of it, but after listening to all these people I am not in favor of it. Again, to my first question, how many lots are we trying to stop building on. If it is just my five and a few others that are here, that is one thing. If it is some development off Route 302 that is one big parcel that no one knows about, that is another issue.

Unknowingly I purchased these lots with my house. Unknowingly I purchased five extra lots. Then I received calls from developers, but I hung on to what I purchased, and then went to City Hall to determine all the interest.

I am torn as to either subdividing, putting in six houses, knowing that you would not even be able to put two cars in the driveway, having them too close together to even have sidewalks. It sounds to me that we do not even know what we are stopping if we do not know how many lots there are. It seems foolish that we are even here.

I have to agree with the speaker before me, at least until we know how many lots are affected and what we are stopping.

Todd Fields the Director of the City of Westbrook Vocational Center. As many of you may recall, the City of Westbrook has set aside some lots for our building trades to build on. If this was to go through, some of these lots could not become available for vocational purposes.

I know some people have spoken earlier that houses put on these lots may not fit in, but part of the whole process for us is to go out and look at the lot and design a house through the school and our drafters and actually blend in to the existing neighborhood. Then it would not be obtrusive or obnoxious. I think the development on Stroudwater Street is a good example of what students can do.

There are between eighteen and twenty-two building trades within the State. We happen to be the only one that continues to build onsite. Many of the lots that were set aside are approximately a mile to a mile and one half radius to the School, which allows are students to go build onsite then go back to school with a minimal amount of disruption.

So I would ask that you keep that in mind as not all of these lots are for profit. The lots saved are used for educational purposes to benefit the City. The lots have the existing infrastructure, water, sewer; bus runs already exist as well as the capability of students walking to school.

Selfishly we would like to continue the program, so the students can continue to build on site as opposed to building modular houses that has the chance of going out of the community to benefit some other community besides Westbrook.

Bruce Elder 22 River Road said my wife and I own two lots that if passed one would be rendered useless. Our intent is similar to the Johnson's that is on the agenda this evening is to build on one and sell the other. When we purchased these lots we did our homework and thought we did. We have a letter from the Code Enforcement Officer stating this is to confirm that the lots located at 23 Falmouth Street are able to be divided into three separate lots, one with the existing structure and two buildable lots into the homestead lot provision.

I think it is a good faith and fairness issue that the City would not go against this. It seems to be in line with the Comprehensive Plan and under the Land Use Ordinance which we also reviewed says: The purpose for the Residential Growth Area Zone one is to provide urban core density to support the down town center. Reduce set backs for the existing structures including flexibility for the Code Enforcement Officer will provide incentive for owner and investor investment. The reduced set-backs will permit in fill of vacant properties in areas that are already served by municipal infrastructures.

An earlier speaker spoke to this and we urge you not to change this. Again I believe it is a fairness issue and I think economically we all realize we are in a time of struggling, and the last thing I would think Westbrook would want to do is discourage Economic Development as difficult as it is going to be for people to do just that. We are not developers, but we did purchase these lots in good faith and have been life long taxpayers on other property in Westbrook, which has been render useless due to lack of access.

We would like to get some return for the taxes we have paid for so many years, so we urge you not to adopt the changes.

Walter Stinson on behalf of the Westbrook/Gorham Rotary and the other half of the school vocational team represents what the vocational program here in Westbrook has been attaining. The rotary Club has a history going back 50 years for providing these opportunities for students in Westbrook. The building program is a model for communities across the country. We have the longest continuous program in the United States. The changes being envisioned here will definitely have an impact on the future of the program that provides students building opportunities.

As I read through the change that is being proposed you are making a substantial change in the City of Westbrook's Comprehensive Plan. I know it took many months with a wide cross section of staff, business owners and citizenry that helped develop this plan. It seems to me that this change coming about the way it is does away with all of the thoughts and input that went in to developing that Comprehensive Plan that allowed for in fill on some of these grandfathered lots. I think it is too bad when that type of cross section has input into the plan that can be cast aside based on input from a few people with a vested interest one way or the other.

I would ask the Planning Board to recommend no change for infill lots to the City Council.

Judith Reidman 7 Enchanted Lane as a citizen and president elect of the Westbrook/Gorham rotary club expressed concerns for the changes that are being made on infill lots especially as it goes against the Comprehensive Plan. The Comprehensive Plan took a long time in developing and part of it had Zones that allowed the building of affordable housing.

Molly Just our Planner went back two years to research the sale of single family homes in Westbrook, I reviewed last year's sales and found 95 single family homes under \$250,000 dollars sold in Westbrook, of which 37 single family homes were under the 7500 square foot lot, 10 of these were on 5000 square foot lots. Of all these sales 25 single family homes were under \$215,000 cost per sale.

I have heard out in the community the affordable housing was not being accomplished by reducing the size of the lots. I do not go along with that statement and the

review of the sales last year show that, especially since the Comprehensive plan was followed.

I certainly would hate to see the Planning Board send a recommendation back to the Council saying that they agree with them. I think a lot of thought should go into this. Take a good look at the Comprehensive plan, you are not just changing one little piece of this, you will be affecting the R2, R4 and R8 housing. I agree with the prior speakers and feel if you own such a lot you should be able to develop it. Do not take this opportunity away from the citizens.

Alexander Joseph Juniewicz, Jr. 7 Runningbrook Road spoke in favor of keeping smaller lots. I want to complement prior speakers who have done a tremendous job articulating the details of this proposed change, so I will not repeat what has already been said. However I do work with younger couples starting out in life who need an affordable home. I also work with Senior Citizens that the family has grown up and moved away and are ready to scale down. These types of lots are what the young citizens and the senior citizens visualize to afford to build on.

Judy George 174 Haskell Street said she is not a Mainer and has lived in many different places and has never seen what is being requested this evening happen anywhere else where she has lived in the past. I have lived in communities where people wanted green space, but they need to pay for it.

In 2005 I liquidated my Retirement fund and bought this lot. So this lot of record is my many, many years of hard work. I am a Social Worker and a Single parent and it is incomprehensible that people would raise their hands to say you can lose all your investment so to allow me with the enjoyment of your green space for nothing.

So please do not pass this recommendation.

Tammy Cade 50 Pennell Street said she owns a house with an adjacent lot and will be adversely affected if this recommendation were to move forward. I have been a resident of the City of Westbrook for seven years and this is my first home that hold many special memories. I agree with the other speakers not to move this plan forward. I would like to repeat what has been said in reference to all tax dollars and improvements. I feel it should be refunded if this is passed. I support most of the people in this room and agree that this proposal should not be passed.

Bob DeLisle 189 Merritt Street said he also owns a 50 x 100 lot on Everett Street. I am confused about the letter he received. In the letter it references an unimproved lot and I am looking for a definition of an unimproved lot. My definition is a lot that an owner has spent some dollars on to improve the lot, such as I have put sewer and water connections on my lot. Another gentleman said he has done a survey on his lot. I have invested approximately \$9,000 dollars. I owned three lots of records and one has a young couple living on it which fits in to the affordable housing criteria mentioned in the Comprehensive Plan. The second lot was sold to the School Department, or the Kiwanis Club to be used for the building arts program in the school. The house is a garrison and the garage has to come forward toward the street a little. This house fits in to the category of affordable housing.

The issues that need to be considered are again the amount of money that has been spent improving properties. Are we going to not look at this? I put the water and sewer on my property because I did not want my neighbors to go through the digging of the street twice.

This lot is a lot of record and is on the 1920 tax map and is a 50 x 100 foot lot. Back then there was a subdivision that was going to be built in that area but was never developed.

I do not understand why all of a sudden these lots are such a problem. Is it the esthetics? This goes back to the Code Enforcement Office reviewing the plans for design and fit on the land.

A tremendous amount of time went into the review and adoption of the Comprehensive Plan and I do not think we can afford to just throw it away. These houses are going to generate tax dollars. Five years ago the three lots I had was \$700 dollars in taxes. When they are completed they will generate around 9,000 dollars of tax revenue.

When people move into town, people want better services, there is no free lunch, and it has to be paid by taxes. I do not think this can be thrown away. On my property on Merit Street my taxes went up 70%, after the revaluation. If we have that much money that we can throw this away, I would like to have my 70% of taxes back.

We are building a new school and were told that building permits generated 5,000 to 6,000 dollars for the City of Westbrook.

I was told that there were approximately 120 houses on 50 x 100 foot lots and if you figure \$3,000 dollars per lot; that is 350,000 dollars in tax revenue for the City. I do not know what the burden is on the City of Westbrook for this nice new school, but this could relieve some of the burden.

I just returned from Florida and they have built a new sub-division that is called Celebration and the homes are selling for \$500,000 to \$600,000 dollars and they are built on the same sized lots. There are not any problems there. I do not see why it is such a big problem in this town.

I grew up on West Pleasant Street and there are 50 x 100 lots throughout that area. I have not seen that this is a big problem. I would like to see this not change. I think a lot of affordable houses can be built on these lots. Please take all the facts into consideration before making a recommendation.

Andrew Broadus 363 Bridge Street said he had been anticipating this problem when he reviewed the approved revision of the Comprehensive Plan. I feel we can improve what we can do on the 5,000 square foot lots. This is a good opportunity to improve the infill lots by recommending additional design standards that will be compatible with the neighborhood. Add scale to the design standards and go into the compatibility of the neighborhood.

I think now after houses are built, the design issues come in to play after the fact. If you have walked around Westbrook, you may notice a house that looks different and wonder what has happened. I think if the design standards are addressed before the build the compatibility with the neighborhood will happen.

If you were to build a fairly large ranch on one of these lots, it does fit the scale of the neighborhood. If you were to build a three story house on the same lot you would think of this as a Speedo lot. If you go to Old Orchard in the summer, you will realize what I am talking about, take a large body and in a very small Speedo (visual picture). That is what I

am trying to explain, too much house for the lot. The problem is how we really gauge that. We need to add scaled standards, things like roof pitches, number of stories, style or type, foot print of house, square feet of the house. I think that these are things that my wife and I would take into consideration if we chose to build on our infill lots.

I do not see by increasing the lot size will solve any problems. What is going to solve the problem is to have some smart and intelligent design.

I think another concern with these 50 x 100 foot lots is a great parking issue. I have noticed on a few of them that you can accommodate two cars on the lot that has no garage. I think what most people are looking for is off street parking, so you do not have a neighborhood with cars always parked on the street, which could also be Fire Safety issue. I would like to see a two car off street parking requirement added to the standard so we do not have congestion on the street.

I think we have a chance to be intelligent about this and have design standards built into the Ordinance as opposed to simply increasing the size of the lots, which means right now that you could build a bigger house and still have the same congestion problems. Maybe we could have a workshop as to how to refine the design standards on such lots.

Rick Nelson 105 Tolman Street is against the 50 x 100 lots. The reason being I have gone through this whole building process myself and one of the reasons is that the houses do not fit into the neighborhood. They are new houses with new styles and materials. As an example; my house was built in 1941. In that era, they used real wide boards and particle board, not the plywood that they use today.

Another difference is the foundations, if you look at the new houses, you can go down through the cellar through a stand-up bulkhead, which none of the old houses have.

Another issue is the damage to the land, when you build houses on these 50 x 100 lots jamming houses in so you are digging very close existing old houses like mine with a 1941 foundation. Now heavy equipment has to come in to dig the foundations and this causes damage to your property. Guess what, no one pays for it. The contractor has insurance, but you end up arguing and fighting with the contractor's insurance company and you get paid for a quarter of what damage has been done to your property. These are fact folks. I had \$5,000 dollars damage done to my property and I had a couple of engineers look at it, I argued with the insurance company for over a year, I had the contractor out with no results.

These things had nothing to do with me. This project was approved by the Planning Board and followed the Comprehensive Plan and followed the process and guess who had to pay for it, me. I received \$400 dollars out of \$5,000 dollars damage done to my property.

I own lots on Cloudman Court and I will not build because I do not want to put my neighbors through the same things I went through.

Please consider the existing neighborhoods and do not let the building on small lots continue.

Chris Wilson I own several properties in Westbrook. I am just finishing a project on Knight Street which is a 40 foot lot of record, on a 2500 square foot lot.

I am in favor of lots of records; I do not think that they should be removed.

I had a chance to show Rene Daniel the house, to give him an idea of what I had built on Knight Street. I dug about 12 feet from an existing older house and never had any issues. I have had nothing but compliments from people coming by, even people just wanting to come in to see the house. It is a very simple 920 square foot ranch, on a lot that is half the size that is being discussed this evening. There is no reason why people can not build on these lots of record and make a nice looking house that fits into the neighborhood and pleases everyone, the people that live there and the people in the neighborhood.

Needless to say, there is not a lot of yard on the house I built, but there is an owner for every home. This house will not be a family with six children; it will be a family that wants to spend time in the Park or a senior couple that wants single level living, with not a large lot to maintain. This is a very affordable house, on the market for \$178,000 dollars at this time. It is reflective of the small lot, but I have not doubt that someone will love the house on a small lot.

I do not want to repeat what people have said tonight, because they have covered every point, all though there is another train of thought that should be considered. Westbrook wants to be careful that they are not deterring individual developers from building in the City. There seems to be a very slow trend to try to stifle development it seems like, slowly.

I am very concerned about Idexx, and very concerned about Pike and the big dollar tax bounty, but we are starting to forget about the residential.

The comprehensive plan and the Zoning Ordinance were developed to try to draw people into Westbrook.

A couple of months ago I was at a staff meeting, for a sketch review for a potential subdivision and want to share what was said by a certain member of the staff looked at me across the table and said I would prefer not to see another residential subdivision in the City of Westbrook. It would be more people that I would have to protect. I sat there in awe; and I thought to myself; that this is completely opposite of what people should be wanting; they should want people to live in the City. That was very disturbing to me the trend of trying to stifle development and stopping people from living in the City.

These lots of records need to be built on, but built smartly as Andy Broaddus mentioned. Set some standards that the City Staff can follow and set design standards so the houses can match the neighborhood.

Please allow affordable housing on lots of record and do not deter development.

Debbie Willoughby 109 Falmouth Street which is right next door to Craig Johnson's property which is proposing to split in two and install two modular homes.

We bought that land that has two lots, one with an existing structure and one that does not. We have planned on that for retirement use. Possibly building a home sooner than that as it would be smaller than the current one and would be easier to maintain then the home we live in now.

We went to research whether we could start the building process a couple of years ago and was told there was a moratorium on opening the street at that time. Now we are becoming more prepared to start that process and we are finding out that possibly we may not be able to do that.

I request you keep that option open for us as many other people have stated

John Clark said my wife and I are a young family, with a child on the way and are looking to put two houses on the two lots known as 99 Falmouth Street. My father-in-law owns those and has offered to sell one to us.

It is affordable housing, moving to a new house. We are looking to put a modular house on the lot, which is a Cape styled home, that will be next to another Cape styled home and a ranch styled home next door to an existing ranch. We are looking to blend in, not stand out. We are simply looking to start a family in an affordable house and this is a way for us to do that.

When making your decision, please keep people like us in mind when you make decision.

John O'Hara 80 Cottage Place said he has been on the Council for 10 years and I think this has been the most contentious issue of all over my years with the Council. I have received calls on both side of the issue. I have heard the pros and cons, the good and the bad and everything in between.

I think what everyone in the room needs to remember is that whenever any Comprehensive Plan is brought into place this is a living document that breathes and changes as time goes on so what may have been good when the document was crafted may not be good now.

When the document was crafted the idea of the 50 x 100 lots was for in fill lots with the availability of City services right outside the lot lines.

As well intended as that may have been it has caused disharmony among neighbors. If anything comes out of this discussion tonight is one thing is consistent and that has been the fact that whether you want the 50 x 100 lots or you are opposed to them, certainly design standards were not considered during the crafting of the Comprehensive Plan. I believe whatever comes out of this today is we must have some design standards.

The homes on 50 x 100 lots are sold for less, because what is there is less and I realize that is what some people can afford and I understand that.

We certainly do not want to create sprawl and that was one of the intentions of the in fill lots was to try to capture sprawl and try and bring it back into the City core.

Unfortunately has not stopped growth in Prides Corner. It has not stopped people from buying the trophy lots or building the trophy houses, it just has not stopped them. Even though sprawl was one of the reasons to allow the building on 50 x 100 lots that has not worked.

So whatever determination you make tonight, please keep in mind that the document is a living, breathing document that can change, has changed since its conception and will change again.

Public Hearing Closed

Ed Reidman asked staff what is an unimproved lot?

Rick Gouzie said an unimproved lot is a lot that does not have building permit issued for it, or a structure not already on it.

Ed Reidman asked if we had a number of in fill lots.

Rick Gouzie said he drove around the City one day and found approximately 50 lots just by driving and observing the land in the RGA 1 Zone. We have had 110 building permits issued for these lots of record, so far.

Ed Reidman said Mr. DeLisle asked what certain lots were as part of the letter he received.

Rick Gouzie said that the letter referred to 50 x 100 lots registered in Cumberland Registry of Deeds.

Ed Reidman read letters into the record, one of them came in tacked to the Public Hearing notice of the Comprehensive Plan that had no date, name or address on it. But it reads as such:

“We definitely do not want houses at the end of our road. It was our understanding that because it is wetland no one would be allowed to build there. We hope you think seriously before doing anything like that.”

The second letter is from Shirley Murphy and Lori Ann Harmon and reads:

“To the Planning Department of the City, I am writing to you in regards to your letter proposing changes in the ordinance. I believe that this would affect the property at 246 Saco Street, formally the home of Walter Shaw. My daughter and I live at 274 Saco Street which abuts the property in question. We are unable to attend the City Council meeting and want to express our opinions on the matter.

First of all I would like to say that I have a sump pump and am the low man on the block. I get all of the run off from my neighbors. Last Patriots Day I had eighteen inches of water in my cellar which caused minor damage to my furnace. The land in question has substantial slope to my property. If a house were built on a 50 foot property between 246 Saco and my property the land would have to be built up which in turn would add to the run off affect to my property.

I already have a problem with the run off from the built up property behind me which causes one area of my property to be boggy. We have planted willow bushes hoping they will take up some of the excess water, however this has not worked. We had to place a bridge across the worst area so we could get above the water line in order to weed whack the grass when it gets to long. It is usually impossible to get the lawnmower across to that area.

I bought my home in 1974. The reason was in part to the fact that it was part country yet close enough to walk to down town Westbrook. Over the many years I have put in a lot of money into landscaping my property to enjoy my retirement. I have now retired and would like to enjoy my labors without seeing it go under water then it already has without having neighbors walking out there back yard doors and directly into my back yard.

I have lived in many large Cities in my youth and hated the closeness of the buildings. I would hate to see this happen in my neighborhood.

The gentleman who bought the property at 246 Saco Street has never lived here and has no ties to the community. He is simply trying to make as much money as possible from the misfortune of Mr. Shaw’s passing.

If we were financially possible we would purchase the 50 feet of land to myself to keep the neighborhood intact. Enclosed are a couple photographs of the area. The first was taken from across the street and shows the 50 feet in question. The pink house is 246 Saco Street which you can see is much higher than my property. My property starts roughly one lawnmowers width away from the deciduous tree on the right hand side of the photo facing the land in question.

The second photo was taken from my yard and shows the boggy area where we face the bridge. Once again, my property line is about one lawnmower width length from the shrubs on the far side of the property. You can also see the slope of the property towards my property.

Thank you for allowing me to make my feelings known, if you have any questions you can call me” ** Names and numbers

The last one to read in to the record is from Jeanne Jordan and reads:

“Dear members, thank you for the opportunity to express my opinion. I believe it is much better to allow homes to be built within the City even on small lots. This helps to alleviate sprawl into our farm lands and forests.

Most places within the City have connections to sewers, so there would be less pollution going into the neighboring stream and watershed. So people can walk to do errands and this saves gasoline and the pollution that goes with it.

Westbrook is a City and can allow the density of homes. Please do what you can to protect our wetlands.” Signed Jeanne Jordan

Ed Reidman asked for comments from the Board

No comments

Ed Reidman Before we leave the subject, the ultimate decision...does not matter what the Planning Board decides, we need to make a recommendation to the Council.

I would urge anyone who spoke tonight to attend the Council meetings, so the Council can hear what your opinions are along with that of the Board.

Mr. Reidman asked about a paper that was in the packet that refers to a draft of design standards in the development on substandard lots. Is that what the Code Officer uses for review purposes.

Molly Just said there has been a lot of comment about the need for design standards. We do have design standards for development on substandard lots in terms of lot size; the fact is they do not get to scale. They are more architecture design standards and driveway placement and landscaping standards. They do not get to scale. They get to compatibility with the surrounding neighborhood and basically quality material. Perhaps the scale standard should be reviewed and amended.

Ed Reidman I did not want the people to leave thinking that we had “no” design standards. There are some as part of the Ordinance.

Public Hearing - Special Exception – Craig Johnson – Construction of 2 modular homes on an approximately 0.28 acre (12,197 sqf) parcel located at 99 Falmouth Street. Tax Map: 38, Lot: 190, Zone: RGA-1.

Craig Johnson the owner of two lots on 99 Falmouth Street. As I understand there is a requirement to apply for a Special Exemption for the modular home request on this property.

We were going to build, but the lots are small and the cost was more than what we wanted to invest on the property. My son-in-law and my daughter are going to purchase one lot from us and as I am approaching retirement and will be downsizing I will live on the other property.

This is not a development. We went with the modular homes and the plans are not generic; it has been well designed to fit with the esthetics of the neighborhood in mind. I think we are the type of people that Westbrook is targeting: a young first time family and I am ready to retire and want to downsize. This is truly an affordable housing measure for us.

Mr. Johnson requested the special exemption for modular homes be granted. .

Ed Reidman asked for questions or comments from staff.

No comments from the staff

Public Hearing Opened

Virginia Willoughby 109 Falmouth Street, a resident for 20 years said she is against the modular homes.

I have talked to all my neighbors and they are all against modular homes. We wish to keep as single family homes as we have now and not go to the modular homes.

John O'Hara 80 Cottage Place said he was asked by a resident of Falmouth Street to speak on their behalf. The resident does not object to a single family home, but two modular homes on that lot seems a little excessive. This area is an older neighborhood that has single family residences built there. The resident on Falmouth Street has no issues with a single family home being built on that lot but the problem is two modular homes being placed on the lot.

Jeremy Brown represents the builder that is building the homes for Mr. Johnson. It was mentioned that some of the neighbors were ok with a single family home being on this lot but were not in favor of modular homes. I did want to point out that these are single family homes.

You may be opposed to having two of them but depending on the vote on the substantial lots that should be the only determining factor because it is actually statutorily illegal to prohibit modular homes in the State of Maine in any neighborhood that allows single family residences. Christopher Mann the Assistant Attorney General of the State of Maine has sent a letter to Richard Gouzie, who forwarded that letter to the Legal

Department for the City of Westbrook and they advised to change the wording to consider modular homes as a matter of right.

Just to alleviate any concerns the modular homes are not substantial homes and will fit into the neighborhood. They are not a mobile home; they are a quality stick built home.

Jamie Goddard 65 Lincoln Street as I previously mentioned we are here for an exemption.

Once again, all the people that attended the in-fill lot discussion have left and are not here to see this exemption request. The other people were here to put one house on a 50 x 100 lot. This lot had the house that burnt, correct? If so it needs a house, but I do not think it needs two. I am against this special exemption until 50 x100 lot is sorted out.

Steve Rand attorney for Craig Johnson corrected the previous speakers what we are talking about here is that the “lot” in question is actually two separate 50x100 lots. The only reason we are before the Board for the special exemption request is due to modular home. The City of Westbrook’s Ordinance requires a special exception requirement to have a modular home placed of a lot. There should have no delay in addressing this issue tonight. It in no way impacts any recommendation you may make with the 50 x 100 lots. This application is for a special exemption request. We are not requesting two modular homes on one lot, there are two separate 50 x 100 lots.

Public Hearing Closed

Molly Just clarified that the State of Maine does not view modular homes any different from site built homes. A modular home is built off-site and then placed on site. Therefore the State of Maine requires that you look at them the same.

The City of Westbrook somehow along the way the City was not informed of the State of Maine statute. The City has historically allowed modular homes, but requires a Special Exemption, which is approved by the Planning Board.

What happens now is the staff needs to bring forward a zoning amendment so there is no difference between a site built home and a modular home. It would be allowed as a matter of right and require no special exception. The problem is this applicant has an issue of timing as well. These are lots of record and are 50 x 100 lots. If the Planning Board approves this application they still may not be able to build these houses because they are on the 50 x 100 lots. They could build one, but not both. They can get approval for both, but when they go for a building permit, they may not be able to build both because of the proposed amendments to build on infill lots.

The issue before you is largely procedural as the State sees them as equal to site built homes but please keep in mind that the owner may not be able to build on it.

Ed Reidman comments from the Board

No Comments

Public Hearing - Final Site Plan and Final Subdivision – ES Coffin Engineering & Survey on behalf of HW Land Company, LLC for construction of 30 condominium

duplex units on an approximately 13-acre parcel located at 341 Austin Street. Tax Maps: 15 and 55, Lots: 14 and 8, Zone: RGA-2.

Dan White HW Land Company presented aspects of the 30 condominium duplex units on about 10.7 acre parcel located at 341 Austin Street and the project itself sits on 6.23 acres. The remaining 3.7 acres is to be donated to the City of Westbrook.

My only question this evening is the phasing plan. The staff has mentioned the phasing schedule as mutually agreeable.

Jim Coffin with Coffin Engineering presented a new map for the development. Need to go beyond the stream to get density.

Jim recapped utilities, lights, water and sanitary sewer for the development. Shoe box lighting will be added to the street so there will be no light spillage. The water connection will be off Austin Street, approximately 1,000 gallons a day. Portland Water District will respond to this request. We are still awaiting their response. We have our DEP storm water permit in hand. We have two filter ponds. As requested by the City Engineer we have flattened out the grade on the front filter pond. As far as sanitary sewer everything is gravity and goes to Austin Street through an eight inch line. We have had a traffic study done by Gorrill Palmer that says 20 peak hour trips.

We did impact about 4,000 square feet of wetlands. We have kept a 75 foot buffer along the stream. We changed the design to accommodate Fisheries and Wildlife as they found some fish habitat in that area and asked to have that protected.

Additionally what we have done since the last meeting was to add a fence and landscaping for the abutters. We have agreed to take over the maintenance of a retaining wall as discussed with one of the abutters. Project phasing was touched on. The economy will drive the project.

Ed Reidman comments from staff

Molly Just since the Planning Board last met the Planning Board and applicant conducted a site walk. On April 16th the Recreation and Conservation Commission met on this project and support the project due to the dedication of land to the City. They also make recommendations to the landscaping design. I will work with the applicant to ensure the follow up.

At this time, staff has not been able to review the re-submission of the project. Staff does not support the application as it is.

Ed Reidman said the Board will hear public comment, when in regular session I will ask the Board to table this item to allow staff to review the re-submission.

Public Hearing Opened

Ed Reidman read two letters into the record.

Bokiela Investments in Portland and signed by Bill Dowd and says:

“Ms. Just, I may be unable to attend the Public Hearing on May 6th on the proposed construction units of the 30 condominium duplex units. I own the abutting property and am writing to express my concerns.

The main concern is the developer should put a proper buffer between their entrances and the abutting property. I a, sure the traffic generation by the condos and the headlights from the cars, shining in the tenants windows will be a major annoyance. The properly landscaped buffer of mature trees would help solve the problem. My other request is the developer leave the existing buffer of pine trees and other vegetation on the side and rear of my property untouched. This will allow my building and the condos to have privacy.”

Ed Reidman asked to show the property in question.

Second Letter:

Rita Smith from 347 Austin Street;

“To the Planning Board, I am unable to attend the May 6th meeting in regard to the plan at 341 Austin Street. My concerns about the flow of ground water and my property line by the stone wall have been eased. I look forward to the demolition of the two unsightly building onsite. One concern is the traffic on such a narrow winding street that has moderate foot travel. Not everyone goes at the speed limit.

I commend Dan and Steve from HW Land Co; they have been accessible and obliging.”

Ed Reidman asked for Public Comment

John Peters 322 Austin Street spoke in opposition of this due to traffic. The road is a 30 foot road, not 50 foot road. The driveways are short and people park on the street, it can be really dangerous. I live on a knoll that has a curve and have seen many problems. My concern is if you are going to add 60 cars plus, will the street handle it properly. My only complaint is the traffic flow.

Lawrence Lovejoy 164 Pride Street owns the farm along the side and up the back of the proposed property. One of my concerns is the deer trail. The foot path that was walked on at the site walk was the deer trail. The wintering yard is further back at the end of Austin Street. The deer travel back and forth to the Millbrook area on the other side of Pride Street.

I am concerned about his cattle. My cattle congregate at the corner of the lot and the new residents will wake up to the smell if cow manure and the cows mooing. I love it, but they may be offended. I have a barb wire fence to keep the cows in and I am concerned about the children.

There is a triple power lines across the middle of this property. There are eight units that are right on the edge of the CMP easement which is 50 feet wide. I would not want to live near a magnetic field.

How will the fire department put out fires? The power lines will interfere with the ladder truck. The power lines cross the parking lot, what will happen during a bad ice storm?

The filtering pond has two poles in the middle in the pond.

The last building on the plan is a considerable distance from parking lot. Has anyone thought of this distance if they bring in children or groceries? I would not want to live there.

Lynda Adams 60 Adams Way off the end of Austin Street spoke in opposition of this development. I agree with what some of the other people have said.

I did pick up some information at the Planning Office and the traffic study showed 24 ends per week day. A trip end is either a trip in or out. There will be an additional 24 trips on that road. There is already a problem on Austin Street, the cars park on both sides and you have to stop and be cautious. This development is proposed right around that dangerous corner. When the vehicles near the triangle; merging traffic to Austin and Pride Street you have to be really careful coming up Austin where you need to turn left on Austin is a very dangerous corner. There are site distance problems due to the trees that block the view of the cars coming down Pride Street

I have a report from Inland Fisheries and Wildlife that they are recommending a 100 foot buffer from the stream; I see on the property that they are proposing a 75 buffer from the stream. I like the wildlife in that area and I am opposed to development placed where they really do not belong. The 30 houses does not suite area.

I know that every time something is built in the area, the water flow slows down and all the existing houses are affected.

Should the Board approve this development what will stop another development to go in 200 feet up the street on the 27 acres that is for sale? What will stop the development in this area? I do not think the road can handle all the traffic.

Ed Reidman asked that when you speak about water flow, you are discussing Portland Water District?

Lynda Adams said yes

Tom Campbell 272 Austin Street spoke in opposition of this project for traffic reasons. When you travel to the upper end of Austin Street it is 30 feet wide. There is not enough room for emergency vehicles. The road is not built to withstand an additional 24 more trips.

Jim Napolitano 301 Austin Street spoke in opposition of the project due to the traffic and the 24 additional trips. I am concerned about the children riding their bikes and neighbors walking their dogs, the street is not wide enough.

I agree with Mr. Lovejoy, I am also concerned about the deer run.

The water pressure is bad now what will happen when more development goes in the area?

I think the location of the road for the proposed development is a poor location. It is on a curve and the line of site is not good. Emergency services already have hard time negotiating that curve on the street when cars are parked on both sides of the road.

Shawn Adams 60 Adams Way a 43 year resident of Austin Street, spoke in opposition of the project.

This project does not belong on Austin Street. This street was made up of single family homes, not condominiums, until Austin Meadow came in an apartment house complex in the middle of the Plato area on the street. Austin Place: condominium units just over the next little knoll. Now you want to come to the other side of the knoll and stick another 15 units in. You are taking out two single family homes and replacing them with 30 residences. They may be 15 buildings, but they are two and three bedroom duplexes.

I know that I have quite a few trips on the road that I make, and then add another 30 families; the road can not withstand that amount of traffic. From Mr. Peters house up the road is only thirty feet wide.

I work for the City of Westbrook in the Public Services and the Fire Department and have driven plow trucks and fire trucks up there. I have had a close call driving through with the large vehicles. I would hate to see any fires up at my end of the street because seconds count and the street is not wide enough as it is.

Mr. Lovejoy's cattle are located on the very next property, I love livestock, but will the new residents?

The dangerous intersection has been talked about and Austin and Pride Street. The traffic report said there were no accidents at that intersection, but I am aware of a motor cyclist that was killed there. These traffic studies have site distances and posted speed limit on Pride is 30 miles an hour then the upper end of Austin is 25 miles per hour, not everyone goes the speed limit, maybe during these studies they should use radar. When someone is travelling faster than the posted speed limit the site distance does not work, the vehicle is there before you know it.

Also in the report, the developer is giving 3 acres to the City on the back end of the property, but I also read that there is no public access to it. How do I get to the City owned land? Trespass on other people's property?

I am concerned about the common area; 6 acres that is located under the high tension lines. What about the magnetic fields around such high tension lines?

I think there needs more thought about this project and its location it does not belong on upper Austin Street. This is a great project in the wrong location.

Public Hearing Closed

Ed Reidman said when the Board returns to regular session I will ask the Board to table this item to allow the Staff for further reviews.

1. Call to Order

Continuing Business

- 2. Public Hearing - Land Use Ordinances – Status of Grandfathered Lots - Referral from the City Council seeking recommendations on a proposed land use policy to eliminate those Ordinance provisions allowing construction of houses on unimproved lots of only 5,000 square feet and/or 50 feet of frontage. The City**

Council also seeks Planning Board review of the Comprehensive Plan for any inconsistencies with such a change.

Ed Reidman asked Legal Staff to explain how you can make an Ordinance retroactive?

Natalie Burns said under Maine law there have been a few cases that have gone to the law court where municipalities passed ordinances and the language generally to the effect of this ordinance will apply to anything where a building permit application was not issued prior to a certain date and the law court has repeatedly said that is permissible for the municipalities to adopt ordinances to have retroactive applicability, which is what the Council has to be considered as part of this recommendation.

There are a few things that we believe are required and that is what has happened in this case, that the retroactive date ties to a particular point in time when it was discussed publically. Under Maine law it is permissible for a municipality to adopt a Land Use Ordinance that has retroactive applicability. That means that if you did not get your building permit application before the date that is going to be set forth in the ordinance you can not claim that you have a legal right to proceed. You are subject to the provisions of the new ordinance adopted with that language.

Ed Reidman said that the staff will continue to review the Comprehensive plan for inconsistencies dealing with this matter. Are there any comments from the Board?

Paul Emery said he wishes to complement the City Council and believes the Council is in the long term always in the best path trying to provide for the City of Westbrook and its people what is best for them. However in this particular case I can not agree in what appears to me to be a rather capricious change from allowing the 5,000 square foot lot to a 7,500 square foot lot.

I believe that there are enough provisions within the City of Westbrook that each of these cases where the lot is 5,000 square feet can to the permitting and the review of the Planning Board provide enough wisdom and planning so that the best possible compromise and project design can benefit the individual, the neighborhood and the City of Westbrook.

Anna Wrobel lives in a ward that has a number of grandfathered lots. I came to this meeting biased as to what the Council wanted us to consider with regards to the in-fill lot issue. I have seen some of the “jam in” houses that people have complained about. I understand the City Council is in a tough position as they are elected officials, and have to respond to their constituents. I have prided myself with the ability to keep my mind open for the receipt of new information. After hearing what people are saying about the good faith and trust they put in to their understanding of the Comprehensive Plan and investing in the City of Westbrook based on the Comprehensive Plan; whether I agree with that aspect of the Plan, it has been out there for some years and I would find it difficult to go along with the request by the City Council and would stick with the grandfathered lots after hearing what people have been saying to what kind of financial burdens this would place on them due to the kind of investments people have made.

I would concur to the fact that we need to step up the design standards, especially in reference to the scale of the buildings on the lot and what design will fit the

neighborhoods. We have design standards currently, but I feel it needs to be revisited to better define the scale and design fit to retrieve the simplicity and charm of smaller lots and homes. I feel we should not completely get rid of the grandfathered lots.

Rene Daniel lives in a ward with many 50x100 lots. My neighborhood sits on a 1920 certified 50 x 100 lot plan. I was very vocal when the land owner built four new houses on grandfathered lots on my street and changed the façade of my neighborhood. It never came to the planning board because it was already accepted by the Board in 1920.

I worked closely with prior and existing planning staff on the Comprehensive Plan and the intent of the 50 x 100 foot in fill lots did not come out the way our intent was. It was to be suitable to the neighborhood. It was meant for seniors to downsize or new homeowners to afford to own a home as speakers have explained this evening.

At the end of State Street is a magnificent example on how to use a 50 x 100 lot. I have seen examples both of good uses and poorly designed uses on the building built on my street as well.

I agree with prior Board members that we need to review this standard to try to define the standard better.

I am not ready to vote on the 7500 square foot lots. We need more detailed design standards. When looking at the neighborhoods with infill lots having two or two ½ story homes, this is an oddity. I will not vote on the 7500 square foot lots but I am in favor of adding design standards and scale to the infill lots.

Dennis Isherwood agrees with prior Board Members somewhat, but living on a street that has been devastated by the 5,000 square foot lots, I would like to spare other citizens the same problem. If you give me a tool to limit the size of the houses that belong on these lots this could help. My neighborhood has eleven new large homes on the grandfathered lots; we have cars instead of trees because many of the homes do not even have driveways.

I am in favor of the 7500 square foot lots until you give me a tool to use to limit the size of the buildings built on these lots.

Greg Blake agrees with Rene Daniel and Anna Wrobel, we need design standards to address the scope and scale to allow new buildings on 50 x 100 foot lots in our neighborhoods.

Mike Taylor moved to recommend that no changes be made to the Land Use Ordinance.

2nd by Greg Blake

Molly Just said that not all the comments were always discussing just lots of record. The discussion of the proposed Tolman Street development is on 7500 square foot lots. The neighbors concerns refer to the issue of scale for set back and height requirements to enable a building footprint.

I support property rights. While reviewing the performance standard in our ordinance dealing with the RGA1 Zone allows 40 foot high buildings. I do not think that the existing buildings in the RGA1 zone are that high. You have a lot of ranches that are

certainly not forty feet high. If you put a new colonial next to an existing colonial, the height difference would be noticeable and it does not look right.

In the RGA1 zone the building height is thirty-five feet. We need to review the performance standards in our ordinance. But not all of the development concerns are on a 5000 square foot lots. If you have a large house, it will look large on 5,000 square feet and on 7,500 square foot lot. We need to address the scale issue in our ordinance.

Anna Wrobel said I share Mr. Isherwood concerns. I would prefer to vote on a motion that would include that the Planning Board will work on the issue of scale, rather than leaving the ordinance as it is. If the motion stands as mentioned I will vote against it. We need to amend the Ordinance to get it right.

Mike Taylor will accept any amendments to the motion.

Anna Wrobel amended the motion to allow further Board review to deal with building standards dealing with scale.

Ed Reidman said the original motion was to recommend to the Council that there be no change to the ordinance dealing with in-fill lots as presented to us. The amended motion will be to authorize the staff; as a result of this public hearing and Planning Boards concerns; to review and modify the design standards and bring them back to the Planning Board for further discussion and ultimately recommending new performance standards to the Council.

Molly Just said she is concerned because a big house is a big house even if on a 7500 square feet lot, no matter what is going on.

Ed Reidman we need to deal with one at a time. If we deal with ordinance sections in mass we will have to re-write the entire ordinance again.

Molly Just said point taken.

Greg Blake said he had no problem with the modification of the motion.

Paul Emery asked the Chairman to repeat the final motion.

Ed Reidman we are voting to tell the Council that the ordinance should not change at this time. With further recommendation to the Council to ask the staff to review the matter of size of buildings that you can build on 5,000 square foot lots with 50 feet of frontage.

Paul Emery asked for the exact language for the motion.

Ed Reidman said after the recommendation not to change the ordinance at this time and to instruct / ask the staff to review the standards for substandard lots of record and bring them to the Planning Board and then to the Council.

Rene Daniel said agrees with Anna. We need change I the ordinance and we need to inform the Council that we need to do more in the category of infill lots with 5,000 or less square feet.

Ed Reidman asked for other comments on the motion.

The vote was unanimous in favor 7-0

Ed Reidman informed the developers, staff and public that we are now at 9:44 PM and the Board does not start any items after 10:00 PM.

3. **Public Hearing - Special Exception – Craig Johnson – Construction of 2 modular homes on an approximately 0.28 acre (12,197 sqf) parcel located at 99 Falmouth Street. Tax Map: 38, Lot: 190, Zone: RGA-1.**

Staff memo reads as follows:

“Summary. The applicant requests Planning Board approval of a Special Exception for 2 modular homes on property located at 99 Falmouth Street. The Westbrook Land use Ordinances allow modular homes by Special Exception in the RGA-1 Zoning District. However, State law views modular homes in the same manner as site built homes. Staff will initiate an amendment to the Ordinance to allow modular homes as a matter of right. In the meantime the applicant requests Planning Board approval of a Special Exception for modular homes.

The Planning Board should be advised that the City Council is currently considering eliminating the ability to develop on undersized lots or lots not meeting the current requirements for size. The subject property includes two lots that are smaller than the current Ordinance requirements and that are part of an approved subdivision. The City Council has proposed that the proposed provisions eliminating development on undersized lots be retroactive to February 12, 2008. Therefore, if the Planning Board approves this Special Exception and the City Council ultimately adopts the provisions eliminating the ability to develop on undersized lots then the development will not be allowed to take place as the provisions would be retroactive to a date preceding Planning Board approval of this Special Exception. The applicant has signed a document acknowledging receipt of the proposed provisions eliminating the right to develop on undersized lots.

Staff Comments. Staff supports approval of the proposed Special Exception and will bring forward an Ordinance amendment to remove the requirement for Special Exception approval for modular homes.”

Dennis Isherwood said the only thing the Board is approving is the modular home issue. If it has been taken out of our hands by the State of Main, do we need to address it at all?

Molly Just said you do need to address this as our current Ordinance that we work in requires Special Exception approval of the modular homes. So you do need to vote on this.

Natalie Burns said the State law says you must allow modular homes in residential zoning districts. We do think it would be better practice to amend the ordinance so they become permitted uses, however Special Exceptions in Maine law are permitted uses and of course neither the staff nor the Planning Board can change the requirement of the ordinance as written. That is why it is here before you tonight as the ordinance still has that requirement.

Ed Reidman said if we choose to grant the Special Exception would Rick Gouzie issue the building permits until such time that the City Council takes action on the small lots, or will you issue building permits at the hazard of the developer.

Rick Gouzie said he would issue a building permit and require the developer to sign a disclaimer, saying that if the Council does away with the 5,000 square foot lots, it could be possible that he would have to take the house down.

Mike Taylor said if the developer built only one, he would be fine, correct?

Rick Gouzie said he could replace the one that burnt and that would be permitted.

Paul Emery moved that the Planning Board grant the Special Exception application for Craig Johnson to build the modular homes located on Tax Map: 38, Lot: 190 is to be **approved**:

- A. Certain Requirements Met. That the use requested meets the dimension, parking, loading, and sign requirements of this Ordinance. Otherwise, the applicant must also request an appropriate variance.
 - See “Summary” above concerning pending Ordinance amendments.
- B. Value. That the use requested will not significantly devalue abutting property or property across public or private way. In making its determination, the Board shall take into consideration the type of structure proposed, the topography of the area, the market value of the surrounding real estate, the availability of utilities, traffic conditions, and other relevant factors.
 - The proposed project would not significantly worsen traffic conditions or impact public utilities.
 - The lots, while currently consisting of only one home, are somewhat smaller, on average, than surrounding real estate but are part of an approved subdivision.
- C. Effects of Land Use. That the use granted will:
 - (1) Maintain safe and healthful conditions.
 - The project will be connected to the public water and sewer systems.
 - (2) Not cause water pollution, erosion, or sedimentation
 - Will not cause water pollution, erosion, or sedimentation.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

- N/A
- (4) Conserve shared tree cover and visual, as well as actual, access to water bodies.
 - Will not affect tree cover shared by adjoining residential properties. Will not affect shared physical or visual access to water bodies.
- (5) Not burden on-site septic or off-site waste disposal.
 - The project will not burden the existing off-site waste disposal system.
- (6) Not burden existing public ways.
 - The project will not burden existing public ways.
- D. Performance Standards. That the use granted is compatible with adjacent land uses and that it meets the following performance standards:
 - (1) Landscape Environment and Enhancement. The landscape must be preserved in its natural state insofar as practicable. It must be designed so as to stabilize the slopes and buffer the site, where necessary.
 - The landscaping includes 5 trees total on the 2 lots. *Staff recommends at least 2 trees along each lot frontage.*
 - (2) Surface Water Drainage. Surface water drainage must not have an adverse effect on surrounding properties, downstream water quality, soil stability, or the storm drainage system.
 - Will not have an adverse effect on surrounding properties, downstream water quality, soil stability, or the storm drainage system.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution.
 - Will not cause unreasonable water, air, or soil pollution.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water.
 - Will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold the water.
 - (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas.
 - N/A
 - (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions.
 - The development will produce the by-products associated with residential development.
 - (7) Special Features. Exposed storage areas, machinery installation, service and loading areas, and similar facilities must be set back, screened, or buffered so as to minimize any possible adverse effect on the surrounding uses.
 - N/A
 - (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles.
 - Safe sight distance exists at the driveway entrances on Falmouth Street.
 - (9) Parking and Circulation. The layout of vehicular and pedestrian traffic patterns must provide for safe interior circulation, separation of pedestrian and vehicular traffic, and storage of plowed snow.

- Two parking spaces per unit will be provided.
- (10) Public Services. The development must not impose an unreasonable burden on the water supply and sewage disposal systems, fire or police services, public ways, schools, recreational facilities, and other public services or facilities.
- Will not impose an unreasonable burden on public services.

CONDITIONS

- 1 Approval is dependant upon, and limited to, the proposals and plans contained in the application dated February 20, 2008 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.

2nd by Rene Daniel

The vote was unanimous in favor 7-0

4. **Public Hearing - Final Site Plan and Final Subdivision – ES Coffin Engineering & Survey on behalf of HW Land Company, LLC for construction of 30 condominium duplex units on an approximately 13-acre parcel located at 341 Austin Street. Tax Maps: 15 and 55, Lots: 14 and 8, Zone: RGA-2.**

Rene Daniel moved to table until staff has the opportunity to review the newest submission.

2nd by Mike Taylor

The vote was unanimous in favor 7-0

Ed Reidman said that unless the next item goes very quickly, the Board will not be able to discuss the sign ordinance nor to the sketch plan from Pike Industries, unless the Board votes to go beyond 10:00 PM.

No vote

5. **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.**

Chris Vantiotis on behalf of 500 Westbrook, LLC, said he would like to have discussion with the Planning Board about the application for a Contract Zone.

Since we were before you last you should have a letter dated April 10, 2008 to the City Planner which we discussed some of the issues that the planner had raised in her

memorandum and also address some of the concerns heard from the public at the last Planning Board workshop. Attached to that is a draft of the proposed Contract Zone language, dated April 10, 2008.

We are available for any questions from the Board. We do have a goal to discuss the proposed changes to the Comprehensive Plan, which would make some changes to make the Comprehensive Plan up to date as to what will be happening in that area of Westbrook.

Under State law there is a very long public hearing notice requirement, for an amendment to a Comprehensive Plan, which is thirty days. We hope that the Planning Board would schedule the Public Hearing for the amendment to the Comprehensive Plan and along with that the proposed Contract Zone at the same time.

Ed Reidman said it would probably help the Board by giving us the language to change within the Comprehensive Plan.

Chris Vantiotis said he hoped the Board had that language as well as it was provided to the City Planner on April 4, 2008.

Molly Just said the Board has the document listed as Industrial District II.

Chris Vantiotis said it is labeled that way as the Comprehensive Plan suggested listing this area as Industrial District II. This area is intended to serve as a reserve area for future industrial or business development and goes on to recommend that contract zoning be utilized to further develop business or industrial development.

We have added some language to the existing language of the Comprehensive Plan that describes a planned mixed commercial development that would be consistent with what is intended for the Stroudwater character area.

The definition states the meaning of a planned mixed commercial development: an area of at least 50 contiguous acres, to be planned, developed, operated and maintained as a unitary development and containing one or more structures to accommodate retail, service commercial office uses or a combination of such uses and pertainate common area and accessory uses.

We talk about public outdoor spaces with a planned mixed commercial development. We do revise slightly the recommended density for a planned mixed commercial development and talk about the performance standards on the creation of public outdoor spaces.

I think if you look at the language in the Comprehensive Plan which I think was adopted before the creation of the turnpike exit 7A and the kind of development that has gone on across the arterial from where this property is located.

In consultation with City Staff, maybe you do not even have to do this. I think there is enough language in the existing plan that would support the Contract zoning as proposed but I know that the City has in the past done a Comprehensive Plan amendment in tandem with the Zoning amendment to make sure that there is a good fit between the two. Conceptionally the Comprehensive Plan amendment has to come first. It can happen on the same night but it needs to happen first as a predicate for the Zoning and again there is State law that is a very long notice requirement for the Comprehensive Plan amendment.

Ed Reidman asked if the Planning Board understands what is required of us this evening. We need to make a modification to the existing Comprehensive Plan, to adjust the portion that discusses the Industrial District II with the verbiage shown on the sheet that was given to us. We need to review the open space provision, the mixed commercial, then the planned mixed commercial development, then Stroudwater character or contract zone provisions. It then talks about adding planned mixed commercial developments. It talks about the support restaurant and retail businesses striking the word support. Then we are in the space and bulk requirements as the planned mixed commercial development would not have as much open space and would have a higher density than what is currently allowed in the Industrial zone and the performance standards was also the creation of public outdoor spaces in a mixed commercial development.

As I understand this is what they wish to go to public hearing on with regard to the comprehensive plan.

Molly Just summarized that the project is not in conformance with the comprehensive plan, in terms of the use mix. Retail is recommended as only an accessory use to the office and or farmland agricultural, industrial development. The amount of the development has doubled as is recommended by the comprehensive plan and the open space requirement is somewhat significantly less than that.

I do have a number of discussion items that I would encourage the Planning Board to address during this project.

Chris Vantiotis asked to clarify procedurally if the Board is willing that it makes sense to have the public hearings on the Contract Zone Amendment on that same night so you are not scheduling a public hearing some 30 days beyond now. So you could schedule a public hearing for the proposed contract zone amendment at the same time as the Comprehensive Plan Amendment.

Ed Reidman said he is having trouble and needs the verbiage of Comprehensive Plan, let alone being sure and comfortable with what you have brought to us as a draft is what we should be going into.

It was my understanding when we last met that we were going to discuss these issues in workshop before we went and put the pieces together. I can fully realize why you want to move forward, what your time tables are. You need to get the first couple steps in place before you can go even farther.

Do we have a draft document that tells us what we will put in the public hearing?

Molly Just said she is concerned that we are putting the cart before the horse. I am not sure that the Planning Board fully understands the project, unless they have had a chance to discuss the project privately amongst themselves and whether you would like to do that before this goes to public hearing.

Chris Vantiotis said he did not want the Board to think that we wished to set a public hearing before all items had been discussed. We thought this was the purpose of this

evening to have these discussions. I understand that it is late in the evening, but we are all here tonight that if you had questions about the Comp Plan language or the contract zone language we could have some discussion tonight.

I certainly did not suggest that if you are not ready to move forward with a public hearing on the Comp Plan or the contract zone that we were not trying to push you into doing it.

When I discussed our initial goal was to wrap all of the issues at the end of this session with you, not at the beginning and only if you are ready due to the long notice period required by the State of Maine for changes to the Comp Plan.

As far as the format of the proposed changes to the Comp Plan you could attach what you have been provided in your packet to the Public hearing notices.

Ed Reidman the Board does not need to schedule a public hearing this evening. The Chair of the Planning Board has the right to schedule a public hearing at his or her discretion. If the language is prepared and can be seen before I make that decision and I will gladly schedule that public hearing on a date that is convenient. We would be looking at the second meeting in June, given the thirty day notice for the comp plan.

Asked staff if we will be ready in thirty days and have this meeting on the 17th of June, if not it would be the first Tuesday in July.

Molly Just said she would like to name by topic and not go into some of the issues that need to be reviewed, discuss and make recommendations on before hearing comments and concerns from the public and that would allow the Planning Board to have a better grasp on the project. The first meeting of this project was a more public gathering and the Board has not had a chance to discuss the project, to the degree you find sufficient before hearing public comment.

1. Conformance with Comprehensive Plan. The applicant has submitted a request to amend the Comprehensive Plan recommendation for this property. The proposed project is not in conformance with the recommended use mix, amount of development, or open space requirement.
2. Use Mix. Staff recommends a more balanced use mix. This should not necessarily be achieved by increasing the total amount of development. A ratio or percentage of several larger use categories (e.g. retail, restaurant and entertainment, office and residential, other) should be required for each phase to ensure that each phase would have an appropriate mix of uses and community amenities in the event that that were the last phase. This would help ensure a project that could thrive in a variety of market conditions and that would have activity during more hours of the day, which would help support the community amenities on the site.

Analysis of Proposed Permitted Uses. At the recommendation of staff, the applicant has added multi-family dwellings and home occupations into the list of permitted uses and has removed Restaurant Class 1 (drive-thru), Retail Class 4 (gas station with food store) and Telecommunication Towers . Staff recommends that Automobile Repair be expressly prohibited as a use. Staff continues not to support allowing Bank Class 1 (drive-thru). The applicant describes the proposed project as a destination where people would park once and make use of multiple uses on the site. A drive-thru bank is not a destination; it is an errand that people make on the way to someplace else. In

addition, this would not necessarily be an attractive option for someone seeking the convenience of a drive-thru bank as getting into the site from the Westbrook Arterial would not be convenient enough for that one drive-thru errand. An internal (not pad site) branch bank with an exterior ATM would be better suited for an actual destination.

3. Phasing could be based on provision of the use mix ratio and provision of a certain amount of community amenities. The applicant has submitted an updated phasing scheme as follows:
 - a. 2 years after the first 100,000 feet of commercial space is occupied an outdoor farmers market would be constructed.
 - b. No more than 800,000 square feet of commercial space would be issued a certificate of occupancy before a central common/outdoor gathering space has been constructed.
 - c. No more than 1.2 million square feet of commercial space would be issued a certificate of occupancy until an indoor ice skating facility, arena or similar civic facility has been constructed.
4. Open Space. The applicant proposes to count the overflow parking area as open space. Staff does not support this since the project does not meet the minimum landscape requirement of the existing Zoning District (40%) or of the Comprehensive Plan (30%) even with including the overflow parking area. Every opportunity to increase the amount of open space, above 20%, should be explored.
5. Buffering. Staff recommends a deeper buffer along Stroudwater Street. A 100' buffer along Stroudwater Street and a 50' buffer along the side lot lines may be more appropriate between a large commercial project and a low-density residential neighborhood. This would also be included in the open space ratio.
6. Landscape Design. Landscaping should incorporate a low-impact design using native species and natural components.
7. Environmental Impact. This project should seek LEED (Leadership in Energy and Environmental Design) certification. LEED certification would be a marketing tool for the developer, would reduce the overall environmental impact of the project on the City and the region and would set a standard for environmental achievement throughout Maine.

LEED certification provides independent, third-party verification that a project meets the highest green building and performance measures. All certified projects receive a LEED plaque, which is the nationally recognized symbol demonstrating that a building is environmentally responsible, profitable and a healthy place to live and work.

There are both environmental and financial benefits to earning LEED certification.

LEED-certified buildings:

- Lower operating costs and increased asset value.
- Reduce waste sent to landfills.
- Conserve energy and water.

- Healthier and safer for occupants.
 - Reduce harmful greenhouse gas emissions.
 - Qualify for tax rebates, zoning allowances and other incentives in hundreds of cities.
 - Demonstrate an owner's commitment to environmental stewardship and social responsibility.
8. Parking. A thorough analysis of the appropriate amount of parking based on the use mix must be conducted to ensure that the project is not over parked. Parking is one of the highest expenses of a large project. Parking costs most often take away from funds that would have been targeted toward the public realm (open space treatment, the quality of the farmers market space, streetscape treatment, and architectural and façade details). This should be explored further at the Site Plan level. Staff does not support “overflow” parking on the fair ground (southern end of the property).
9. Performance Standards.
- Minimum Lot Size. Minimum lot size is not necessarily relevant to this project. However, there should be minimum site plan size to ensure that project impacts on the transportation system, the community and the environment are considered in a holistic manner and in large enough pieces to ensure a viable mixed-use project.
- Lot Width. Minimum lot width is not necessarily relevant to this project.
- Setbacks. Staff recommends no front setback requirement but recommends not allowing parking (structured or surface) on the Arterial frontage. Staff recommends a 100’ rear setback in addition to the buffering called for in the proposed project. Staff recommends a 50’ side setback.
- Maximum Height. Staff recommends a maximum height that would *include* architectural features and penthouse mechanical equipment. A 75’ maximum height may or may not be appropriate and should be further discussed.

There are a lot of issues that need to be discussed; it is not just zoning language. This looks like a fantastic project on paper, full of people, places to hang out, places to eat, places to live, work and recreate. We need to think about how those components work together. I urge you to consider these issues before making your recommendation.

Anna Wrobel said there are a lot of components and the project is massive and should not be rushed through the process. I would like to see a lot of discourse on this before we offer contract zones or changing anything. I would like to see tough discussion and a lot of clarification between us. I would like to have some guidance on the process as to guide us through the proceedings.

Molly Just said I would be happy to facilitate that. There is one critical thing to keep in mind, this is a contract zone. This project will be implemented at the site plan level. There are components that are not appropriate to discuss at this level simply because the project is very big right now and do not propose to build it all in one day. This will be built over time and needs a conceptual approval.

The issues that I am laying out are the conceptual “bigger picture”. Once you understand the bigger picture you provide the foundation for approving site plan incrementally later on. The purpose right now is just the contract zone; it is the big picture fundamentals. I do feel you need to understand them. Discuss them and put your print on them.

Rene Daniel asked if there is a possibility to have workshops to have more discussion amongst ourselves so we can come to clarity.

Molly Just asked what you mean for workshops. In my limited experience here, workshops allows for more public comments. Do you want to have Planning Board meetings where I provide you with a couple of interrelated topics that you work through?

Rene Daniel said we have had educational workshops in the past, with out seeking public input. Is it possible to have that type of workshop instead of a public workshop?

Ed Reidman said the rule that we operate under is “our rule”. In the preliminary stage we can hold an educational workshop for the Planning Board, with no public comments allowed.

Rene Daniel said I have many questions to ask and I am extremely exited that this project is here in Westbrook. I need further education with this project, to make sure that what we are doing is going to benefit everyone. Seeing that end, I do not want to slow the project down. I do not want the developer to change their minds and find a different location. Want to bridge it so we still and go forward, get educated, and continue to move ahead.

Molly Just said this type of meeting will be productive and can be managed.

Chris Vantiotis said to some extent we thought we would do tonight what the Board is requesting to have a dialog to discuss what the Planner has outlined. Some of which we have addressed in the April 10th letter. We would welcome the opportunity to have a workshop with the Board, to have a dedicated amount of time to cover this list of issues. We are prepared to answer any questions but due to the length of the meeting and we understand it is late but if you could put us on a forth coming agenda in the relatively near future we obviously would like to get this moving. We will talk to you about whatever your questions are and the Planner can prepare a list of the topics and we can address those. I just think this is a matter of scheduling

Ed Reidman said in his experience with the City of Westbrook that on large projects with many concerns the Planning Board could meet four times a month, twice a month in regular session, on a two week schedule and twice a month on a two week schedule to give the Board and the Developer the opportunity to process a large project. I am sure that my fellow Board Members would consider this for a short duration that meets the needs of the project and staff.

Paul Emery said four meetings a month sounds good, to me if necessary, but could we start a little earlier than 9:50 PM.

Ed Reidman said if we are to have the extra meetings that would be the only item on the agenda.

Rene Daniel asked the developer on you proposed Industrial District II under #1 is this exact code language we have now?

Chris Vantiotis yes the language with either underling or strike out is the current language we have now.

Rene Daniel if I may indulge the Board; I promised Christine Latini that I would invite the Board members and to anyone who is listening to attend the Ground Breaking for the Westbrook Middle School between 11:30 and 12:30 at the present site on Stroudwater Street.

9. Resume Regular Session

10. Adjourn

*Respectfully submitted by Linda Gain PECE Secretary
MINUTES MAY NOT BE TRANSCRIBED VERBATIM. SECTIONS MAY BE PARAPHRASED FOR CLARITY. A COMPLETE
RECORDING MAY BE OBTAINED BY CONTACTING ENGINEERING, PLANNING AND CODE ENFORCEMENT at 207-854-9105
ext. 220 and lgain@westbrook.me.us. THANK YOU*