



City of Westbrook

DEPARTMENT OF PLANNING

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**WESTBROOK PLANNING BOARD
TUESDAY, APRIL 7, 2009, 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),

Absent: Scott Herrick (Alternate), Greg Blake (At Large), Michael Taylor (Alternate), Anna Wrobel (Ward 4), Cory Fleming (At Large)

Staff: Molly Just, Richard Gouzie, Eric Dudley

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

Public Hearing - Final Site Plan – 21 Ash Street – MacLeod Structural Engineers, P.A., on behalf of Strategic Maintenance Solutions for a 3-story office building on a 0.28-acre parcel located at 21 Ash Street, a vacant parcel of land behind 795 Main Street. Tax Map: 33, Lot: 142, Zone: City Center District and Village Review Overlay Zone.

Project Description The proposed development is part of the Rotary Trust Housing Project, a program in which the Westbrook-Gorham Rotary Club would design, permit and construct the road to benefit the Westbrook Regional Vocational Center. Over the next few years, students in the Center's building trades program would construct single-family residences on lots 130, 131, 132 and 133. The City retains ownership of the remaining lots on the paper street and the applicant is not proposing development on those lots. The proposed development also includes build out (of the portion on the subject property) of an existing informal trail that leads from Dale Avenue to the future Middle School on Stroudwater Street. Construction of the trail and any fencing requested by future homeowners would be at the sole expense of the applicant.

Background – In May and June of 2008 the Planning Board provided initial feedback and guidance on this proposal in advance of the applicant obtaining right, title or interest in the property. Feedback centered primarily around the applicant build out of an existing informal trail and concern over whether or not all available lots on the balance of the paper street should be developed.

Since that time the City Council adopted updated standards for development on substandard lots, which are lots that do not meet current size requirements. The project as depicted in the plans appears to comply with the updated standards. However, building elevations are not provided and shall comply with the following height parameters for substandard lots:

- Building height shall not exceed the average height of houses in the immediate neighborhood in existence prior to the proposed subdivision or individual home.
 - The immediate neighborhood is defined as:
 - On the same side of the street, by counting six houses to the left, and six houses to the right of the proposed building; and
 - On the opposite side of the street, by counting the house most directly opposite the proposed building, and then counting six houses to the right and six houses to the left.

Review of Paper Street Development - The construction of existing lots on pre-platted subdivisions was introduced into the Land Use Ordinances as a means to achieve the Smart Growth goal of infill housing. Infill housing is seen as a means to allow growth in traditional urban centers. This helps to support urban centers, and increase the efficiency of existing utility infrastructure. At the same time, this new housing contributes to the stock of housing that is located in neighborhoods within walking and bicycling distance of services.

Per Section 406 – Review of Paper Street Development, if the proposed development meets the Code requirements for development on paper streets and the applicant proposes no changes to the lot size or configuration then a project may be approved administratively so long as there is not a request for Planning Board review by an abutter. The applicant specifically requested Planning Board review of the proposed development. Abutters have been notified regarding this proposal.

Review Standards.

- A. Storm water. Adequate provision has been made to collect, treat and dispose of stormwater such that the rate of flow onto properties in the area shall not exceed those existing prior to the construction or improvement of the paper street.
- B. Street Construction Standards. The proposed extension of Dale Avenue meets the requirements of Sec. 502.5C (Design Standards for Streets and Private Rights of Way). This is an existing paper street that was approved under a prior Ordinance. Please see the attached memo from the Fire Inspector for comments on the proposed extension of Dale Avenue.
- C. Erosion Control. The proposed project shall incorporate the best management practices for erosion control and shall not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

- D. Lot Development. The project shall include 8 street trees distributed both sides of Dale Avenue along the lot frontage.
- E. Provision of Open Space. The plan includes maintaining and improving, at the applicant's sole cost, an existing informal trail that eventually connects the High School and the future Middle School. This complements current efforts underway by local and regional trail planning groups to link the two schools and ultimately to connect the City to the Sebago to the Sea Trail, which will run from Sebago Lake to Portland. The Site Plan for the new Middle School depicts a trail connection and this would help to ensure that the trail becomes a reality.
- F. Water and Sewer Capacity. The project shall be served by existing public water and sewer. The applicant has verified that there is adequate water supply and the City Engineer has verified that there is adequate sewer capacity.
- G. Traffic. The proposed paper street will not cause unreasonable highway or public road congestion or unsafe conditions.

Brian Beaudette MacLeod Structural Engineers, P.A., on behalf of Strategic Maintenance Solutions, presented aspects of the project located at 21 Ash Street for a 3-story office building on a 0.28-acre parcel located at 21 Ash Street, a vacant parcel of land behind 795 Main Street. Tax Map: 33, Lot: 142, Zone: City Center District and Village Review Overlay Zone.

Strategic Maintenance Solutions is a reliability engineering firm founded in 2000. The firm employs seventy-five consultants around the world and services include the implementation and validation of enterprise asset management and enterprise resources planning systems for life sciences and bio technology, oil, gas and discrete manufacturing.

SMS has been in the Dana Warp Mill building since the year 2001 and they require additional office and conference room space as well as better access to parking which is why the owner of SMS came to us for a design for 21 Ash Street. SMS is excited about relocating to this newly constructed office building in the heart of downtown Westbrook.

The building is a three story office building. The overall dimensions are seventy-two feet by forty-two feet. The building is forty-seven feet on the tall end and it is thirty-seven feet on the short end which is the side closest to Main Street. The construction type according to the building code is 5 B unprotected. Each floor is two thousand nine hundred seventy-six square feet for a total of eight thousand nine hundred twenty-eight square feet. The occupant load based on the one hundred square feet per occupant is thirty per floor which is a total of ninety. The stairwells are designed to be one hour rated and the building would be sprinkled per the City of Westbrook due to the square footage being over seventy-five hundred square feet. The windows will be white vinyl, possibly Paradigm. It will have integrated "j" channels behind the window trim and corner boards will be ten inch vinyl which will also have the hidden "j" channels. The vinyl siding will be by Allside, we chose a coastal sage color and it will be four inches to whether which is the exposed surface. The trim will be PVC simulated wood with hidden "j" channels and the roof will be thirty year asphalt roofing by CertainTeed.

The retaining walls facing the parking lot will be covered with Owens Corning cultured stone veneer. The front stairs that will lead from a public walkway down to the parking lot will be blue stone with stone risers and black hand rails.

Bruce MacLeod MacLeod Structural Engineers this project is in the City Center District with the Village Review Overlay Zone.

The design of the project was designed with a joint development agreement which is an agreement with the owner of the property, City of Westbrook and Westbrook Housing Authority, to develop the subject property and the adjacent property owned by the Westbrook Housing Authority.

Public access to this site and also to the river walk area is provided by continuing a sidewalk that comes down from Main Street and goes past the old funeral home. There is a sidewalk and a series of stairs that provides access from Main Street. There will also be a sidewalk from the building to the existing sidewalk along to the river walk, to provide the residents access to the river walk area.

The site in this area is steeply sloped and in general the site slopes downward to the river. To facilitate access we have two sets of stairs with steel handrails on both sides.

As part of the joint development agreement a new parking area and curb cut from the Ash Street parking lot is provided to serve this building. In doing so a few spaces were removed in there radius area of the parking lot. Curb cuts were provided, entryway into the property with three spaces that include two handicapped spaces that serve this site. Our current site plan shows a sidewalk here so there is access through the Ash Street parking lot.

As far as any lighting there is existing lighting in the parking lot and we have some lighting provided at the entryways to the building. They are canned lights that are up underneath the entryway and shine down. On the back side of the building we have some down lighting that are wall mounted.

Stormwater management for the project was handled by the use of a rain garden at the lower elevation of the property. The water will be released into an existing ditch then to a culvert that empties into the Presumpscot.

As far as utilities we have access to public water which comes through the parking lot area. We have existing sanitary sewer that runs along the river way. The electrical and telephone is coming underground to our site. Trash removal will be handled by the occupants with the use of the dumpster on site.

There are a number of easements that are required for this project with the City of Westbrook, Westbrook Housing and Portland Water to maintain access for the public.

With regard to landscaping, we have provided a number of plantings, a few large trees on the lower part of the site. We have vegetation near the stairs and the embankment. Another feature id the retaining wall needed to provide access to the building and the lower level of the parking area.

There are three entrances to the building, a lower entrance that is handicapped assessable, and the main entrance which is essentially the second floor level and a walkway to the rear of building.

Ed Reidman Staff comments?

Molly Just I am seeing a couple of differences in the landscaping between the graphic shown and the graphic in your packet. This should be made a condition and reference this

plan date. It is not just your plan sets, it is other plans, representations and graphics that you have submitted. We need to make sure that we have the best plan prevailing.

On March 28th the Planning Board held a site walk. The current land owner and the Engineer were there and a couple of requests were made by the Planning Board:

1. Add a sidewalk from the area of the onsite parking.
2. Handicapped parking is on the most recent plan set.
3. Change in tree plantings to a Japanese Maple

These changes have been made.

Ed Reidman at this point we are ready to start the Public Hearing, is there anyone who cares to speak?

John Gallagher I am the Executive Director at Westbrook Housing. I am here tonight to speak in favor of this project and to give you some context to the three party agreements that has been alluded to.

We were asked to become involved with an agreement with the City of Westbrook to help develop the Old Hay Funeral Home site and the adjacent buildings.

The lot we own is 33-142A. In the three party agreements the City asked for us to give them a right of way in the future if they wish to access the two parking lots, Ash Street and Foster Street parking lots which the City owns and we have a lease agreement with the City for that parking space. As part of the agreement, the City has given us and High Tech Builders access off the Ash Street parking lot to enter both the bottom side of the High Tech property as well as the back side of 142 A for the purposes of future development for housing.

With that we have entered into several agreements dealing with access and easements for utilities. We believe that this project and in the near future when you see ours you will agree that it is a good addition for downtown.

No further comments

Public Hearing Closed

Rene Daniel just for the complete transparency, before we get into the regular meeting, I am an employee of Westbrook Housing and I am going to ask the Board tonight if I can vote or not. I am not going to get a bonus or a promotion from this project. I just want to make sure that is very transparent.

The other thing I need to say is thank you Bruce for Saturday. I think you did an excellent job. Just a few questions, as Molly indicated that the three trees that abut or are in the parking area. Because of site distance and you have people parking there and in the near future, there maybe another driveway coming out of there. Are all three of the trees going to be Chinese red maples?

Bruce MacLeod I am looking at the landscaping plan and these are two Liberty Elms and the Chinese red Maples are back here and up here we have a couple more Chinese red Maples. Then we have three Liberty Elms, two on one side of the walkway and one on the opposite side of the walkway.

Rene Daniel I am concerned about the site distance. Site distance, depending on the tree and how low the cover is it can make it difficult. I know that Chinese red Maples are awesome.

The last time you were here I asked about the rain garden. When I asked what type of ivy and how many plants will be planted, the answer I got was enough to cover. When I ask Rick Gouzie and Molly to go out and make sure you did it, enough to cover means nothing. At some point in time, I want to see a number on this plan.

Ed Reidman any further questions?

Dennis Isherwood there was a few things that I had some issues with this property.

1. Handicapped accessibility the two floors that are not handicapped accessible. It is seventy-two square feet short of where they would have too. No one has stepped up to the plate done anything to this beautiful property.
2. The proposed road going through.

Maybe Mr. Dudley can explain how he is going to prevent this being a cut through.

Eric Dudley that issue is still to be determined, that has been a concern from day one. We are still looking at whether or not it makes sense for that to connect from the parking lot at Foster Fields to Ash Street. I think that when and if Westbrook Housing comes forward with their project we will have those issues ironed out.

Dennis Isherwood thank you, and thank you Bruce for the site walk as you did get beat up pretty bad. We enjoyed the answers and it was a good site walk.

1. Call to Order
2. Approval of Minutes

Rene Daniel moved to approve the minutes as presented Tuesday March 17, 2009

2nd by **Dennis Isherwood**

The vote was unanimous in favor 4-0

Consent Agenda: Note – Public comment will be accepted for this item.

3. Review of Paper Street Development - Dale Avenue – Sebago Technics, on behalf of the Westbrook Rotary Club, for the extension of Dale Avenue (a paper street) to provide access to six lots of record for the construction of four single-family homes. This development is consistent with the provisions of Sec. 406 Review of Paper Street Development. Tax Map: 8A Lot: Portion of 5 (Existing Lots 130, 131, 132). Zone: RGA-1.

Dan Riley I am with Sebago Technics on behalf of the Westbrook Rotary Club, presented aspects of the construction of the extension of Dale Avenue (a paper street) to provide access to six lots of record for the construction of four single-family homes.

The project is part of the Westbrook-Gorham Rotary trust building program in which the rotary trust undertakes the development of the street, acquisition of the lots to benefit the Westbrook Regional Vocational Center students in the building trade program. They construct single family homes on each of the lots over a two year period. It is a fifty year program that the Rotary has been undertaking and is the longest of its kind in the country. The Board may recall that we were before you last year. The Board did not approve the plan at that time pending a couple of issues, one was the Rotary Trust acquiring the title and interest in the property and the second was the City Council was reviewing design standards for houses built on substandard lots and the third issue was the resolution of a walking trail on site.

I think the Board is aware of the project so I will be brief with some changes to the project since the last time with you. The proposed project extends Dale Avenue one hundred and sixty-five feet. The City Council agreed to have the Rotary Trust the rights to acquire the property. As part of the City Council's agreement with the Rotary, the Rotary Trust agreed to construct a walking trail across the easterly side of lot 133. The trail has been moved slightly so it will be built entirely within a sewer easement that already encumbers the easterly side of the property. We have proposed a plan to create an access easement that overlays that easement. There will be a privacy fence constructed on lot 133 by the Rotary Club or the owner of the lot.

Those are the changes proposed for this project and I will be happy to answer any questions.

Ed Reidman questions from the Board.

Dennis Isherwood on lot 133 where the trail has been moved, will that be inside the canal?

Dan Riley it is on the west side of the canal to the base of the existing embankment.

Dennis Isherwood I do not see anything that says the Rotary will rebuild that bridge.

Dan Riley the bridge was not discussed.

Dennis Isherwood maybe that would be a good addition and it would be good experience for the school children to learn to build a bridge.

Dan Riley the Rotary will be amenable to building the bridge as part of the trail construction if the Board would make it a condition.

Rene Daniel I would like to talk about the trees. It looks like you are planting eight trees. There is a lot with no trees and a lot with only one tree.

Dan Riley we discussed that the last time. What we are proposing is we will install a total of eight trees but because of the narrow frontage and the potential of utilities conflicts. We have discussed that with staff and we will install them uniformly as is on the plan.

Ed Reidman at this point...

Molly Just I want to make sure the intent is consistent with the plan, the first sheet of the plan shows four trees on the south side of the road and four on the north side of the road.

Dan is you can make it clear on number eight of the same page it talks about one tree per lot which would not get to the trees on the north side of the street. That is just administrative.

Ed Reidman I have a disclosure; the current president of the Westbrook-Gorham Rotary is my wife, if anyone has any objection to my voting on this...

No objections

Paul Emery further disclosure; I am incoming president of the Rotary.

Ed Reidman this is a unique situation where the Board has not reviewed this type of paper street development.

What I am proposing is if the Board is ready and prepared to vote on this:

Ed Reidman moved that the Board has reviewed the standards set in Section 406 Review of Paper Street development and accepts that plan for development on the condition that the approval is based on the materials presented to the Board.

2nd by **Paul Emery**

The vote was unanimous in favor 4-0

Continuing Business

4. Site Plan – 21 Ash Street – MacLeod Structural Engineers, P.A., on behalf of Strategic Maintenance Solutions for a 3-story office building on a 0.28-acre parcel located at 21 Ash Street, a vacant parcel of land behind 795 Main Street. Tax Map: 33, Lot: 142, Zone: City Center District and Village Review Overlay Zone.

Summary The subject property is located behind 795 Main Street and abuts the City parking lot on Ash Street and the Presumpscot River. The property will have an Ash Street address. The proposed project includes a 3-story wood framed office building with a gable roof design, vinyl siding and trim. The subject property is being developed per a Joint Development Agreement between the owner, the City and Westbrook Housing to provide an access road between Ash Street and the Westbrook Housing property to the Post Office property.

The proposed building would have three entrances, two from the City parking lot on Ash Street and a third at the rear of the building. The applicant would be the primary occupant of the building, using the third floor. The first and second floors would be leased to tenants.

Update. The Planning Board conducted a Site Walk for this project on March 28th.

- The Planning Board expressed concern that the entire building would not be handicap accessible due to the lack of an elevator. Staff shares this concern. However, the base level of the building would be accessible to those using a wheelchair and the first floor may be accessible to those of moderate physical limitations.
- The members present encouraged the applicant to place a sidewalk from the handicap parking spaces to the base level entrance. This change has been made.
- A suggestion was made to change the Cockspur Hawthorne tree to a Chinese Maple tree on the Landscape Plan. These trees would be located at both ends of the building, one end being in the area of the small on-site parking area proposed for the project. This change has been made.

VILLAGE REVIEW OVERLAY

Overview. Strategic Maintenance Solutions is requesting Village Review Overlay Committee (“Committee”) support and Planning Board approval for the construction for the proposed 3-story office building to be located at 21 Ash Street in the City Center District and Village Review Overlay Zone (“VROZ”). The VROZ requires Committee consideration of and Planning Board approval of such a project. The Committee has reviewed the request and recommends that the Planning Board approve the project.

Dennis Isherwood moved the Village Review application for 21 Ash Street on Tax Map: 33, Lot: 142 is to be **approved with conditions** with the following findings of fact:

- (1) Scale of the Building. The scale of the building depends on its overall size, it’s mass in relationship to the open space around it, and the size of its doors, windows, porches and balconies. The scale of a building must be compatible with its site and neighborhood.
 - The scale of the proposed building is consistent and complimentary to those buildings and open space surrounding it. The landscape plan and generous wooden steps to the front door provide a visual and textural transition between a large public parking lot and a building that intends to blend into an historically significant building fabric.
- (2) Height. Change in the building height can have a negative impact on how a street appears. While maintaining a particular height is not required, changes in height must be visually compatible with the streetscape and the neighborhood.
 - The building height is consistent with that of surrounding buildings.

- (3) Rhythm of Front Facades. In reviewing any façade, the pattern of doors, windows and wall surface, their height and width, should be visually compatible with the neighboring structures.
- The rhythm of the facades is consistent with and complimentary to that of surrounding buildings.
- (4) Relationship of Façade Shapes and Materials. The relationship of façade shapes and materials should be considered in relation to the surrounding neighborhood. In particular, the rhythm of shapes, pitch, and orientation to the street on which the structure fronts should be maintained.
- The façade shapes and materials are consistent with and compatible to that of the surrounding buildings and neighborhood.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated February 20, 2009, plans dated December 14, 2008 and updated to March 30, 2009 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.
2. Prior to issuance of the first Building Permit the applicant shall provide to the Planning Department copies of all required easements as recorded in the Registry of Deeds.
3. The applicant will work with the Planning Department to determine the type and number of plantings that shall be located in the rain garden.

2nd by Rene Daniel

Ed Reidman does any Board member have any issues with Rene Daniel voting?

No issues

The vote is unanimous in favor 4-0

SITE PLAN REVIEW

Rene Daniel moved the Site Plan application for Strategic Maintenance Solutions on Tax Map 33, Lot 142 is to be **approved with conditions** with the following findings of fact and conclusions.

FINDINGS OF FACT

Utilization of the Site

- The site is located in an urban setting downtown.
- The site would be accessed from the City parking lot on Ash Street and would provide formal public access to the Riverwalk in this area.

Adequacy of Road System

- The proposed project would not place an undue burden on the road system.

Access to the Site

- Access to the site would be from the Ash Street public parking lot.

Internal Vehicular Circulation

- Vehicular circulation would primarily be on public property and the proposed project would include an access road for future public access between the Ash Street parking lot and the Post Office property.

Pedestrian and Other Modes of Transportation

- Adequate.

Stormwater Management

- The applicant proposes to build a rain garden behind the new building to provide best management practices in stormwater management.

Erosion Control

- Adequate.

Utilities

- The applicant shall work with the City to obtain easements for access and connection to public utilities. The various easements are depicted on Sheet SP-7 of the Site Plan.

Hazardous, Special and Radioactive Materials

- N/A

Technical and Financial Capacity

- A letter of financial capacity has been provided.

Solid Waste

- Solid waste pick up would be the responsibility of the owner.
- If an outdoor dumpster is proposed, it must be depicted on the plan and screened.

Historic, Archaeological and Botanical Resources

- N/A

Landscape Plan

- Adequate.

CONCLUSIONS

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

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated February 20, 2009, plans dated December 14, 2008 and updated to March 30, 2009 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.

2. Prior to issuance of the first Building Permit the applicant shall provide to the Planning Department copies of all required easements as recorded in the Registry of Deeds.
3. The applicant will work with the Planning Department to determine the type and number of plantings that shall be located in the rain garden.

2nd by Paul Emery

The vote was unanimous in favor 4-0

5. Site Plan Extension – NAPA Addition – Gorrill-Palmer, on behalf of Genuine Parts Company, for an extension of the Final Site Plan approval granted on April 4, 2006 for the construction of a 46,000 S.F. addition to the building located at 180 Larrabee Rd. Tax Map: 42A, Lots: 11 and 11B, Zone: Gateway Commercial.

This project received Final Site Plan approval on April 4, 2006. In accordance with Westbrook's Ordinance, this gave the applicant one year in which to commence the project and two years to complete it. The original approval would have expired on April 4, 2008 however an extension was requested and granted through April 4, 2009. Due to existing tenant leases on land that must be used for the addition, the applicant requests Planning Board approval of an additional extension. Please see the attached letter dated February 16, 2009 for further information regarding the request. Staff has no issues with this request.

If approved, the correct motion would be to extend the approval date for completion of the project to December 30, 2011.

Maureen McGlone with Gorrill-Palmer, on behalf of Genuine Parts Company, explained the need for an extension of the Final Site Plan approval granted on April 4, 2006 for the construction of a 46,000 S.F. addition to the building located at 180 Larrabee Rd. Tax Map: 42A, Lots: 11 and 11B, Zone: Gateway Commercial.

In order to complete this addition, they needed to purchase 160 Larrabee Road. On that existing piece there are three buildings that are currently occupied. We were before you in 2007 asking for an extension. Since then there are two remaining long term tenants, the largest of which is Enterprise Rent a Car. Their lease is up in October of 2010. Genuine Parts has extended and requested the release of lease but at this point there has not been any movement in that direction. We are looking again to extend the site plan approval until after the tenants have moved from the site.

Ed Reidman any questions?

Rene Daniel for clarification: can you repeat what you said about the buildings on the additional site?

Maureen McGlone there are three buildings at the 160 Larrabee Road location that have tenants. Currently there are two tenants that have long term leases. There are also some short term leases that are month to month. Enterprise Rent a Car lease is up on October 2010 and the other tenant's lease is up next month.

Ed Reidman any other questions or comments?

Dennis Isherwood I am curious why you are continuing to ask for one year extensions? You have been before the Board in 2006, 2007 and 2008. I am just curious, why?

Maureen McGlone the information was presented back in 2008 and that same tenant would not be out until 2010, but the Board granted a one year extension so then we came back again in hopes that you will extend it to 2011 so we do not have to come before you again.

Unidentified speaker the importance of that site for Enterprise Rent a Car has to do with street frontage. It has been our belief right along that there would not let that go until the end as this is a very good location as they do rent to most of the dealerships in the area.

Dennis Isherwood I guess the issue I have is the first time I saw this was April 4, 2006 where we went into detail discussions of what was happening out there. Now we have done on four and a half years and I am reluctant to grant another extension.

Rene Daniel moved to table this item

2nd by Dennis Isherwood

The Vote was unanimous in favor 4-0

Rene Daniel moved to recess to workshop

2nd by Dennis Isherwood

The vote was unanimous in favor 4-0

6. Recess to Workshop

Workshop: Note - Public comment will be accepted during workshop.

- 7. Land Use Ordinance – Section 201 Definitions, Section 204 Non-Conforming Uses and new Section 311 Light Manufacturing District – The intent is to establish a new zoning district to promote the vision for the area south of the Stroudwater River, between Saco and Spring Streets and generally north of the Central Maine Power line easement. The vision includes expansion of the high-tech business and**

manufacturing sector and the prevention of negative impacts that would detract from the area as a high-tech manufacturing and business park.

Summary The City Council has referred to the Planning Board for consideration and recommendation the creation of a new zoning district generally in the area running between the power lines and the Stroudwater River and between Saco and Spring Streets. The new zone would enable the continued fulfillment of the vision for this area to expand as a high-tech manufacturing/business park. The new district would be more consistent with the City's vision for the growth of high tech businesses in this area of the City, as well as the other commercial uses that already exist in the area and would prevent nuisance-like impacts on the area that would likely accompany an increase in heavy industrial uses.

The subject area would be rezoned from Industrial Park District to Light Manufacturing District (see attached provisions). The only change to the performance standards would be to add a maximum height where currently there is none and additional environmental controls to minimize the impact of outdoor storage, noise, odors and vibrations.

The new zone would not permit heavier industrial uses, would not permit mining and mining-related activities and would continue to prohibit warehousing. Existing non-conforming uses could continue to operate and expand on the site so long as the current performance standards are met. In addition, non-conforming uses can be replaced on the same site if an existing non-conforming use is sold.

Process. In order to implement the proposed provisions the following changes to the ordinance would also need to be adopted and are outlined in the attached draft language:

- Addition of the Light Manufacturing definition to Section 201.56;
- Addition to Section 203 of provisions regulating expansion of a non-conforming use outside of a building to prohibit expansion beyond that previously approved; and
- Addition of the Light Manufacturing District, new Section 311.

Ed Reidman as the Public knows this is a controversial issue; it has been before the Board of Appeals and is still before the Board of Appeals. The decision was to be made in March and has not been made as of yet.

I am proposing to the Planning Board that we move very cautiously with regard to what we are going to do. The bottom line is the Planning Board does not institute a new zone. We will make a recommendation at some time in the future to the Westbrook City Council for their consideration and Public Hearings in order to determine what they would like to do with the materials we will present to them.

It is my intention to start that process tonight, realizing that at some point we will have to leave it on the table because the legal matters are not clear. In all fairness to the Public here, the Public at home, the Council and ourselves; we can not have the final Public Hearing until anyone has issues in the Court.

It is my intention to start tonight and go around the boundaries as proposed by the staff for the new district. Once we get to the Public Hearing we can deduct land or

language from what we are presenting. We can not add so that is why I have proposed to the people that are here tonight that we start and we work our way around the boundaries to see if we want to add anything to it. The first thing that came to my mind is should we put Public Services into it.

I have asked Mr. Gouzie to put the proposed zone up on the screen and if I were to pick a spot to start on Saco Street on the Stroudwater River and move from there out to Saco Street and see what the Board has to say in regard to that.

The first piece of land as you cross the Stroudwater River headed out Saco Street there are houses on the right hand side up over the hill from the rivers edge up to the brick house and on the opposite side of the street there are also a series of houses that proposes to use the back property lines of those houses with the exception is the piece that is next to Mr. Usher on the river side and also a piece that is part of the Five Star industrial Park which is the vacant part at the corner of the Five Star Industrial Park on Saco Street.

My concern is should the Public Services piece and the machine shop, Brackett Machine be included in this zone.

Are there any comments from the Board?

Rene Daniel are we talking about that entire strip of land heading towards Gorham?

Ed Reidman I am only talking about the two lots, one is the Public Services lot and the other one is Brackett Machine Shop.

Rene Daniel if we go towards Gorham away from Saco Street. That is a fairly large lot.

Ed Reidman there are restrictions along the river area...

Rene Daniel personally, I would like to include that and I would like to hear from other members to see what they think.

Richard Gouzie that is the Shoreland Zoning.

Ed Reidman the Shoreland Overlay Zoning along the river area which means that you can not build within...any permanent structures Mr. Gouzie? You can timber harvest but no building within how many feet?

Richard Gouzie 250

Rene Daniel what is the nearest roadway on the Gorham side?

Richard Gouzie this is Merganser Street off of Harrisburg off of Longfellow Street.

Paul Emery on the side of the river past the two hundred and fifty feet abutting Merganser Drive, what is that presently being used for and what to you ultimately see the use which I presume is City owned land?

Rick Gouzie this piece here is not being used at all.

Molly Just there are no current plans for a change in use for what it is now natural.

Ed Reidman is that part of the school lot?

Richard Gouzie no, it is part of Public Services

Paul Emery that is all Public Services by the definition of the lot lines, so at the least it would serve as a buffer added onto the river between anything happening on the Saco Street side. If you were to change that to include that as part of the zone affectively boarded by Richards Street and the river; I do not have a problem with that.

Molly Just talking about zoning set back, the building set back is seventy-five feet from river.

Ed Reidman if we were to include those two lots the boundary would be along Richards Street to the river.

Paul Emery to the river at least

Ed Reidman it is protecting green space.

Paul Emery I am sure the City will cease it as part of the parks area.

Molly Just most likely

Ed Reidman is there anyone from the public wish to add their opinion about including those two properties?

No comments

Sigmund Schutz I believe this parcel is part of the Idexx TIF approved in 2006.

Richard Gouzie that is not the property, we are talking about the Public Services property.

Sigmund Schutz within the TIF district

Ed Reidman with the TIF agreement between the industry and the municipality there are certain advantages to the industry and certain advantages to the municipality which funds could be earmarked to be used on special projects.

What the speaker is referencing: if improvements were made on the Public Services Facility the money for the TIF could possibly be used for it.

Sigmund Schutz that is correct

Ed Reidman I would say the TIF has no affect on what the zoning is.

If we cross Eisenhower Drive there are a series of individual houses that are along the left hand side headed towards Scarborough and Gorham and the indication here is the proposed line would be along the back property line where they abut Idexx. As you go beyond that there are the power lines and then there are two pieces of property adjacent to the power lines and I assume one is the pump station and I do not know what the other one is.

Richard Gouzie it is a single family home

Ed Reidman is we include for the present time we could also change and move around it, were it necessary. As I spoke of earlier, if need to delete something we can, but we can not add something. I would ask the staff to see if that adjustment should be made.

The next piece of property is the newly developed Industrial Park that is on the left hand side as you are going out Saco Street. Then we have what I am going to call the old Yudy's building on the left hand side, that says it is number one on our map and is called building supplies. The next lot that is not numbered is the lot the condos are on, 700 Saco Street. That line should be moved adjacent to the drywall building. I do not see that we should place a residential area in the Light Manufacturing Zone. The large piece of land that is adjacent to it, out back of Eleanor Street is the former land fill of the City. I do not see that being used and is forever closed and could only be used for recreational purposes.

Paul Emery I believe that is where the Police practice shooting.

Ed Reidman would we be better off to follow along side of the new industrial park there appears to be a right of way. Would it be better to go to the other side of the right of way along in that area other then the side closest to Saco Street?

Molly Just you have lost me.

Ed Reidman if we go in Eleanor Street and take a left at the far end then went along the right of way...

Molly Just so you are saying do not include the CMP right of way.

Ed Reidman no, includes the CMP right of way.

Molly Just you are saying where the boundary includes the CMP right of way currently, include it the rest of the way to Eisenhower to include all of the CMP right of way?

Ed Reidman on the copy of the map; behind lot one back shows it coming along side of the closed City Land Fill turning towards Eisenhower Drive, to the new Industrial Park. Where it hits the right of way, make a turn to the far side closer to Spring Street rather then closer to Saco Street.

Rene Daniel who owns the pyramid shaped lot, between the right of way and the old ...

Richard Gouzie Smiling Hill Farms, is this the piece you are looking at?

Molly Just no

Warren Knight Smiling Hill Farm, I believe the piece you are discussing is here and that is part of the Westbrook Heights Business Park.

Rene Daniel Warren, how about the pink pyramid shaped lot? Is that Smiling Hill Farm?

Warren Knight yes, that parcel was part of the Waterhouse Farm and that is why it is shown there as a separate lot.

Ed Reidman the proposal as shown there is to go back along that triangle piece and stay along the red line there, which takes it to the far side of the utility right of way.

Molly Just so you do want to include the right of way.

Ed Reidman yes, because no one is going to build on it and it acts like an additional buffer between anything that happens.

Ed Reidman we are coming across the right of way where it comes to Calpine staying on the right of way line to Calpine where they have developed on that piece. Then the question is do we cross over or stay on the utility easement. There is a parcel along lots 29 and 30, lot 29 is Pike Industry and lot 30 is the Blue Rock Stone Center. That is on the Spring Street side and that takes us down to the corner of County Road and Spring Street where all that land is CMP land. I would ask the Board to think about going that far to include that piece within the zone.

Molly Just we intentionally did not include the CMP property. We did not feel that was necessary and that is why we did not include the right of way, to make it clean. The character of the area is very different, in staff's opinion then for the manufacturing park.

Ed Reidman I am not opposed to the idea; I am just putting it on the table. At this point we are working on the back property line of Pike and Blue Rock Stone over to Spring Street along the County Road side of Blue Rock Stone. At that point the zone is shown to travel along Spring Street all the way to the river.

Rene Daniel I have no problem with Spring Street and the river being one of the boundary lines but I do have a problem with the power lines being one of the boundary lines.

Ed Reidman center lines of streets are common zone boundaries. Centers of creeks or rivers are common boundaries. Power lines can be used as a boundary.

Any public comment of the definition of the zone?

Gary Swanson 67 Oriole Street I do not know what the borders of the industrial park are, but I think you were asked to re-zone that. To start bringing these other properties on Saco

Street in like Public Services, the residential land and another machine shop, none of these people have been contacted. They do not know this is even in the air. If you are trying to recreate industrial park then just rezone what is there.

Ed Reidman basic answer as I recall the Industrial Park begins Stroudwater River on Saco Street and follows the proposed line with one exception up to Eisenhower Drive from there up to the power lines... I do not think that Calpine was part of the original limits of the Five Star Industrial Park.

Molly Just could you repeat the question?

Ed Reidman what was the original limits of the Five Star Industrial Park?

Molly Just entire area has been zoned industrial since before this Ordinance including the two residential lots. They are currently zoned Industrial and have been for quite some time. Rick has turned on the zoning layer on the aerial photography that is in green, the gray is the existing Industrial Zone, the red is the CMP right of way, the lighter yellow is Residential Growth area One, the darker yellow to the west of Saco Street is zoned Residential Growth Area Two.

Ed Reidman thank you

Rene Daniel can you go over what you said about the portion of Spring Street is that also zoned Industrial?

Molly Just everything that is gray is Industrial Park District.

Rene Daniel so all the homes on County Road are Industrial? Warren can you help us out with finding the Copperwaite Farm?

Warren Knight Smiling Hill Farm that is correct there are only three residences left that would include the Copperwaite, the Nobles and the Larsons as well as any of the residents at Smiling Hill.

Molly Just just to clarify south of Stroudwater River, west of Saco Street to Portland excluding a few residential areas that we have identified south and north of Eisenhower that entire area is zoned Industrial Park District.

Ed Reidman the Mayors house is in the Industrial Zone.

Molly Just that is correct.

Rene Daniel Gary is there any difference in the Industrial Park Zone or the Industrial Zone? Or are both the same? Is there any difference between the Industrial Park Zone and the greater zoning? Is it all one zone, or two separate zones? If we were asked to just discuss the industrial park or the whole thing, is that what we were asked to discuss?

Ed Reidman that is a question for Staff, what did the Council ask us to do, come up with a new zone?

Molly Just the staff had already come up with a draft of the new zoning district, which also includes a map change that includes a proposed boundary. The City Council needs a recommendation and a vote on what is proposed. Obviously you can recommend changes to that. The City Council as you are aware, can adopt the version you send to them or make changes, or completely start over.

Rene Daniel if that is what we are asked to do, I like the Chairman's theory on doing exactly what we are doing now. Then we are really focusing on a local area.

Ed Reidman I think we have gone around and we will address this again when we approach some resolution. The next time we meet we will go over the occupants of the proposed occupants as stated on the map. We have a list of thirty-one occupants not necessarily owners and we need to address what they do and to make sure in our current Land Use Ordinance that there are descriptions of what they do.

I am looking for definitions of uses, so the Code Enforcement Officer can do his job properly. There are a lot of uses that were not defined and because we put some of the changes in a conditional zone that does not make it part of the general ordinance. We will have to do that if we find those gaps there.

Do you have a date for the next upcoming meeting?

Molly Just I am going to recommend the first meeting of May.

Ed Reidman I am going to ask the staff to prepare something to send to the City Council and it relates to Section 2-276 of the ordinance:

Sec. 2-276. Interrelation of city council and board.

... When the council directs the planning board in writing to study and report back on proposed revisions or amendments to ordinances, the board shall make its official report to the city council within sixty (60) days unless a longer period of time has been granted by the council...

I am going to ask that the memo be sent to the City Council as a request from the Planning Board that they extend that deadline to sometime beyond the completion... I am going to ask Natalie; my concern is if there are protracted court cases as a result of the Board of Appeals that we will exceed that deadline.

Natalie Burns you are not tied in to what the Board of Appeals is doing. The Board of Appeals is reviewing a decision of the Code Enforcement Officer under the current ordinance. The fact that there is such an appeal does not preclude this Board from looking at the current ordinance and recommending changes nor does it preclude the City Council from making changes to it.

If there is a concern on the Board's part of the timing of the Board of Appeals, I would say that is not something that you need to be concerned about. You should focus on what you feel you should do and what you need to address once staff needs to provide to you so you can make a thorough recommendation. There is no timing issue as far as you are concerned other than what you just noted in the Ordinance

Ed Reidman I understand what you said. If the decision of the Board of Appeals is appealed, the City can still go right ahead and enact a new Ordinance?

Natalie Burns yes and the distinction is that this Board serves in two different roles, one of them is when you are reviewing site plans and subdivisions you are serving in a quasi judicial manner, the other thing that you do is in the legislative function and that is when you are making recommendations on a zoning ordinance, on any amendments and on a map changes. The City Council only works on the legislative area. Zoning changes are legislative and that is something that the State Law says and the law court has told us on several occasions, it is purely a legislative function on zone changes. What the Code Enforcement Officer has done up and what the Board of Appeals does is all quasi judicial, the one does not tie the hands of the other.

Ed Reidman again I understand what you are saying, but you have not answered my basic question, if Mr. Gouzie's decision is upheld, if Mr. Gouzie's decision is not upheld, there is a probability that it may go to court. If we work and create the zone and make our recommendation to Council, can they act upon it before the Court has ruled on the appeal?

Natalie Burns yes they can

Ed Reidman then we will proceed with caution.

Rene Daniel have you come to clarity on how you want us to proceed?

Ed Reidman I want you to think about any other changes and if you agree or disagree on what we have talked about this evening. I do not think we have added anything in but we have talked about adding in the Public Services and the machine shop, we talked about adjusting the zone line on to the lower red line of the CMP right of way on the left of the map then crossing over to the other line to the corner but we have not made a firm decision which will not be done until we hold our Public Hearing and then vote.

Sigmund Schutz Attorney for Pike Industries, before this meeting is adjourned I think there are concerns that everyone on all sides of the issue have and that is the structure on how we go forward and how public comment will be taken, how comments from experts will be taken. Because this zoning proposal from our perspective is targeted like a laser beam to one particular user and that is Pike Industries.

My question or request from the Board is what guidance can you give us going forward as to the Board's expectations from us, for information that we may offer to the Board, from the general public and I think Attorney Plouffe who is here for Idexx, has in

the past shared similar concerns and requests to the City's Counsel and we defer to the Board entirely and appreciate this opportunity to ask this question.

Ed Reidman procedurally as we go along and the next time we will work on the definitions of what will be in the zone, whether they are ultimately included or not that will be with our final recommendation.

The procedure to get there as long as we work in workshop any one can stand up and tell us what we need to hear. We would hope that the legal minds will join with our legal mind to create the definition so we can represent the type of uses within the park. Once we arrive at a series of definitions and the boundary is set in the zone we will present the entire document to go to a Public Hearing. At that Public Hearing we will sit and listen to anyone that wants to make a proposal to us. Once the Public Hearing is closed that will be it, the Board will decide what we are going to do then we will send it to the City Council.

Once the City Council receives it is up to them as to what happens. As to receiving expert testimony, I would expect that to come at the Public Hearing.

Sigmund Schutz would the Board consider giving or allocating a block of time to proponents or opponents so we may be prepared to present testimony in an orderly fashion? Would that be helpful to the board?

Ed Reidman the staff indicates that something like that could be worked out.

Molly Just can I ask how we will determine general comment will be. Would you rather that it be sooner as in the first May meeting or later.

Ed Reidman later, I would like to go through the definitions first as we did with the Stroudwater on. We defined everything and everyone came to a relative common goal on what we were going to do. Then we debated if certain uses were to be allowed in that zone. I see that being the point where the opposing parties will talk about what they want to do.

Paul Emery moved to resume to regular session.

2nd by Dennis Isherwood

The vote was unanimous in favor 4-0

8. Resume Regular Session

9. Adjourn

*Respectfully submitted by Linda Gain PECE Administrative Assistant
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
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