



City of Westbrook

DEPARTMENT OF PLANNING

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**WESTBROOK PLANNING BOARD
TUESDAY, JULY 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), Anna Wrobel (Ward 4), Cory Fleming (At Large), Scott Herrick (Alternate), Paul Emery (Ward 3)

Absent: Greg Blake (At Large), Michael Taylor (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. Chairman Reidman explained the purpose and the process of a Public Hearing.

Public Hearing - Site Plan, Subdivision and Special Exception – Forest Street Apartments - Sebago Technics on behalf of Twin Four, LLC, for construction of two buildings, each containing four rental residential units on an approximately 0.97-acre parcel located at 210 Forest Street. Tax Map: 34, Lot: 9B, Zone: RGA-1.

Herb Spach good evening members of the Board, staff of the City and guests. I am the principle of Twin Four LLC. My wife and I are from upstate New York and wish to move here to be closer to my son's family and two grandchildren. We are familiar with the area as six years ago I built my son's home in Portland. Our plan is to build two four unit apartment buildings. Each apartment will include two (2) bedrooms, one car garage and plenty of parking on the premises. These will be rental units, catering to professionals. One unit will be owner occupied, so as to be available to the tenants. I look forward to this project being a positive addition to the neighborhood as well as stimulating the local economy.

Shawn Frank Sebago Technics on behalf of Twin Four, LLC, presented aspects of the construction of two buildings, each containing four rental residential units on an approximately 0.97-acre parcel located at 210 Forest Street. Tax Map: 34, Lot: 9B, Zone: RGA-1.

This parcel according to the Ordinance is prime for infill development, to create a certain density of residential units that will provide the residents access to the downtown area.

What we are proposing is an access off Forest Street twenty four feet in width, a drive way access into the site. As you may recall when we first presented this to the Board we had the units more spread out, we have pulled them together some what to create room for maneuvering and to provide parking. As stated there will be a garage for each of the units. There is also a parking space outside of the garage as well as an overflow parking space.

From a landscaping aspect, the intent is to buffer this driveway and the parking spaces as well as the buildings from Forest Street as well as to provide a nice entrance to the buildings.

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The utilities have been stubbed to the property, in terms of water and sewer; those will be extended to the property to provide the utilities as well as to sprinkle the buildings.

Storm water has been an issue in a prior discussion. The site generally drains out in this direction, this is the old Hawkes Street extension, right now there is a water and storm line that goes toward Hawkes Street, a Municipal storm drain line that is about twenty four inches in size, actually outlets and goes into a forty-eight inch diameter pipe that goes across the Saunders property. What we will be doing is putting a small treatment pond within this area, a dry pond. The intent is to hold on to the first runoff and hold that about a day to percolate to an under drain system. From that we have an outlet control structure as well to collect the remainder of the run off and will be connected directly into the Municipal Storm drain system. The front of driveway will be collected on a catch basin located up here and connected to an existing catch basin system on Forest Street that is connected to the Municipal Catch basin as well.

We are not proposing any lighting for the site except for the building mounted lighting. We will have a new utility pole located at the intersection because the existing power is across the street, from there we will go under ground to service the two buildings.

Michael Hayes, Grant Hayes Associates Architects on behalf of Twin Four, LLC presented the building design aspects.

As presented earlier, there are two building with four units in each building, with two units on the first floor and two units on the second floor. In front of the main living area are the two, two car garages. They are connected with a roof over a covered porch with a canopy that serves as the main entrance into the building.

This plan is the second floor plan that has a central corridor that serves all four units. Each of the units, on the rear side has either a deck, balcony or portico.

The first floor plan exact same unit design on each as they stack directly and the first floor main lobby and stairwell are indicated here.

These are the two, two car garages that are connected by a covered canopy that enters into the front of the building.

The floor plans have been designed to meet the current codes, NFPA Life Safety, International Building Code and the International Residential code. We also have fully sprinkled buildings that have a fire alarm system in it. We have been up to the State Fire Marshalls office and reviewed the project with Rich McCarthy who has permitted at this time for construction.

The building also has a full basement which will be utilized as individual unit storage as well as utilities and common storage serviced by the central stair and fully sprinkled.

The exterior elevations; the front façade of the building basically is a wood framed building, meeting Maine State Energy Code minimum standards for insulation and performance.

We have the two, two car garages with some nice overhead doors with peaks that break up the mass elevation. The hip roof and the hip dormers help reduce the mass and scale so to give the building a more human element in size and proportion. We have also broken up the mass of the building by using different siding, such as clapboard shingles up top, slight color variation to break up the mass to make it fit well into the neighborhood. Darker colors draw the eye rather than lighter colors so again your eye is drawn to the base of the building keeping the scale down apposed to up top. We have treated all four sides of the building with equal importance as far as details that are on the front is wrapped to the back so you have the same architectural features.

The rear of the building has symmetry and a rhythm to the doors and the windows. The lighting is kept simple basically standard residential traditional, non-descript lighting at decks and on the front

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side to the overhead doors to the garage. The canopy has recessed pin lighting that shines directly down. All of our lights are cut off nothing bleeds out into the site.

Shawn Frank Mr. Chair that does conclude our presentation and we would be glad to answer any questions.

Ed Reidman any Staff comments at this point?

Molly Just only one comment, and is actually on the conditions of approval should you choose to go that route tonight. We would need to make sure that the requirement for the open space be reflected in the conditions and I can read the language for that condition when you are ready.

Ed Reidman at this point we are ready to take public input. Again, I would ask you to come to the podium and give us your name and address. If there are questions I will ask them at the end of the presentation.

Malcolm Noyes 214 Forest Street and have been living there for forty-one years. I felt compelled to come this evening to express several major concerns. My daughter at the last meeting addressed the better portion of these concerns. I have three that I would like to relate to you. When I was on the Council, verbiage or language coming from the Planning Board to the Council said that if you were to do anything with building it had to be compatible to the neighborhood. I feel, no offense gentlemen that this is not compatible to my neighborhood which is 90% single family residential units.

The other issue that I have talking about water run off and since the City put in all these lines already, so I feel I am up here for nothing. Since the Brown Company bought Saunders Mill and it has been cleaned up and they are good neighbors and have done a nice job up there, but they have tarred about three football field sized surfaces and it is all pitched to come down on the property that you are showing here. It is so bad now, in the past two years I have had to haul in loam to fill in my back yard, it has eroded it right out.

If this goes through I hope this Board that has special exceptions holds these contractors feet to the fire.

The third thing I have is that this is seventy five yards to a special needs school. I do not think this is a good spot for all these eight families on less than a one acre plot. I think this should be looked into.

These are my three issues with these units going in here. I thank you for listening.

Colene Noyes 64 Berkeley Street and for half the year I can see this parcel from my kitchen window, so I am somewhat an abutter.

First of all I wanted to say thank you for the work you did on the Wal-Mart property, the challenge there. You worked so hard and worked so long and you found something compatible with the neighborhood. Woodfords Family Services is a great fit for our neighborhood. It really is all about neighborhood and you have the ability tonight to make a decision. If I understand correctly from my research this neighborhood is zoned for single family, two family and three or more family requires Special Exception. As my father has already said the majority of the neighborhood is single family homes.

I think if you go down Forest Street, you will see several homes that are for sale that have been abandoned. So I am concerned about the flavor of neighborhood changing. We are in some tough economic times and if you look there is definitely transition happening. I think you need to think

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carefully before you grant permission for eight units. Eight units on .97 acres is not really compatible with the scope of the neighborhood.

As I do down Forest Street, I think this could be precedence setting as there are probably three other parcels on Forest Street that has enough land to do a similar development should they be able to procure the land. I think you need to give some serious thought to that.

Additionally as I think of eight units, two bedroom units, at a minimum you are probably talking sixteen cars, that is if there are two cars per unit but theoretically there could be four or more, so sixteen to thirty-two cars per day coming in to a parcel of land that is .97 acres is just not appropriate to the scope and size of the neighborhood. That does not include visitors or trips which I do not have the data of the number of trips a person makes but I think you need to think about noise.

It sounds like they have addressed lighting, which was another one of my concerns. To sum it up I think as an abutter, neighbor is really the scope of the property. Eight units on less than an acre of land to me is just not in keeping with the neighborhood. For a Special Exception to be granted for a multi-unit I think if I read the zoning language correctly, it referred to three units. To go from three to eight is a huge jump in my opinion and something I hope you would give some serious thought to.

Kim Pearson 56 Cottage Street, on the corner of Cottage and Forest just down the street from the project. I would concur with the last comments. I think the size and scope is too big for that parcel of land.

I am concerned with the number of cars and I am concerned with the amount of traffic on Forest Street.

While I applaud the looks of it and the intent for professionals and educators, I am also concerned that we need to address the needs for low income and elderly housing in the City. But for this particular plot of land in the area that it is, I think eight units is far too much for the parcel of land.

Ed Reidman I have a quick gavel, does anyone else care to speak?

Public Hearing

Ed Reidman one of the questions or concerns that I heard was in regard to traffic and noise that will occur from traffic.

Shawn Frank yes Mr. Chairman, again all we can do is base this on past experience and the ITE Manual. I certainly appreciate this statement but our anticipation is no more than two cars per unit. Our anticipation as this will be owner occupied and he will have good control of the renters. According to the ITE Manual, we are looking at fifty-six trips from this site based on the apartments. You basically look at seven trips per day per unit. Again, if you just looked at standard residential homes you would be looking at ten trips per day. The ITE Manual is based on studies across the Country looking at apartment units vs. single family homes is about 70% of that. Based upon our review we have determined that the average trips coming out of the project will be fifty-six trips on an average daily basis and would not diminish the neighborhood.

Ed Reidman Mr. Noyes talked about run off and erosion and you talked about run off in your original presentation, can you expand upon this?

Shawn Frank from Mr. Noyes stand point, the water is all coming down to that area there is no doubt about that. I can say by the re-grading of site I can say we can improve the drainage for this particular

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piece of property. We will be intercepting that run off by putting it in a defined drainage swale. The soil directed to this treatment pond and the rest to go directly to the first pipe and give it a direct path to the municipal system. Also because we do have full basements that will have foundation drains. Due to the elevation we will have pumps associated with those foundation drains. The nice thing about foundation drains is they work twenty – four hours a day, seven days a week so this can help to hold down the ground water located in that area and make the soils a little more acceptable that may be coming there. This will be directed to the municipal system.

Ed Reidman do any Board Members have nay questions?

Paul Emery what is the anticipated depth of the pond, assuming the weather we have had in the past three weeks?

Shawn Frank the pond itself will be a dry pond. The intent of the pond is to accept run off during a rain storm. If we went out there today you would have about two and one half feet of water in that pond. After the rain stopped

Paul Emery is that two and one half feet in depth?

Shawn Frank yes

Paul Emery so you will have a two and one half foot pond there,

Shawn Frank during a rain fall event.

Paul Emery it has not stopped raining this month in thirty-three days. I am concerned about is a nuisance. Are we in fact creating a hazard for the children in the neighborhood? Is there anyway of dealing with that issue?

Shawn Frank what we design this as a gradual slope, a three to one slope coming off the berm. This is not an overly deep pond. The ides if you will is not to have children falling in without being able to crawl out. They are not vertical slopes, they are somewhat gentle. You cold mow that slope by hand with a hand mower. I appreciate the fact that this has been an extremely wet month but again the idea of this during a good rain storm event... once the rain stops you will have eighteen inches of rain at the bottom of this pond. That water will be held for about eighteen hours to twenty-four hours as it percolates to the bottom of the pond and into the under drain and thereby gets the treatment. It will not be a permanent pond; the intent of this is to be a dry pond in normal circumstances. We are in the balancing act to treat and detain run off as best we can associated with development trying to minimize any impacts you may say as an attractive nuisance for the neighborhood.

Paul Emery what happens if you can not contain the water? As I understand you are adding more impermeable space.

Shawn Frank we are defiantly adding impermeable space.

Paul Emery do you have any calculations

Shawn Frank we have an overflow control structure associated with this pond. The intent of that outlet control structure is to let these larger storms go. Obviously we can only detain to a certain storm event; once we get to a certain storm event the idea is to allow that to pass into the municipal system. A positive aspect is it is a direct connection to the municipal system from the treatment pond into the municipal system via that outlet control structure. It will be contained within that area and anything over that will go to the outlet control structure into the municipal storm system.

Paul Emery thank you

Ed Reidman any other questions from the Board at this time?

1. Call to Order

Continuing Business

2. Site Plan, Subdivision and Special Exception – Forest Street Apartments - Sebago Technics on behalf of Twin Four, LLC, for construction of two buildings, each containing four rental residential units on an approximately 0.97-acre parcel located at 210 Forest Street. Tax Map: 34, Lot: 9B, Zone: RGA-1.

Ed Reidman we opted not to have a site walk for this project and we have just had our finished public hearing and the item is now before the Board. You have the Planning Directors memo with the indication of a series of motions to be made.

If we deny the approval, we need to state the reasons. Also the Conditions at the end are our standard conditions plus we need to add a second condition which would cover the Recreation and Conservation portion for the project for the donation of “x” amount of dollars to that. That condition would have to be added to all three motions.

What is the number?

Molly Just \$3,278.00

Ed Reidman for the public this is to enhance the open space for the City of Westbrook and we have always included the Recreation and Conservation’s recommendation in our approval.

Rene Daniel how many times have you been before the Board with this project?

Shawn Frank this will be the third time.

Rene Daniel I am just noting the silence from the Board. I am just wondering what is causing that.

Could you speak about landscaping?

Shawn Frank we will retain as much of the vegetation as possible and we will be putting in a new swale discussed for drainage. We are not showing every piece of landscaping but we are showing the required landscaping. There are three large trees that will be retained. We are proposing a series of trees on either side of the driveway. We also have a proposed buffer for the over flow parking and the property line, we provided a screen along the side of the building between the building and the residence along Forest Street. The intent of the interior is for the nice internal entrance to the property to fit in with

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the architecture. We are showing the minimal landscaping as required on site. It would be the intent of the applicant as things work out to add as required based upon what is left if you will while working with the potential tenants of the building.

Molly Just Mr. Daniel, if I may interrupt, the applicant has increased the landscaping since the project first came forward and in addition they agreed to at the time of planting, plant more mature plantings than what they had originally planned on. So the landscaping would reach maturity sooner and would be hardier.

Rene Daniel did they provide you a number on the landscape plan?

Molly Just the number is on the landscape plan as well as the size of the plantings.

Rene Daniel so they have increased it since we saw it last?

Molly Just correct

Rene Daniel increased the buffer

Molly Just pines were added and buffer to the Noyes property has been added since the project first came before you.

Rene Daniel how about the Wilson property?

Molly Just the buffering has been enhanced on both abutting properties.

Rene Daniel rain garden instead of a pond, did you give consideration to a rain garden?

Shawn Frank the issue to a rain garden is just the size, water coming off an abutting site as well the amount of water we are looking at a rain garden just from an engineering perspective will not take that type of run-off. That is why in this case we went with a more formal under drain pond.

Rene Daniel how about signage?

Shawn Frank we are not proposing any at this time and are not showing any on the plan.

Rene Daniel so the drainage situation is greater than what it was when you first came to us or you have more information to realize there is a need for more drainage.

Shawn Frank I think the whole discussion had been to look at the possibility of a rain garden. I think as we got more into the actual specifics and in the design calculations negotiated with it then it was determined the rain garden was not an appropriate When you are looking at treatment for storm water run off you have only four or five things you can look at; infiltration of the soils (not acceptable in this situation), rain gardens, an under drain pond (what is proposed here) or a wet pond (which we did not think was appropriate). Our intent here was to have an amenity that was capable to accept the run-off to this property and hopefully get rid of the water in an expeditious manner.

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Rene Daniel do you recall how many recommendations the Board made to you? How many of the Boards recommendations did you considered?

Shawn Frank we considered all of them. The one issue we did have was the issue with the rotation of buildings, fronting them towards Forest Street. We did prepare a plan but not submit to the Planning Board review. What we looked at basically is that it takes up more space. Obviously what you need now is a drive coming down to the front of the buildings, the maneuverability associated with that because we can not share the common area between the buildings, it becomes more difficult to direct the drainage to one spot, it seemed to create more problems then what it was solving.

We did take into consideration everything that we heard from the Board. We looked at this very strongly and we understand everyone's concerns. Infill development is a wonderful thing, until it actually occurs in your neighborhood. Why we considered this area is we noticed the transition in this neighborhood from residential, to the commercial development in the rear of the neighborhood. This provided that stepping, if you will from single family, duplexes higher residential density to a commercial.

Rene Daniel if I remember the first presentation was very similar to what is there now, except the buildings are moved closer together.

Shawn Frank yes, this was our initial presentation to the Board. I did try to minimize the impact of the foot print. As I discussed we did look at the re-orientation of these buildings. You can see, it appeared to us, this design would be impacting more of the site. With this orientation of the buildings we looked at moving the drive between the buildings but there was not much room left align the drive and the maneuverability ... it created more problems then it solved. Yes it is much the same as the first layout we proposed to the Planning Board. Based upon this option, we thought it was the more appropriate design aspect to be presented to the Board for this site.

Rene Daniel thank you Shawn, I just want you to know that I have some concerns about eight units on this parcel that is less than one acre.

Paul Emery I grew up in a single family neighborhood which had at one end of it a commercial development that had an eye sore of a building which was replaced with a brick building which was slightly less of an eye sore. I like single housing. My question would be... I have a yes and a no in my hands, the no is one thing that bothers me is the eight units is the ahh... the intentions are good but if ownership changes there is no burden on the subsequent owner to maintain the property. It is bad enough for a single family eye sore, but to get into a six or eight unit would bother me. Reflecting on the comments of the abutters; looking at the landscaping plan on the bottom of the easel is Forest Street. Where on the plan is Forest Street? I want you to stand at the front of the entrance of Forest Street, what are you actually seeing?

Shawn Frank you will be seeing the commercial development on the other side.

Paul Emery do you see any buildings?

Shawn Frank yes commercial development.

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Paul Emery do you see any residential units? You can not change commercial to another zone. Now move fifty feet to the right or fifty feet to the left, what do you see of that eight unit building from Forest Street?

Shawn Frank the top and some of the trees.

Paul Emery now go the other way.

Shawn Frank again some of the same view, maybe the edge of it.

Paul Emery in my mind this would be compatible with the 90% single family neighborhood, from what you can see driving up or down Forest Street, unless you live in the two houses on either side of the driveway, essentially you will see part of a building.

Shawn Frank yes I agree

Paul Emery if you can handle the drainage and handle the traffic, with the landscaping and the placement of the building it does not become a looming mass on Forest Street, I would be inclined to support a motion to grant a special exception.

Cory Fleming what is the length of the driveway from Forest Street to the building site?

Herb Spach one hundred and seventy-five feet

Cory Fleming you said you are not planning commercial signage and I understand given the residential flavor of the neighborhood. Do you plan on having some sort of street signage that will identify this as being 210 Forest Street at the base?

Herb Spach just a small sign at the end of the drive saying 210 Forest Street, so when you are driving down the street you could identify it, nothing large.

Cory Fleming thank you

Ed Reidman according to the survey plan, sheet one, it is one hundred and twenty-five feet from the property line at the edge of Forest Street to where the property widens out.

Shawn Frank just to be specific Mr. Chair, from the edge of Forest Street to the house is one hundred and forty-five feet.

Anna Wrobel what is the cost of the apartments of each rental unit?

Herb Spach the rental fee would be in the area of twelve hundred a month.

Ed Reidman questions or comments

Does the Board have any objections to Ms. Hilton asking one question?

No objections

Colleen Hilton I think at the last meeting there was a different diagram that talked about visitor parking. My question would be what is the allocated parking spaces and where would the parking spaces be for visitors?

Ed Reidman Mr. Frank

Shawn Frank that was a specific question of staff as well and actually it is on site plan. From the edge of this landscaped spot we actually have the eighteen and one half feet which is the requirement for the City of Westbrook parking spaces. What we have is eight parking spaces within the garages. We have a nine by eighteen and one half parking spaces on each side of the garages, so another eight or sixteen total plus an additional four overflow, so twenty parking spaces including the individual parking spaces in the garages. The intent of that, if you think of your typical street with a driveway on either end of that this is actually wider between the landscaping and the twenty-four feet to keep people moving and more room for maneuverability.

Ed Reidman we have a long agenda and a motion would be in order.

Scott Herrick move the Subdivision Plan application for Twin Four, LLC, on Tax Map 34 Lot 9B is to be **approved with conditions** with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION AND SEWERAGE DISPOSAL

- The applicant must submit a letter from the Portland Water District indicating sufficient capacity for disposal of waste water.

B. WATER

- The applicant must submit a letter from the Portland Water District indicating sufficient capacity and sufficient capacity for fire protection.

C. SOIL EROSION

- Adequate.

D. TRAFFIC

- Trips generated by the proposed project would not be a significant burden to the adjacent roadway.

E. SEWERAGE

- Sewerage would be via the municipal wastewater system.

F. SOLID WASTE

- Trash would be the responsibility of the property owner.

G. AESTHETICS

- Appearance Assessment:
 1. Project to Site – The units fit well on the site.

2. Project to Surrounding Property – The front of the units may be viewed while passing the property entrance on Forest Street. While the architecture is different from nearby homes the materials and style are of a high quality and the 2-story height of the buildings would complement the surrounding homes.
3. Landscape Design – Adequate.
4. Lighting – Adequate.
5. Signs - Any project name sign should be ground mounted and set back from the road. Internal signs should be building mounted or should be placed on cedar posts.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive plan – The subject property is located within the Residential Growth Area 1 which encourages infill development in those areas, such as the subject property, which are currently served by public utilities and are located in proximity to goods and services. based need areas.
 - Recreation & Open Space – The Recreation & Conservation Commission reviewed this project and recommend approval of the project and the provision of a fee in lieu of open space in the amount of \$3,278.00.
 - Fire Code: Adequate
 - Community facilities impact analysis – If required.

I. FINANCIAL AND TECHNICAL CAPACITY

- Adequate.

J. RIVER, STREAM OR BROOK IMPACTS

- None.

CONCLUSIONS

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.
8. The proposed site plan **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed site plan **conforms** with a duly adopted site plan regulation or ordinance, comprehensive plan, development plan, or land use plan.
10. The developer **has** adequate financial and technical capacity to meet the standards of this section.

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11. The proposed site plan **is** situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. The proposed site **is** situated entirely or partially within a floodplain.
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision **have** a lot depth to shore frontage ratio greater than 5 to 1.
18. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision **will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
20. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.
21. The proposed subdivision **will not** negatively impact the ability of the City to provide public safety services.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated April 14, 2009, plans dated April 14, 2009 and updated to May 13, 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. That a fee in lieu of open space in the amount of \$3,278.00 be paid to the City of Westbrook prior to issuance of the first building permit.

2nd by Paul Emery

The vote 5-2 (Dennis Isherwood and Rene Daniel opposed)

Scott Herrick move the Site Plan application for Twin Four, LLC, on Tax Map: 34, Lot: 9B, is to be approved with conditions with the following findings of fact and conclusions.

FINDINGS OF FACT

Utilization of the Site

- A driveway, parking area and two buildings would encompass the middle of the property with an open space buffer exceeding the required setbacks at the ends of the property, which is shaped like a “T”.

Adequacy of Road System

- Adequate.

Access to the Site

- Access to the site would be from a twenty-four foot wide driveway off of Forest Street.

Internal Vehicular Circulation

- Adequate.

Pedestrian and Other Modes of Transportation

- The property is located off of Forest Street which includes sidewalks and is wide enough to accommodate bicycle traffic.

Stormwater Management

- Stormwater runoff from the property flows overland to a tributary of the Fore River or enters the municipal stormwater system and is discharged to the same tributary. With the development of the property an under drained grass filter detention basin would be utilized to provide treatment of the runoff from the impervious and landscaped areas. This provides both stormwater quality and quantity control. The basin incorporates an outlet to convey excess runoff. All stormwater discharged from the basin will enter the municipal stormwater system.

Erosion Control

- Adequate.

Utilities

- (1) Any changes to the utility system must remain underground.

Hazardous, Special and Radioactive Materials

- N/A.

Technical and Financial Capacity

- Adequate.

Solid Waste

- Solid waste will be the responsibility of the property owner.

Historic, Archaeological and Botanical Resources

- N/A.

Landscape Plan

- Adequate.

Others

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 April 14, 2009, plans dated April 14, 2009 and updated to May 13, 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. That a fee in lieu of open space in the amount of \$3,278.00 be paid to the City of Westbrook prior to issuance of the first building permit.

2nd Cory Fleming

The vote was 5-2 (Dennis Isherwood and Rene Daniel opposed)

Scott Herrick move the Special Exception application for Twin Four, LLC on Tax Map: 34, Lot: 9B is to be **approved with conditions**:

- 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
- 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.
 - While the project includes 8 units, which is more units than exist on nearby properties, the units are incorporated into 2 quality buildings that have the appearance of single-family homes.
 - The project should not significantly devalue abutting or nearby properties.
 - The proposed project would not significantly worsen traffic conditions or impact public utilities.
- C. Effects of Land Use. That the use granted will:
 - (1) Maintain safe and healthful conditions.
 - Yes.
 - (2) Not cause water pollution, erosion, or sedimentation
 - Yes.
 - (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.
 - The project would not affect tree cover shared by adjoining residential properties. Some existing trees would remain and additional trees and other plantings would be added to the property.
 - (5) Not burden on-site septic or off-site waste disposal.
 - The project would connect to the municipal sanitary system.
 - (6) Not burden existing public ways.
 - The project would not burden existing public ways.

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- 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 would include buffering from adjacent residential properties and colorful and low-maintenance landscape areas for the benefit of the future residents of the project.
 - (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.
 - The project would 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.
 - The project would 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.
 - The project would 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 would 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 entrance on Forest 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.
 - Adequate resident parking would 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.
 - The project would 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 April 14, 2009, plans dated April 14, 2009 and revised to May 13, 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. That a fee in lieu of open space in the amount of \$3,278.00 be paid to the City of Westbrook prior to issuance of the first building permit.

2nd by Paul Emery

The vote was 5-2 in favor (Dennis Isherwood and Rene Daniel opposed)

3. **Site Plan and Subdivision – Presumpscot Estates – Sebago Technics, on behalf of Stillwater, LLC, for construction of approximately 39 condominium units on an approximately 56-acre parcel generally located at 536 Cumberland Street. Tax Map: 10, Lots: 5, 6 and 10, Zone: Rural District and Resource Protection.**

Subdivision and Site Plan – Presumpscot Estates

Background. The proposal included 35 single-family residential units as part of a condominium development being accessed from Cumberland Street onto a 56-acre property. The State-owned rail right-of-way bisects the property and the property backs up to the Presumpscot River. The project would include a trail to the Presumpscot River as well as a seasonal dock along the river and a community center with club house, pool, tennis court and basketball court for use by the condominium association.

Staff Comments on the Site Plan and Subdivision Plan:

1. The plans depict the relocation of an existing barn to serve as a gateway into the project. The applicant advises that this is no longer planned. The final mylar will reflect this change.
2. The Westbrook Trail Blazes snowmobile club depicts multiuse trails on the subject property. *The applicant would continue to allow public access to the multiuse trails until such time as the condominium association has majority control of the subdivision and votes to discontinue public access to such trails.*
3. In recent residential projects City staff has made an effort to ensure that no one unit owner controls land along rivers and other significant waterways. The Cobb Farm project is one example of a project where land along a waterway was conveyed to the City for public use and the land was accessed from within the project off of Methodist Road. The river is not privately owned and public access or ownership ensures that the resource would be enjoyed by a larger portion of the community and helps to ensure that the requirements of the Flood Plain Zone and Resource Protection Zone are met. *The applicant will grant a public access easement before issuance of the first building permit. The easement shall be in the area as depicted on Sheet 3 of the plans. The plans shall be revised before the final mylar to reflect that the easement would not be a “future” easement. The intent of the easement would be to provide public access to the property from abutting future trails. The easement would be for pedestrian access only. The easement would go to a public or quasi public (non-profit) entity. The trail would not be accessed or built on until such time as there is an abutting trail in the area of the river. The condominium association documents must be updated accordingly.*

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Ed Reidman we have had a site walk and a public hearing. Does anyone need for an explanation of the project?

Shawn Frank Sebago Technics, on behalf of Stillwater, LLC, presented aspects for the construction of approximately 39 condominium units on an approximately 56-acre parcel generally located at 536 Cumberland Street. Tax Map: 10, Lots: 5, 6 and 10, Zone: Rural District and Resource Protection.

We got together with staff to go over the Condominium documents as part of the proposed landscaping and lighting plan which is part of the plan set. We have talked to the abutter for an evergreen buffer in this area, proposed evergreens around the mailboxes themselves. If you recall we have increased the number of spaces at the mailboxes themselves. We are showing a minimum of two street trees to be installed at each unit, with a variety of street trees so we will not have a monolithic type of street out there. There will be four light poles, one at the mail box, the state land here, one at the intersection of the first cul-de-sac and one at the recreational facility. There will be individual driveway lights as required to have with each unit.

We were hoping to save the barn that is there and use that as an entrance, unfortunately that does not seem appropriate any longer, so the barn is not part of the proposal any longer, nor is the gate so it will not be a gated community.

We did meet with the Recreation Conservation Committee as you may recall we discussed with this Board to provide an easement at such time as the trail was ready to go and have agreed to establish that prior to the issuance of the first building permit, so that easement will be granted.

Those are the revisions that have occurred since our last meeting. We are here to answer any questions and Mr. Wilson and Mr. Latini of Still Water LLC would be requesting a final Subdivision approval. Thank You

Ed Reidman any questions or comments with regard to this project?

Paul Emery would you repeat again the reference to the Barn that is shown on your plans.

Shawn Frank it was the hope of the Developers to actually have the roadway go through the barn and create a nice entrance to the project. Unfortunately the best ideas and the physical limitations associated with certain things do not allow that. We took a harder look at it with other people and determined that is sounded good in theory but with the structural issues associated with it and the problems getting emergency vehicles and those types of things gave us more problems then creating that entrance, so we reluctantly have taken that idea out of the plan.

Paul Emery looking at the title sheet it is still there but on sheet three of seventeen underneath it there is a note.

Shawn Frank it was our intent at the last submission to have that there, this decision was just within the last week to ten days to omit that.

Ed Reidman we have two motions that are drafted for our use to be approved with conditions or denied.

Scott Herrick I need to recuse myself as our firm has represented Mr. Latini before.

Ed Reidman does the Board have any objections to Mr. Herrick recusing himself?

No objections

Cory Fleming moved the Subdivision Plan application for Stillwater, LLC, on Tax Map 10 Lots 5, 6 and 10 is to be **approved with conditions** with the following findings of fact and conclusions.

FINDINGS OF FACT

A. POLLUTION AND SEWERAGE DISPOSAL

- Adequate.

B. WATER

- Adequate.

C. SOIL EROSION

- Adequate.

D. TRAFFIC

- According to the applicant's traffic study the proposed development would generate approximately 29 trip ends in the weekday AM peak hour and 39 trip ends in the weekday PM peak hour and 36 trip ends during the Saturday peak hour. This level of traffic is significantly lower than the 100 trip ends that triggers a Traffic Movement Permit from the Department of Transportation.
- Sight distance exceeds the minimum requirements of the City of Westbrook. The City requires at least 300 feet with a speed limit of 30 miles per hour. Looking right from the site entrance onto Cumberland Street there is 590 of sight distance and 425 feet when looking left.

E. SEWERAGE

- Sewerage would be via the municipal wastewater system.

F. SOLID WASTE

- Trash would be the responsibility of the unit owners. This information must be included in the condominium association documents.

G. AESTHETICS

- Appearance Assessment:
 1. Project to Site – Adequate.
 2. Project to Surrounding Property – Adequate.
 3. Landscape Design – Adequate.
 4. Lighting – Adequate.
 5. Signs - Any project name sign should be ground mounted. Internal signs, such as parking, unit location directional, or stop signs, should use cedar posts for support.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive plan – The subject property is located within the Rural Areas section of the Comprehensive Plan. The emphasis of this district is to encourage preservation of the visual character of the district through coordinated development practices such as cluster development. The Comprehensive Plan provides the following guidance:

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- No direct driveway access to Cumberland Street for subdivided lots. *Individual units would not have access to Cumberland Street.*
- Lots shall retain a 50-foot undisturbed vegetative strip between the developed portion of the property and Cumberland Street. *The existing condition would remain on Cumberland Street.*
- All subdivisions shall provide two means of egress to a main road with a separation distance in excess of 300 feet. *This project does not have two means of egress.*
- All internal roads shall remain private in perpetuity. *The units would be accessed by a common driveway, which by its nature is private.*
- Developers may pay impact fees to be dedicated to construction or upgrading of emergency service facilities, recreational open space facilities, or other municipally-based need areas. *To be determined by the Planning Board.*
- Recreation & Open Space
 - The draft Recreation, Parks & Open Space Plan depicts a public trail on the existing MDOT rail right-of-way which bisects the property. The rail right-of-way is publicly owned and a public trail is under consideration by the MDOT. In the meantime, the right-of-way is used informally by the public for recreational purposes.
 - At its June 22nd meeting, the Recreation & Conservation Commission voted unanimously (5-0) to recommend approval of the project so long as the proposed easement was granted with the project approval rather than at some point in the future when a trail reached the property's boundaries. The applicant agrees to this timing and the appropriate timing is reflected in the conditions.
- Fire Code - The applicant is working with the Fire Inspector.
- Community facilities impact analysis – If required.

I. FINANCIAL AND TECHNICAL CAPACITY

- Adequate.

J. RIVER, STREAM OR BROOK IMPACTS

- The project must meet the setback requirements for the Flood Plain Zone, areas with significant vernal pools, and the Resource Protection District of the Shoreland Zoning Overlay.

CONCLUSIONS

1. The proposed site plan **will not** result in undue water or air pollution.
2. The proposed site plan **has** sufficient water available for the reasonably foreseeable needs of the site plan.
3. The proposed site plan **will not** cause an unreasonable burden on an existing water supply.
4. The proposed site plan **will not** cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
5. The proposed site plan **will not** cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.
6. The proposed site **will** provide for adequate sewage waste disposal.
7. The proposed site plan **will not** cause an unreasonable burden on the municipality's ability to dispose of solid waste.

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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 situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. *The proposed site is situated entirely or partially within a floodplain.*
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision **have** a lot depth to shore frontage ratio greater than 5 to 1.
18. The long-term cumulative effects of the proposed subdivision **will not** unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
19. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision **will not** cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
20. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.
21. The proposed subdivision **will not** negatively impact the ability of the City to provide public safety services.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated March 16, 2009, plans dated January 22, 2009 and revised to June 19, 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 convey a public access easement for a pedestrian trail in the area as generally depicted on the plans. The easement shall be granted to a public or quasi-public entity chosen in coordination with the City. The public pedestrian trail would not be usable or built until such time in the future as a nearby trail reaches the property line in the area of the easement. This must be reflected in the condominium association documents and on the plans.
3. The project must be completed by July 7, 2017 and the community center, including the club house building, pool, tennis court and basketball court depicted on the plans shall be completed

by the issuance of the Certificate of Occupancy for the 30th unit or by July 7, 2013, whichever comes first.

2nd Rene Daniel

The vote 5-1 in favor (Anna Wrobel opposed, Scott Herrick recuse)

Cory Fleming move the Site Plan application for Stillwater, LLC on Tax Map: 10, Lots: 5, 6 and 10, is to be **approved with conditions** with the following findings of fact and conclusions.

FINDINGS OF FACT

Utilization of the Site

- Units would be accessed from a common driveway extending from a street with recreation area in a cul-de-sac portion of the driveway. Environmentally sensitive areas would be maintained for the most part.

Adequacy of Road System

- Adequate.

Access to the Site

- The applicant's traffic study shows that there is more than adequate sight distance and capacity on Cumberland Street to accommodate the additional traffic generated by the proposed 39 units.

Internal Vehicular Circulation

- Staff recommends that all internal roadways be constructed to accommodate 2-way vehicular traffic with some potential for on-street parking for guests and the ability for the clearing of snow.

Pedestrian and Other Modes of Transportation

- A sidewalk is provided on internal roadways.

Stormwater Management

- Adequate.

Erosion Control

- Adequate.

Utilities

- Any changes to the utility system must remain underground.

Hazardous, Special and Radioactive Materials

- N/A.

Technical and Financial Capacity

- Adequate.

Solid Waste

- Solid waste will be the responsibility of the condominium association.

Historic, Archaeological and Botanical Resources

- Under review.

Landscape Plan

- Adequate.

Others

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.

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11. *The proposed site plan is situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, subchapter I, article 2-B M.R.S.A.*
12. The proposed site plan **will not** alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
13. *The proposed site is situated entirely or partially within a floodplain.*
14. All freshwater wetlands **have** been shown on the site plan.
15. Any river, stream, or brook within or abutting the site plan **has** been identified on any maps submitted as part of the application.
16. The proposed site plan **will** provide for adequate storm water management.
17. 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 March 16, 2009, plans dated January 22, 2009 and revised to June 19, 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 convey a public access easement for a pedestrian trail in the area as generally depicted on the plans. The easement shall be granted to a public or quasi-public entity chosen in coordination with the City. The public pedestrian trail would not be usable or built until such time in the future as a nearby trail reaches the property line in the area of the easement. This must be reflected in the condominium association documents and on the plans.
3. The project must be completed by July 7, 2017 and the community center, including the club house building, pool, tennis court and basketball court depicted on the plans shall be completed by the issuance of the Certificate of Occupancy for the 30th unit or by July 7, 2013, whichever comes first.

2nd Rene Daniel

The vote 5-1 in favor (Anna Wrobel opposed Scott Herrick recuse)

New Business

4. Amended Site Plan – SIGCO, INC - Deluca Hoffman, on behalf of SIGCO, Inc., for the construction of a 20,000 S.F. addition and a 4,875 square foot concrete pad on an approximately 7.17-acre parcel located at 48 Spiller Drive in the Westbrook Heights Business Park. Tax Map: 4, Lot: 306, Zone: Industrial Park District.

Staff Comments:

1. Waiver: The applicant is requesting a waiver of the requirement to show proof of ability to serve by the Portland Water District. This requirement is found in Section 504.5 C (10) (a) of the Subdivision submission requirements. Note: Planning and Engineering staff support this waiver request as no new employees are added and visitors would not

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be generated by this expansion. In addition, there is more than adequate water supply in this area.

Project Description – SIGCO received their original approval to construct a 66,000 square foot building in 2006. They are currently seeking an amendment to construct a 20,000 square foot expansion to the existing building. This expansion was contemplated in the 2006 approvals. This request also includes a new 4,875 square foot concrete pad to be located at the southwest corner of the property to provide a stable setting for trailers.

Steve Bushey Deluca Hoffman Associates on behalf of SIGCO, Inc., presented aspects the construction of a 20,000 S.F. addition and a 4,875 square foot concrete pad on an approximately 7.17-acre parcel located at 48 Spiller Drive in the Westbrook Heights Business Park. Tax Map: 4, Lot: 306, Zone: Industrial Park District

The proposed site plan expansion which was contemplated in 2006 and was shown on our site plan at that time, now looking to go forward with this expansion. They are looking for an expansion of a one hundred by two hundred or twenty thousand square foot building expansion here on the west side of the property.

From these photographs the perspective would be on the left hand side of the building which is nothing more than a large lawn grassed area today. Some of the fill that had been placed there had contemplated the idea that sometime in the future this building expansion would take place. We are simply moving forward with some plans that had presented. It involves a building expansion, with utilities already on the site that are satisfactory to serve this building expansion area. The expansion is basically for storage, warehousing and production space within the facility.

One of the bigger things we are looking at with this building expansion is to add some landscaping and a little bit of work with electrical utility out at the front of the building.

This shows the building expansion with a transformer pad here with building equipment that will involve underground trenching. Shown here is the landscaping as shown from the original site construction. At the far easterly side is proposed new landscaping to follow and mimic what was originally installed on the front space of the building. We have added a couple more trees here and have proposed several more pine trees over on the corner of this parking lot area.

You will notice on the subdivision plan, over to the side is the existing storm water, a large detention pond that was installed, a wet pond that serves the entire area. To the rear of the site is a large wooded area between this property and the energy plant.

This shows the building elevations as you see today. The expansion area is over to the left hand side, which will have the same colored metal panels and coloration from the front side. It has no windows but will have a few doors that will be in this expansion area as well as an overhead door in the back of the building. An extension of the asphalt area will be done toward the back of the building for the emergency vehicle and so forth. Basically follows the same pattern of access in the back of the building for fire and so forth.

Finally the back of the building shows a small expansion area off of the parking lot or off of the loading dock, asphalt service area. Basically we are looking for additional hard surface which trailers could be parked and be kept out of the way. We want to add a little more area to give a little more space in the loading dock area. This is the proposal and is a continuation of the plan presented to the Board in 2006.

Ed Reidman does anyone care to take a site walk or have a public hearing?

None Requested

Ed Reidman there is a request for a waiver for the requirement of the Portland Water District to serve this property. Planning and Engineering Staff support this waiver request.

Mr. Bushey what is the space intended to be used for?

Steve Bushey basically it is an additional storage, warehousing area with some production area. There is a new piece of equipment to be added to that space while relying on the current work force that they have today.

Ed Reidman I would like to deal with the waiver first, are there any questions or comments in regard to it?

Cory Fleming so you need a motion regarding the waiver?

Ed Reidman that would be correct.

Cory Fleming move to grant the waiver requirement found under section 504.5C 10 A of the subdivision requirements.

2nd by Anna Wrobel

The vote was 7-0 unanimous in favor

Cory Fleming move the Amended Site Plan application for Sigco Inc. on Tax Map 4, Lot 306, is to be approved with conditions with the following findings of fact and conclusions.

FINDINGS OF FACT

Utilization of the Site

- The project has been engineered to take advantage of the topography of the site.

Adequacy of Road System

- Adequate.

Access to the Site

- The entrance to the site is on Spiller Drive.
- The project has adequate sight distance at its entrance.

Internal Vehicular Circulation

- The plan has been designed to provide proper vehicular circulation

Pedestrian and Other Modes of Transportation

- Internal walkways have been provided.
- Handicapped parking spaces and ramps have been provided.

Stormwater Management

- The City Engineer has approved the stormwater management plan.

Erosion Control

- The City Engineer has approved the erosion control plans.

Utilities

- A waiver of the requirement of proof of ability of the Portland Water District to serve the project has been requested. Staff supports this waiver.

Hazardous, Special and Radioactive Materials

- None have been identified in the application.

Technical and Financial Capacity

- Adequate.

Solid Waste

- Solid waste is the responsibility of the property owner(s).

Historic, Archaeological and Botanical Resources

- No resources were identified in the permitting of the Westbrook Heights Business Park.

Landscape Plan

- Additional buffering should be provided along the northeastern property line as the building is closer to the property line. Staff suggests the provision of staggered evergreen trees in this area to provide screening for the adjacent property.

Others

CONCLUSIONS

1. The proposed site plan **will not** result in undue water or air pollution.

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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 June 16, 2009, and plans dated March 13, 2006 and amended to June 18, 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. The applicant shall incorporate a scattered row of evergreen trees along the northeastern property line to provide screening for the adjacent property.~~

Ed Reidman before I accept a second on the motion, that second conditions are the ones that you showed us?

Steve Bushey I am glad you asked that. We had some discussions with the City Planner and due to some vacation times this may have been overlapped and wanted to check with the City Planner.

Molly Just the trees were intended for the side lot line.

Steve Bushey which I noted that is up beside the detention pond but we were looking to the Board with the additional plantings that we proposed there would be sufficient. I will point out a couple of other pieces here besides the storm water management system here, we have an easement for some infrastructure pipes that come down to serve that pond, so I would be a little hesitant to put too much in that easement area that goes across this property. This lot number six does go up to Spiller Drive here, lot five is over here, other opportunities potentially could be up in here but I tried to consolidate my effort here with evergreen and other deciduous plantings along the front of the building, more or less up near the parking lot area. That is what we represented this plan does not show the drop off and the creation of swale towards the embankment area near the pond. To add plantings in this low area would not have enough effectiveness. The plantings could emphasize and have the most effectiveness near the parking area here.

Molly Just Mr. Chair, if I could respond to that, it did slip my mind that the pond was there. I think there is plenty landscaping otherwise, I see the logistics with adding trees on that lot line. The pond is adequate buffer in terms of distance.

Ed Reidman then we drop condition number two.

Molly Just yes

Cory Fleming I amend my motion per advisement from the Planner.

2nd by Rene Daniel

The vote was 7-0 unanimous in favor

5. Special Exception – Home Daycare Provider – Amanda Wescott for Special Exception approval for a home daycare operation on property located at 24 Dearborn Street. Tax Map: 27, Lot: 74A, Zone: Residential Growth Area 1.

Project Description – A home daycare facility has been operating at 24 Dearborn Street for some time and is now seeking local and State approval of the facility. The facility is staffed by one adult and provides daycare to eight children. Dearborn Street is a dead-end street off of Longfellow Street.

Tasha Rinaldi I own the property, on behalf of Amanda Wescott presented aspects for Special Exception approval for a home daycare operation on property located at 24 Dearborn Street. Tax Map: 27, Lot: 74A, Zone: Residential Growth Area 1.

We wish to have a six to eight child daycare with one employee that occupies the property and runs the home daycare. We do need to put in some parking. We have estimates and I have approvals from my bank and this added parking can be completed.

Ed Reidman you are on public sewer there?

Tasha Rinaldi yes

Ed Reidman are questions form the Board? Again these are thoroughly operated and this will put them in compliance with State regulations.

Questions from the Board?

Scott Herrick I have question about the parking. The estimates you have, is that for the creation of two or three parking spaces?

Tasha Rinaldi it is going to be one more space

Scott Herrick how many are on site?

Tasha Rinaldi two

Molly Just parking can be a very big challenge for a home daycare. It is inferred that a home daycare is designed for residential use and you do not contemplate a business use when you build the home. This is a smallish lot a 50 x 100 lot, one of our infill lots so when you add the burden of parking more than one or two cars it does become a challenge.

So the conditions as they are written assume three onsite parking spaces. The conditions are written to enable a wide range of child care scenarios the applicant can choose from, but they require three onsite legal parking spaces and include extra screening and all conditions would need to have been met, before the Certificate of Occupancy would be granted.

Scott Herrick have you seen the proposal and are you satisfied or is that part of the process that someone from the City will review this?

Molly Just it is part of the process. We have been out to the property several times and the party can accommodate... it gets to depth a lot of the yard is actually in City right of way. The property can accommodate the extra parking space as well as the outside play area.

Scott Herrick so part of the conditions the City is going to monitor the three legal spaces.

Molly Just correct

Ed Reidman other questions or comments?

Cory Fleming in terms of your cliental you can meet these numbers?

Tasha Rinaldi yes

Ed Reidman any other questions?

Cory Fleming move the Special Exception application for ~~Amanda Wescott~~ the property located at 24 Dearborn Street on Tax Map: 027, Lot 74A is to be **approved with conditions** based upon the following conclusions:

- 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.

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- The property could accommodate 3 legal parking spaces that would be accessed directly from Dearborn Street.
- 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 project consists of a daycare facility in an existing single family home. The home appears residential in nature and is compatible with the other homes on the street.
- C. Effects of Land Use. That the use granted will:
- (1) Maintain safe and healthful conditions,
 - The playground will be fenced and screened.
 - (2) Not cause water pollution, erosion, or sedimentation
 - No Issues.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - No Issues.
 - (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - No Issues.
 - (5) Not burden on-site septic or off-site waste disposal,
 - No Issues.
 - (6) Not burden existing public ways.
 - No Issues.
- 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,
 - No Issues.
 - (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,
 - No issues.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - No Issues.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - No Issues.

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- (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
 - No Issues.
- (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
 - The children playing outdoors will create noise in the neighborhood. However, the facility has been operating for some time and the City has not received complaints in this regard.
- (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,
 - The playground must be screened from abutters.
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
 - Parking is a challenge for this lot as it is only 50 feet wide and a portion of the driveway is in the public right-of-way. The applicant will extend the existing paved area to create legal off-street parking spaces. There is room for a third parking space along the property's northern lot line. This would require additional paving.

The ability to park according to our requirements, which are based on the number of children and the number of staff, restricts the number of students in many home daycare facilities as the site is designed to operate as a residence and not a business. Our Land Use Ordinances (Section 202.9) require 1 off-street parking space per employee or volunteer and 1 off-street parking space for every 6 children. With adjustments to and additions to paving, the subject property could accommodate three legal parking spaces. Based on this ability to park, the applicant could choose to operate following any **one** of the following scenarios, all of which assume one staff member:

- 2 Spaces – Up to 4 infants and toddlers, or
- 3 Spaces – Up to 3 infants and toddlers plus 3 preschool children, plus 2 school-age children, or
- 3 Spaces - Up to 12 school-age children, or
- 3 Spaces – Up to 8 preschool children plus 2 school age children.

The property owner, Tasha Rinaldi, proposes that the applicant use the driveway at 27 Dearborn Street (Map 27, Lot 80) for any parking requirement over 2 spaces. Twenty-seven Dearborn Street is owned by Ms. Rinaldi's parents. Staff does not support this concept.

- (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,
 - There would be little room for storage of plowed snow. Pedestrians should be able to get to and from their cars safely.

- (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.
- No Issues.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 29, 2009, plan dated April 22, 2003 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. The applicant shall provide legal on-site parking spaces based on a choice of one of the child ratios listed below, which each require one staff member according to State requirements:
 - II. Spaces – Up to 4 infants and toddlers, or
 - III. Spaces – Up to 3 infants and toddlers plus 3 preschool children, plus 2 school-age children, or
 - 3 Spaces - Up to 12 school-age children, or
 - 3 Spaces – Up to 8 preschool children plus 2 school age children.
3. At all times the applicant shall provide at least 50 square feet of fenced in outdoor play area per child. Such fencing shall be of a sturdy material such as metal, vinyl, composite or wood and shall be at least 4-feet tall. The applicant shall add buffering along the southern and western perimeters of the fence to help achieve this requirement.
4. The applicant shall obtain formal approval by the State.
5. Before issuance of a Certificate of Occupancy the applicant shall prove to the Code Enforcement Officer that these requirements have been met.

Ed Reidman before I ask for a second on this one, does it make a difference on the motion as it is for a specific address?

Molly Just the special exception runs with the land

Ed Reidman with the land, so the address is fine.

2nd Paul Emery

Rene Daniel Molly in Cory's motion does the condition satisfy you on as referenced on page #8 the last paragraph on page 19 regarding the parking? Does that mean the parking will be on this property and not on her parent's property?

Molly Just that is correct. I am satisfied.

The vote was 7-0 unanimous in favor

6. **Special Exception – Day Care Center – June Holman for Special Exception approval for a Day Care Center on property located at 724 Duck Pond Road. Tax Map: 24, Lot: 28, Zone: Residential Growth Area 3.**

Project Description – A Day Care Center has been operating at 724 Duck Pond Road and is now seeking local approval of the facility. The facility has State approval. The facility is staffed by two adults and provides daycare to twelve children. The property is not served by public sewer. The Site Evaluator for the private disposal system has provided a letter stating that the existing system is adequately serving the current staffing and children levels. The property owner has supplied a letter granting approval of the daycare use on the property.

Ed Reidman is this property serviced by sanitary sewer or subsurface disposal?

June Holman it is an independent sewer, septic.

Ed Reidman I know in one of the applications there was the viability of the subsurface disposal system. As I understand the system is currently operational and that is acceptable to move forward with but should the conditions change that means the day the condition is discovered you will have to close the door. The sanitary facilities will no longer be available for that property.

June Holman right, are you referring to 724 Duck Pond or 672 Duck Pond?

Ed Reidman which one did we have the questionable report on?

Molly Just I believe it is 672 Duck Pond.

Ed Reidman basically we have the same situation as Ms. Holman is involved in the next three, this on and two more. Do you have questions of her? Again, we have the preparation of the planner on sheets 20 through 22 and you will find in the conditions that the applicant will provide the minimum of three parking spaces and the number may vary due to staffing requirements from the State for up to twelve children. At all times... similar to the fence and the screening and again this is another one that will make this application to the State legal.

Molly Just that is correct. When we go through the conditions...condition number four about a site evaluator providing a letter, we have since received that letter, basically saying that this is an old leach field and not guaranteeing the life left to it. That letter has been provided, so that condition can be removed. Page twenty-four, number four.

Ed Reidman that is the next one, note to cross it off when we get to it.

The Board will allow a member of the audience to make a comment.

Jeremiah Spaulding 680 Duck Pond Road which abuts both this property and the next one. Currently I was not aware that there was an approved daycare at either one of these facilities, however I always noticed that there was a lot of traffic in both of them. Expanding these to an approved day care center would increase traffic not only to me, but also to the Presidential Way subdivision. One of the things I wish considered is not only the traffic, but the impact to the character of the neighborhood. By putting up signage, increase large amounts of toys and the addition of that many more people coming down an already stressed roadway. Also there is my personal property that I reside in and work from home therefore there will be a large impact on me personally having large numbers children on either side of me all day, every day. Also in the winter time, there is insufficient screening between my property and

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the adjacent property to give a buffer of privacy, especially during the winter when the trees loose there leaves, as there are very few evergreens.

Ed Reidman do you have anything to say to address his concerns?

June Holman the only thing I can say to address this concern is that I am not looking to expand the daycare. These are small home daycares serving twelve 12 children or less and I would not be doing any more business than I am doing at this time.

Ed Reidman you have heard the conditions that we read every time that we are through?

June Holman yes

Ed Reidman that first condition is

1. *Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 17, 2009, plan dated June 19, 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.*

The reason that is in there is that it puts you on record saying that you do not intend to expand.

June Holman correct

Ed Reidman it says you are already using it that way with no expansion. Questions or comments from the Board?

Rene Daniel you presently own and operate three day cares?

June Holman yes

Rene Daniel you own the pieces of property either side of his home?

June Holman no I do not, I lease them.

Rene Daniel so you have eight to twelve children on either side of him and the one on Elmwood?

June Holman I am licensed for eight to twelve at all three of those buildings, although I do not currently have twelve children, but I am licensed for them, yes. Let me rephrase that, I am licensed for twelve children 672 and 724 Duck Pond and I am seeking license for 64 Elmwood.

Rene Daniel and you are renting all three?

June Holman no, I own 64 Elmwood and I rent 672 and 724 Duck Pond.

Rene Daniel thank you

Ed Reidman currently we are discussing 724 Duck Pond. Staff has prepared a motion

Cory Fleming how long have you been operating all three daycare centers?

June Holman I started 672 Duck Pond in January of 2006 and 724 in March of 2006

Cory Fleming so they have been operating several years then.

June Holman yes, 64 Elmwood was licensed; however we stopped operating that in the summer of last year. I let the license lapse and I am looking to renew the license.

Rene Daniel I am not sure of the process to get a license for a daycare. I know generally, but I am unsure. When you apply for a license at the City of Westbrook for a daycare do you normally have the neighbors speak on this? Or can you rent a piece of property and you can run a daycare as long as you go by the codes of the City and State that are given to you.

Molly Just the use can not be established until a special exception is approved, legally. Once a Special Exception is approved and Certificate of Occupancy is granted. The State currently requires that the applicant get local approval before State approvals are granted. The City requires State approval is granted before local approval is granted. So if someone is operating without State approval, they do not have local approval either. I can fix our end of our approvals quickly. It seems that at least four daycares have been operating without City approval.

Ed Reidman does our friends that were here (that we just approved the condos) do they have State Approval yet?

Shawn Frank no

Ed Reidman so it is a similar situation with subdivision, site plan and the special exception granted in that we are granting approval yet they can not start there construction until the State gives them approvals. It is another chicken and egg situation, as the City is in a better position at that point because it is clear as to who goes first.

Molly Just just to add to the mix, the State considers the City to trump the State. If the City says you can only have "x" amount of children and the State said they could have had "x+" children, the State will not allow that amount.

Ed Reidman we can be more restrictive.

Molly Just that is correct.

Rene Daniel I still do not understand totally to my clarity. Is it my understanding that anyone can rent or own a home and run a daycare without getting permission from the neighbors?

Molly Just with the special exception process, we notify abutters but there is no rule or law saying you need to get permission from the abutters.

Rene Daniel do we have the jurisdiction to say no?

Molly Just yes, you would look at the special exception criteria. The special exceptions are all about the impact of the use and you regulate that impact. It sounds like screening and traffic are concerns. You get at that by evergreen screening; you get at traffic with daycares by limiting the amount of children. Is traffic really an issue? I have no idea.

Ed Reidman if you look on page 21 at the top of the page, it talks about landscaping, environment and enhancement. In that you could add the need to add additional buffering as you did to the previous application before us. This portion could be added:

The applicant shall add buffering along the southern and western perimeters of the fence to help achieve this requirement.

If the Board felt it was necessary to address the concerns by adding one of the conditions of approval should be to add buffering along certain property lines.

Scott Herrick is there an existing fence around the play areas, or are you putting in additional fencing?

June Holman there is existing... there is existing fencing on all three properties.

Molly Just the fencing that was viewed from the road did not seem to be very sturdy. This condition allows the fencing to be sturdy, with materials such as metal, sturdy vinyl composite or wood and it does by code have to be four feet tall. The intent is so children can not just bolt out into the yard or road.

Scott Herrick you would recommend that some fencing have to be changed, is that the idea?

Molly Just if it is not sturdy and from the road it did not look sturdy.

Scott Herrick is this a special exception for a home operation?

Molly Just this one actually for a daycare center, the operators do not live in the home.

Ed Reidman I guess if the Board is concerned enough to add screening, on page twenty-two you see the applicant will screen the fencing from Duck Pond Road... and screening is required on the northeastern side of the fence and it would be added to that sentence to indicate that the screening would be put along the fence on the northwestern side and the... say the side abutting the abutting property.

Molly Just Mr. Chair, since there is screening there as looking at the aerial, you may want to stress evergreen as the screening there is not serving the purpose we are looking for.

Ed Reidman I am not trying to frame the motion; I am just indicating where the screening would go. If you look within the packet, there is an aerial of the property...

Cory Fleming Mr. Chair, may I follow up?

Ed Reidman you may

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Cory Fleming where we are making changing like this, you do not own two of the properties, correct? You are leasing those and for these properties, you have an agreement to make whatever changes you need to for the business?

June Holman yes

Anna Wrobel I understand the location of the Duck Pond Road location, where the Elmwood location is and where is it in relation to Mr. Spaulding's property? I that also adjacent? Ok, it is not...

June Holman It is not

Anna Wrobel on page 21 looking at performance standards #6 nuisance factor; "children playing outdoors will create noise in the neighborhood, however if the parcel is over nine acres in size it is providing plenty of space for the children and the fenced in play area will be located over one hundred feet from the roadway". Seeing the area is over 9 acres in size, I do not know what the property looks like as to how close that is to Mr. Spaulding's...how close the play area would be.

Jeremiah Spaulding 680 Duck Pond Road showed and explained the impacts to his property. The trees are all very tall and especially in the winter there is no coverage. All day everyday if the children are let out to plat I can hear them very clearly from both sides.

Rene Daniel are we in the City of Westbrook seeing more daycares? I have been on the Board a long time and this is the first time I have seen two daycares located so near to one another, and Elmwood is on a nearby street. I have never seen three daycares in such close proximity to one another. Is this just an oddity or is this becoming matter of business in Westbrook.

Richard Gouzie they have been around and in this case....

Rene Daniel have they been around legally?

Richard Gouzie not all of them.

Ed Reidman most recently we considered two on Cumberland Street, which was a new building and when they moved another one moved right in. Another one that was represented by Corky Gray from Keller Williams...

Molly Just you also approved one on Huntress Avenue, two meetings ago.

Ed Reidman we also had the one on Park that had the fee reviewed.

Richard Gouzie also the one at 28 Stroudwater Place.

Rene Daniel I look at the two on River Road as not being rental homes.

Richard Gouzie you are correct

Ed Reidman it is legally acceptable to do it in a rental house, there is no restriction at the State or locally. Ms. Holman is here requesting that we grant the special exception so she can get her State License.

Rene Daniel are you State licensed now?

June Holman yes I am, I am currently State Licensed at 672 and 724 Duck Pond Road for twelve children. 64 Elmwood I am renewing that license so it is not currently being run at his point.

Paul Emery how does the applicant prove to the Code Enforcement Officer that there is not excessive noise?

Richard Gouzie that refers to the conditions for the application

Paul Emery how are you going to judge buffering? How will the applicant prove that to you before the Certificate of Occupancy is issued?

Richard Gouzie when I do my final inspection I will see if the screening is adequate and the fencing correct.

Paul Emery if Mr. Spaulding can not see through to these properties easily then the applicant will have met this condition?

Richard Gouzie yes

Paul Emery the Special Exception application for ~~June Holman~~ on 724 Duck Pond Road Tax Map: 024, Lot 28 is to be **approved with conditions** based upon the following conclusions:

- 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.
 - The property could adequately provide the 4 required off-street parking spaces to accommodate 12 children of a range of ages and 2 staff members as required by the State.
- 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 project consists of a daycare facility in an existing residential structure. The structure appears residential in nature and is compatible with the other homes on the street.
- C. Effects of Land Use. That the use granted will:
 - (1) Maintain safe and healthful conditions,

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- The playground will be fenced using a sturdy metal, vinyl, composite or wood material and will be screened.
 - (2) Not cause water pollution, erosion, or sedimentation
 - No Issues.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - No Issues.
 - (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - No Issues.
 - (5) Not burden on-site septic or off-site waste disposal,
 - No Issues.
 - (6) Not burden existing public ways.
 - No Issues.
- E. 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,
 - No Issues.
 - (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,
 - No issues.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - No Issues.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - No Issues.
 - (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
 - No Issues.
 - (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
 - The children playing outdoors will create noise in the neighborhood. However, the parcel is over 9-acres in size, providing plenty of space for the children and the fenced in play area will be located over 100-feet from the roadway.

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- (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,
 - The playground must be screened from abutters.
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
 - The applicant must provide and maintain the parking necessary for the use. Parking is determined based on the number of children and staff members. The parking dimensions must meet our requirements. The property has plenty of space for parking and circulation.
- (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,
 - No Issues.
- (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.
 - No Issues.

CONDITIONS

Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 17, 2009, plan dated June 19, 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. The applicant shall provide a minimum of 3 legal parking spaces. The actual number may vary based on the staffing required by the State to provide care for up to 12 children.
3. At all times the applicant shall provide at least 50 square feet of fenced in outdoor play area per child. Such fencing shall be of a sturdy material such as metal, vinyl, composite or wood and shall be at least 4-feet tall.
4. The applicant shall screen the fenced in play area from view from Duck Pond Road. Supplemental screening is required on the northeastern side of the fence.
5. Before issuance of a Certificate of Occupancy the applicant shall prove to the Code Enforcement Officer that these requirements have been met.

Cory Fleming in the way the motion was made; it goes to the individual instead of the property. I that the way we want this to read?

Ed Reidman the property, Mr. Emery did mention the address and the map and lot number. If you prefer we will drop the name out of it.

Paul Emery I will drop the name out and mention the address, tax map and lot.

2nd by Cory Fleming

The vote was 5-2 (Rene Daniel and Dennis Isherwood opposed)

7. Special Exception – Day Care Center – June Holman for Special Exception approval for a Day Care Center on property located at 672 Duck Pond Road. Tax Map: 24, Lot: 28A, Zone: Residential Growth Area 3.

Project Description – A Day Care Center has been operating at 672 Duck Pond Road and is now seeking local approval of the facility. The facility has State approval. The property is not served by public sewer. A letter must be provided to the City by a Site Evaluator declaring that the private disposal system has the capacity to serve the proposed use. The property owner has supplied a letter granting permission for the daycare use on the property. The facility and outdoor play space are adequately screened and set back from the roadway.

Paul Emery move the Special Exception application for the property located at 672 Duck Pond Road on Tax Map: 024, Lot 28A is to be **approved with conditions** based upon the following conclusions:

- B. 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.
 - The property has adequate space to meet the parking required for 12 children and 3 adults (5 spaces). However, there may need to be site improvements to provide the parking surface (gravel or pavement).
- C. 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 project consists of a daycare facility in an existing residential structure. The structure appears residential in nature and is compatible with the other homes on the street.
- D. Effects of Land Use. That the use granted will:
 - (1) Maintain safe and healthful conditions,
 - The playground will be fenced using a sturdy metal, vinyl, composite or wood material. There is no need for additional screening.
 - (2) Not cause water pollution, erosion, or sedimentation
 - No Issues.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - No Issues.
 - (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - No Issues.
 - (5) Not burden on-site septic or off-site waste disposal,
 - To be determined.

- (6) Not burden existing public ways.
- No Issues.
- F. 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,
 - No Issues.
 - (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,
 - No issues.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - No Issues.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - No Issues.
 - (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
 - No Issues.
 - (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
 - The children playing outdoors will create noise in the neighborhood. However, the facility and the outdoor fenced play area are set back over 100-feet from the roadway and the property and abutting properties provide significant tree cover for visual screening.
 - (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,
 - No issues
 - (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
 - The applicant must provide and maintain the parking necessary for the use. Parking is determined based on the number of children and staff members. The parking dimensions must meet our requirements. The property has plenty of space for parking and circulation but may require adjustments to provide an adequate surface for parking.

- (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,
 - No issues.
- (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.
 - No Issues.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 17, 2009, plan dated June 19, 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. The applicant shall provide a minimum of 3 legal parking spaces. The actual number may vary based on the staffing required by the State to provide care for up to 12 children. The applicant shall ensure that the spaces are provided on an acceptable surface such as gravel or pavement.
3. At all times the applicant shall provide at least 50 square feet of fenced in outdoor play area per child. Such fencing shall be of a sturdy material such as metal, vinyl, composite or wood and shall be at least 4-feet tall.
4. Before issuance of a Certificate of Occupancy the applicant shall prove to the Code Enforcement Officer that these requirements have been met.

2nd by Cory Fleming

The vote was 4-3 (Dennis Isherwood, Anna Wrobel and Rene Daniel opposed)

8. Special Exception – Home Daycare Provider – June Holman for Special Exception approval for a home daycare operation on property located at 64 Elmwood Avenue. Tax Map: 59, Lot: 020, Zone: Residential Growth Area 3.

Project Description – A home daycare facility has been operating at 64 Elmwood Avenue and is now seeking local and State approval of the facility. The application provided to the State states that the facility would be staffed by three adults and would provide care for up to 12 children. The property is not served by public sewer. A letter must be provided to the City by a Site Evaluator declaring that the private disposal system has the capacity to serve the proposed use as it was designed for only 8 children. The property owner has supplied a letter granting permission for the daycare use on the property.

June Holman I do have a standards met letter form the state, Provider assessment criteria. It shows that I have met all the criteria and the application is pending.

Ed Reidman that is not one of the questions, we realize that you had a prior daycare here and are seeking renewal.

On the conditions of approval, number three would be deleted which is based on subsurface...

Molly Just that is correct, I would like to discuss number two for a minute. This site is a little more challenging than the other two, topography and the placement of the house and the driveway on the site... just looking at the paved area currently the property could accommodate three parking spaces safely with adequate turn around and that would allow for up to eight children and one staff. I just wanted to point that out as the others have been twelve.

Scott Herrick is that a limitation that the applicant has accepted?

June Holman this is the first that I am hearing that. What are the requirements for your parking spaces?

Molly Just this is part of the application package that was sent out, the memo package. Based on the ability to turn around in the parking area there, four spaces would be extremely tight. There is a lot of debris, trash and storage uses in the yard right now so it is hard to tell, so right now looking at the property it looks like only three legal parking spaces could be provided in a safe manner which would limit the children and staff to eight children and one staff.

June Holman what is the size of a legal parking space?

Molly Just eight and a half by nine.

Ed Reidman eighteen and a half by nine

Molly Just eighteen and a half by nine, it gets to the ability to turn around, the driveway actually drops off. Then there is a crest of a hill soon after this driveway on Elmwood, so site distance was a concern of our City Engineer.

June Holman I would seek to improve the parking so I could continue to seek the application for twelve children.

Molly Just that could be accommodated as this is a large piece of property and pavement could be added as a condition.

Ed Reidman the septic condition is moot at this point but condition number three inter mixes the septic system with parking so therefore we need to modify condition number three to eliminate the first part of it where you are talking about the State Site Evaluator first part...where you say...

Molly Just Mr. Chair, the site evaluator letter does acknowledge the applicants request for twelve children with two employees, so there is adequate septic.

Ed Reidman what I am trying to do is meld what we already had into a condition to involve parking, or do we just need to say the parking requirements shall meet the State requirements?

Molly Just no, parking is dictated by the City. All we would need to say is: The applicant shall provide a minimum of four legal parking spaces. We would essentially copy and paste the condition form page twenty-four, number two.

The applicant shall provide a minimum of 4 legal parking spaces. The actual number may vary based on the staffing required by the State to provide care for up to 12 children

In addition I would like to have the paved area expanded, looking at the septic design for this property the septic was actually designed for an eight child daycare, plus a three bedroom home. That is where this limitation in part came from, for just eight children. However since the design which was 2001 we have a letter from a site evaluator dated June of this year saying that the property could accommodate the twelve child daycare, I apologize for confusion

Ed Reidman If we modify condition three and say: the applicant has provided?

Molly Just I think if you copy Condition number two from page twenty-four.

Ed Reidman that deals with parking.

Molly Just it also deals with the amount of children.
I can read the condition aloud.

Paul Emery move the Special Exception application for a home daycare located at 64 Elmwood Avenue on Tax Map: 59, Lot 20 is to be **approved with conditions** based upon the following conclusions:

- 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.
 - The property may be able to accommodate up to 4 legal parking spaces. Vehicle turn around and on-site circulation are a limiting factor based on the current configuration of the pavement and the topography in this area. The driveway climbs quickly from the roadway to the parking area.
- 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 project consists of a daycare facility in an existing single family home. The home appears residential in nature and is compatible with the other homes on the street.
- C. Effects of Land Use. That the use granted will:
 - (1) Maintain safe and healthful conditions,
 - The playground will be fenced and screened.
 - (2) Not cause water pollution, erosion, or sedimentation
 - No Issues.
 - (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - No Issues.
 - (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - No Issues.

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- (5) Not burden on-site septic or off-site waste disposal,
 - To be determined. The system was designed for 8 children and the applicant requests approval for 12 children.
 - (6) Not burden existing public ways.
 - No Issues.
- 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,
 - No Issues.
 - (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,
 - No issues.
 - (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - No Issues.
 - (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - No Issues.
 - (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
 - No Issues.
 - (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
 - The children playing outdoors will create noise in the neighborhood. However, the facility has been operating for some time and the City has not received complaints in this regard.
 - (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,
 - The playground must be screened from abutters.
 - (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
 - Staff is concerned about potential sight distance problems at the driveway entrance on Elmwood Avenue. The crest of a hill is located just beyond the driveway entrance and could pose a problem for ingress and egress.

- (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,
- With all 4 spaces in use there does not appear to be an ideal amount of space remaining for turn around in the existing paved area of the property. Pavement could be added to remedy this issue. There should be adequate space for snow storage and separation of pedestrian from vehicular traffic.
- (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.
- No Issues.

CONDITIONS

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated June 17, 2009, plan dated June 19, 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. The applicant shall provide a minimum of 3 legal parking spaces. The actual number may vary based on the staffing required by the State to provide care for up to 12 children. The applicant shall ensure that the spaces are provided on an acceptable surface such as gravel or pavement.
3. The applicant shall add buffering along the northwestern perimeter of the existing 4-foot fence in order to achieve the requirement for screening.
4. The applicant shall obtain formal approval by the State.
5. Before issuance of a Certificate of Occupancy the applicant shall prove to the Code Enforcement Officer that these requirements have been met.

2nd by Anna Wrobel

The vote was 6- 1 (Rene Daniel opposed)

Rene Daniel move to recess to Workshop

2nd by Cory Fleming

The vote was unanimous in favor 7-0

Recess to Workshop

Workshop: Note – Public comment will be accepted during workshop

- 9. Sketch Plan – White Brothers Asphalt Production Facility – Sebago Technics, Inc., on behalf of White Brothers, Inc., for installation of a permanent asphalt production facility on property located 95 Warren Avenue. Tax Map: 46, Lot: 5. Zone: Industrial Park District.**

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Paul Emery I am doing business with Mr. White in another town on a different piece of property. So it is up to the Board whether I should recuse myself or not.

Ed Reidman unless the Board...we will take no action on this at this point and at the time Mr. White gets to build his plant, you may not be working with him at that time.

Project Description – The proposed project would include an asphalt manufacturing facility, control house, scales and areas for stockpiling materials. The use is permitted in the Industrial Park District. The facility would be capable of producing up to 400-tons of asphalt per hour. The height and size of the equipment would be provided with the Site Plan application. There would be no new impervious surface associated with the proposed project.

Mike White from White Brothers located at 95 Warren Avenue. Tonight I will present aspects of an asphalt plan on this sketch plan.

Briefly current use on the site has been for a number of years, where White Brothers Construction is located. On the right hand side is where our existing shop is and what we refer to as our back yard. Right in the middle of the site you can see the circular driveway. That is the parking lot that serves the office.

What we have asked the Board to consider in the shaded area along the left hand side of the site and the rear of the site generally a building envelope that would be located in a subdivision for the area we are talking about locating the plant and the associated stock piles of aggregate necessary to run a hot top plant.

We have yet to choose a type of plant. We hope to pin that down more when we come back for our final site plan submission. We have reviewed the City Zoning Ordinance; this land is located in the Industrial Park District. As we understand the zoning, we think it is an allowed use.

I have as we said in the introduction I have met with everyone from the Portland line up to Sappi personally so they know we are proposing to do this. We have just one residence that shows upon the Warren Avenue and is a little house located on some mill property next to Messer's. I am at a loss with the mans name, but he told me he has no issues with it.

Other surrounding uses are the City of Portland line, WA Messer which is an industrial truck and body type company (any sort of truck accessory). The next business is Chadwick and Bayross which is a heavy equipment dealer (we happen to purchase quite a bit of equipment from them) and they are a large holder of land, located directly across the street from our parcel. The next piece up is Seldon Von Hertton property, and Seldon has a number of uses there, he has golf carts and car business up front, confidential destruction and some warehousing and a commercial tire operation. Beside that is Gagne & Son's. A building supply company, which sells precast concrete, granite or those types of products. Down from him is the person who is selling the different types of hardwoods that are available today. He has his building separated in about four areas; he has someone who installs rhino linings in the back of pick-ups. Across the street from there is C.M. Cimino a general contractor, does building work and so forth. Beside them is Warren Mechanical, mechanical plumbing contractors. Coming back is Carter Chemicals that make all kinds of different chemicals, diesel fuel conditioners, and different types of glycol and so on. Next is Tri-Tank, it is not actually Tri Tank any more, there is a number of uses going on in there, welding, fabrication and so forth.

This is a heavy industrial type commercial application already going on in the neighborhood. Then you have the large right of way going down here for Portland Water District with transmission lines in it that run underneath the river and run through the clearing across the street to South Portland and Scarborough and a natural gas pipe line located in the same right of way. Then you come back to our parcel that is about nine acres. We are in the process of tying that down exactly so we will have that on

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the final site plan when we come back. Out in our back yard is land owned by Sappi and is mostly in the Shore Land Zone. Across the river is the sewage treatment plant for the Portland Water District that you access off Park Road. That sets the stage for the immediate neighborhood.

Taking you back to site that is shaped in the yellow is the land in question and we have asked you to consider inside this shaded area is where we propose to locate the asphalt plant.

Couple of things I would like the Board to consider and provide some feedback on tonight is that we are going to be required to get an air license from Department of Environmental Protection. We are required to follow what they call BAC (Best available Control) for emissions that will come from the plant, so an air license will be required from the DEP

We do not see in any calculations how much hot top the plant will produce. We do not see the requirement for a MDOT permit, but we do think that traffic will need some discussion, particularly interested in what the Board thinks about the traffic at our existing entrance and our proposed entrance would be. There is an existing entrance and culvert that we have not utilized over the years. We are thinking we would like to come in here and circulate through the yard and come out down here and utilize both entrances through the site as in a U shape through the site. We have good site distance at both locations. We would like feedback for what you feel would be appropriate for us to do and need review on that.

The other item I think you need to be aware of when we submit our final request and plan we are going to ask to be able to operate the plant at night. There are a lot of jobs today that require night paving, it is not optional, it is required for the Maine Department of Transportation, the Turnpike Authority, the City of Portland and other Cities are starting to come to that as a symptom of the State is growing, maybe not now, but hope it will in the future and paving can be disruptive and owners find it safer to and more cost effective to pave at night. Our anticipation is that paving at night, would not be an everyday event, it is called for from time to time. We can not predict when that would be, it is based on the bid documents that you would be presented and what you would bid on. Again the paving is a seasonal operation so it would not be year round anyway. Paving starts in April or May and is pretty well wrapped up by November. You may run into December for private work, but those are generally the months.

Right now what we are thinking about is that the plant itself, the machinery that makes the hot top would be in the lower right hand side of the yard. Stockpiling of materials, the ingredients that make the hot top would be on that upper side, towards the Wilsons. We have a little grade going across that site and we think that lends itself to how we would like the layout that plant. The grade and the land work out well too. This is a real thumbnail sketch and am available to answer any questions of the Board.

Rene Daniel if you were doing business now and you had to transport the hot top via trucks, what would be the normal route? Would you be going through housing areas, Warren Avenue, Riverside and using main roads? How would you get product delivered?

Mike White it depends on where the job is. There are no truck roads. When you come out of the facility you will be turning left or right, go towards Riverside Street or you are going to come up to Main Street, River Road, Cumberland Street and end up towards the mill and then you are going to head toward where the jobs are. At that point you will get absorbed into the traffic already moving. If you are going on to the turnpike to pave, then you would go to Riverside to the turnpike. If you are paving on 302, depending on the section of 302, you are probably going to go back out to Riverside Street to 302.

If someone is buying mix to pave a driveway then they are going to have to go through the residential neighborhood to deliver the mix for that particular job.

Rene Daniel would you and when would you import your raw product?

Mike White that would be on an on going process, you have to keep four or five days of aggregate ahead. This entire hot top is a quality controlled driven thing. There is a lot of testing, what they call QAQC. There is a lot of testing for a load of hot top that goes out DOT or turnpike or any sort of a federally funded or State projects and a lot of testing... Your aggregates can not come in two minutes before you want to put it in the hot top plant. Hat will be on an ongoing basis. That aggregate would come from Methodist Road and that will come during this time of the year, coming down Methodist Road and sometimes it can come down Rote 302, we can go either way to get to this facility, it is about the same distance. The City side of Methodist Road that comes to East Bridge Street gets posted in the Spring but that timing of that is such that that postings are usually coming down around the time that you need to start bringing rock and sand in to get ready to paving.

Rene Daniel how large of a stockpile would you have of the raw goods?

Mike White tall is the easiest question to answer. You are only going to stack it as high as a front end loader can stack it, 14, 15, 16 feet high. You are not going to have these huge piles because in theory we are going to use it up and we are limited by a certain amount of space. You have to have room for the trucks to circulate. When we come back for the site plan we intend to show that layout where the stock piles would be, but from a height stand point, it will not be huge tall piles.

Rene Daniel how close are you to flood plain?

Mike White I think the flood plain as Molly, Eric, Shawn and I have discussed may be today is different then when the took the damn down. If we go by the paperwork that exists today the flood plain will come up to the back of our property. But with the removal of the damn (the Federal paperwork has not caught up with that yet) and someone will have to a Lowmar map adjustment that will bring all these flood plains in a bit along this corridor. The removal of the damn has changed all of us over here. We do have the shoreline district that touches the back of the property that White Brothers is on. It does not come into the area that we are proposing to use. The only time I have seen water in the back yard is in 96 or 97 during the big floods and that is the worst we saw and we did not get very wet then. Where the Federal map shows it, is it on our property or up against it?

Shawn Frank I do not know

Paul Emery one question that will be asked is the dust control on the aggregate and reused materials coming in. Most of the time you never heard anything and if the trucks screen the loads it should not be a dust issue, but the site is a different issue.

Mike White the site itself is considered today to be impervious as it is all covered with gravel. We are not going to increase the impervious area but we will do a lot of paving out there because it is cleaner, it is easier to sweep and it is easier to keep the dust down and to control the cleanliness of the dirt which is an oxymoron but you go through quite an effort to get the right size and the right portions and all that, so you do not want to hall that down and dump it on more dirt. We anticipate the new entrance will be paved all through the back yard as necessary to cover the areas where the stock piles will be, for the circulation of the trucks and equipment that pavement would extend up through the back yard and tie to

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existing pavement that we presently have. That gives us the ability to sweep it and we would have a water truck on site if we did have an accumulation of any dust particles.

Cory Fleming you asked for feedback on the “U” shaped traffic pattern and it sounds good to me. I would like to hear more in any discussion with Public Safety Officials, can the Fire Trucks get through and that sort of thing, given the nature of the business. I would be interested to make sure they are comfortable with the design.

Mike White we can touch base with them, I think to give you some comfort on that, the trucks that we use could be compared to the size of the fire equipment. We are going to create flow and radius to get a ladder truck through there. They will get there and get access to the area.

Ed Reidman I am sure there will be concerns for your truck traffic. I expect that the Methodist Road coming in will have opposition to that given the road and etc.

Mike White correct

Ed Reidman odors across the river, then I thought again and if the wind blows the other way to Deer Hill then we will have to have something there. I guess the suggestion there is early on you do something to determine where the predominant winds are.

Are there any more questions or comments?

Dennis Isherwood one comment is about the travel location coming down Bridge Street and right through down town Westbrook. I think there will definitely be some opposition there. Also what you are carrying...that road has a lot of motor Cycle traffic due to a big dealership being right there. The items that you will be carrying there is one of the items that a motor cyclist really worries about, gravel and sand so I want to make sure we show concern for that.

Mike White Blue Rock and Pike worked at Main Street and they kept a sweeper there and as of lately I think Pike has done a better job cleaning up the mess, which gets spilled. Even today if a tailgate fell open and we were carrying some soupy stuff from a job, we drop everything and go and clean the spill that goes without saying. I think that anyone seeing an intense increase truck traffic on Methodist Road end that won't be the case as we have a number of trucks...certainly there will be some incremental increase but we need to remember that this is a seasonal activity so it is not a year round activity and we have a road posting which forces us out to the 302 end during a period of that, so I think that the trucks are going to get broken up and sent in different directions during the different times of the year which should mitigate some of those concerns. Certainly, those are legitimate concerns and we will try to address those as we go through the process.

Dennis Isherwood I have noticed another operation in Limerick Frank Carroll's; and that place you can eat of the floor, the place is spotless. He does a fantastic job and he requires the same of staff.

Mike White You are right when you drive by you says wow.

Dennis Isherwood I am sure yours will be modeled after Franks.

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Mike White We anticipate adding some landscaping the corridor along Warren Avenue... before we get asked...to try and soften that.

The highest part of the plant, the silos, will be on the lowest piece of the land. We anticipate that those are going to be set down, we anticipate that the plant will be green in color and green in its operation also instead of battleship gray. Try and do the things to minimize the harshness of it so to speak.

Rene Daniel move to regular session

2nd by Paul emery

The vote was unanimous in favor 7-0

Resume Regular Session

10. 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 ext. 220 and lgain@westbrook.me.us. THANK YOU