



City of Westbrook

DEPARTMENT OF PLANNING

WESTBROOK PLANNING BOARD TUESDAY, DECEMBER 18, 2012, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Rene Daniel (Vice-Chair) (Ward 1), Dennis Isherwood (Ward 2), Joseph Marden (Ward 3), Cory Fleming (Ward 4), Rebecca Dillon (Alternate),

Absent: Michael Taylor (At Large), Greg Blake (At Large), Ed Reidman, (Ward 5), (Chair), Robin Tannenbaum (Alternate),

Staff: Molly Just, Richard Gouzie

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

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.

Public Hearing - Contract Zone – 102 Cumberland Street – The Elms -Scott Balfour for a Contract Zone that would include preservation of the existing historic building and enable a broader range of commercial uses to operate within the building which sits on an approximately 1 acre property located at 102 Cumberland Street. Tax Map: 40, Lot: 206, Zone: RGA-1, Village Review Overlay Zone and General Development Shoreland Zone.

Overview. In 2011, the applicant submitted a request for a rezoning of the subject property, operating as The Elms bed and breakfast, from Residential Growth Area-1 to City Center District. The applicant would like to have the ability to use and eventually market the property for a broader range of commercial uses than that allowed in the RGA-1 district. At the direction of the City Council, during the subsequent months the applicant and staff and the administration worked together to reach a compromise solution between the City Center District and the Residential Growth Area 1 Business Office Overlay Zone that was recommended by the Department of Planning. The attached Elms Contract Zone (the Contract Zone) and required Contract Zone Agreement is a compromise that satisfies the goals and objectives of the applicant and the city. The Contract Zone will be adopted as part of the Land Use Ordinances and the Contract Zone Agreement is the actual legal contract between the City of Westbrook and the applicant. The documents have been reviewed for consistency and are ready for Planning Board recommendation to the City Council.

Context. The Elms is a significant historic structure and is located within the Cumberland Mills Historic District on the National Register of Historic Places. The Cumberland Mills Historic

District designation was one of a handful of National Register designations that took place in the last 15 years or so in order to preserve some of Westbrook's signature historic areas and buildings. Other designations included the old Westbrook High School, Walker Memorial Library, the Vallee Family House, the Nathan Harris House and the Warren Block on Main Street. *The property is located in the Village Review Overlay Zone and the General Development Shoreland Zone and both zones will continue to govern the use of the property with adoption of the Contract Zone.*

Conclusion. The Department of Planning supports the Contract Zone request. The Contract Zone is consistent with the Comprehensive Plan recommendations for the area and the Recreation Conservation Commission has voted to recommend approval of the Contract Zone. The Planning Board must conduct a public hearing and make a recommendation to the City Council regarding the Contract Zone.

Scott Balfour 102 Cumberland Street, about a year ago we started this process trying to get this re-zoned because of the location and the scale and scope of the property, trying to make it more economically feasible and to keep the property recognized as a historical property.

We have been before this Board for four Planning Board meeting, we had the initial meeting, two Public Hearings and a meeting last month and are back here for another Public Hearing tonight. In between we have gone to the City Council, proposing that this be a Business City District. The Council asked if we could come back to the Planning Board to get an interim or a compromise or a better solution.

I went back and worked with Molly and the Mayor and during Molly's absence met with the Windham Planner that was here temporarily. We have come up with a plan that we think is acceptable with the City, is acceptable to me and we would like you to consider that.

Rene Daniel since the number of attendees speaks volumes... Are there any comments from the Board before I close this Public Hearing?

Dennis Isherwood thank you Scott for your brief explanation, we have all heard that before, what you may not realize is we do have a lot of people that do watch on the broadcast and they appreciate you being here, they like to know what is happening especially with the beautiful building that you own. Rest assure you have an audience watching your every move.

We are all looking forward to finishing this tonight.

Rene Daniel any other comments?

No Comments

Public Hearing Closed

1. Call to Order

Existing Business

2. **Contract Zone – 102 Cumberland Street – The Elms** -Scott Balfour for a Contract Zone that would include preservation of the existing historic building and enable a broader range of

commercial uses to operate within the building which sits on an approximately 1 acre property located at 102 Cumberland Street. Tax Map: 40, Lot: 206, Zone: RGA-1, Village Review Overlay Zone and General Development Shoreland Zone.

Rene Daniel Molly do you have any comments?

Molly Just I have had some discussions with the applicant since we worked on the language. We did spend quite a bit of time working on the language and I think we are both quite comfortable with it that it protects the applicant's interest and the City's interest.

A couple of minor changes that we request be made before the meeting closes this evening that are not substantive. On the second page of the Contract Zone text under 319.3 paragraph B, remove the words historical style and replace with character and remove the word color, so paragraph B would read: Buildings, additions and/or alterations must retain the character of the structure. This includes but is not limited to architectural style, doors, roof pitches and siding material.

The other change would be: to the Contract Zone Agreement to essentially mirror those changes. So on page four of the Contract Zone Agreement, paragraph B, the words residential and style would be replaced with the word character, so it would read: Buildings, additions and/or alterations must retain the character of the structure, this includes but is not limited to architectural style, windows, doors, roof pitches and siding material.

Those are the only changes.

Chapter III – Zoning Districts

319 The Elms Contract Zone.

This zoning district was created by Contract Zoning Agreement between Scott A. Balfour and the City of Westbrook, dated _____ and is subject to all of the requirements of that Contract Zoning Agreement. The subject property is described as Map 40 Lot 206 and 102 Cumberland Street and consists of approximately 0.99 acres. The property is located within the Cumberland Mills Historic District of the National Register of Historic Places. The subject property is located within the General Development Shoreland Zone and Village Review Overlay Zone and shall comply with the requirements of those zones.

The purpose of The Elms Contract Zoning District is to provide for a flexible mix of uses in order to enhance the economic feasibility for this unique property given its unique size, scale, nature, location, historical use and significance. An appropriate mix of permitted residential and commercial uses, based on the unique features of the building, location and neighboring industrial, residential and commercial uses and zones, will provide for the continued viability of this property, while remaining consistent with the goals established in the City's Comprehensive Plan

319.1 Permitted Uses. The property owner is authorized to establish on the property any of the following uses as a matter of right:

Accessory Use	Home Occupation
Bed and Breakfast Class 1 & 2	Hotel or Motel
Business Office	Library or Museum

Club or Lodge	Medical Offices
Congregate Care Facility	Restaurant Class 2
Dwelling, Single-Family	Service Business
Dwelling, Two-Family	
Dwelling, Multiple-Family	
Greenhouse or Florist	

Uses under this section shall have the same definitions as are set forth in the Land Use Ordinances.

319.2 **Special Exception Uses.** The property owner may establish the following uses as special exceptions, subject to review and approval under Section 204 of the Land Use Ordinances:

Educational/Vocational
 Funeral Home
 Retail Class 1

Uses in this section shall have the same definitions as are set forth in the Land Use Ordinances.

319.3 Performance **Standards.** The following performance standards shall apply in The Elms Contract Zoning District:

A. Preservation of historic structure. Upon destruction or demolition of the building, the City Council shall have the authority, after notice and hearing as required by State law, to terminate the Agreement and rezone of the Property to the prior or any successor zoning districts. In such an event, the Property shall then be used only for such other uses as are otherwise allowed by law.

B. Buildings, additions and/or alterations must retain the historical style of the structures. This includes, but is not limited to, architectural style, windows, doors, roof pitches, color, and siding material.

C. Dimensional requirements:

- (1) Setbacks: There are no dimension requirements for yard depths.
- (2) Height: Building height may not exceed the current building height.
- (3) Maximum Footprint Factor. 40%.
- (4) Maximum Gross Density Factor. 70%
- (5) Landscaping Factor. 30%.
- (6) Residential Density Factor. 1 dwelling unit per 2500 S.F. of base site area.

(However, minimum size of a residential unit shall be 500 S.F., and an additional 150 S.F. per each additional bedroom.)

D. Lighting. All outdoor lighting must be of the cutoff luminaire variety and must be installed so no direct lighting is emitted beyond lot lines.

E. Noise. Noise levels must not exceed existing levels at the exterior limits of the property.

F. Vibrations. Vibrations must not exceed existing levels at the exterior limits of the building.

G. Odors. Odors must not exceed existing levels at the lot lines.

H. Traffic Impact. The traffic pattern from a change or expansion of use must be designed so as to maintain the existing traffic operation level of service and pedestrian safety within 200 feet of the point of ingress or egress.

I. Storage of Materials. All materials must be stored within an enclosed structure so as to be screened from view from the public way.

J. Parking Requirements. The parking requirements of Section 505.1 of the Land Use Ordinances are applicable to all uses in The Elms Contract Zoning District.

K. Signage. As regulated by Section 404.3.1 Signs in the City Center District.

L. Agreement to be recorded. The Property Owner shall record this Contract Zoning Agreement in the Cumberland County Registry of Deeds and shall submit proof of recording to the Westbrook Code Enforcement Officer and the City Planner.

M. Amendments to Agreement. The provisions of this Contract Zoning Agreement shall be deemed restrictions on the use of the property and shall be amended only upon further written agreement of the City of Westbrook and the Property Owner or his successors in interest to the Property. Any amendment will be reviewed and approved in accordance with the requirements of 30-A M.R.S.A. § 4352(8).

N. Other reviews. Approval of this Agreement will not serve as a waiver of any other applicable code or review requirements of the Land Use Ordinances.

O. Department of Environmental Protection. Because the Property is located in the General Development Shoreland Zoning District, this Contract Zoning Agreement shall be forwarded to the Commissioner Maine Department of Environmental Protection.

Rene Daniel is that it Molly?

Molly Just that is all, thank you.

Rene Daniel I would definitely accept a motion.

Michael Taylor I move we recommend approval of the Contract Zone for The Elms and recommend it to the City Council for their approval with the changes that the City Planner has mentioned.

2nd by **Dennis Isherwood**

Rene Daniel any discussion?

No discussion

The vote is unanimous in favor 5-0

Adjourn

*Respectfully submitted by Linda Gain PECE Administrative Assistant
THANK YOU*