



City of Westbrook

DEPARTMENT OF PLANNING

WESTBROOK PLANNING BOARD TUESDAY, April 17th, 2012, 7:00 P.M. WESTBROOK HIGH SCHOOL, ROOM 114 MINUTES

Present: Ed Reidman, (Chair) (Ward 5), Rene Daniel (Vice-Chair) (Ward 1), Robin Tannenbaum (Alternate), Dennis Isherwood (Ward 2), Michael Taylor (At Large)

Absent: Greg Blake (At Large), Rebecca Dillon (Alternate), Cory Fleming (Ward 4)

Staff: Brooks More, Richard Gouzie, Natalie Burns

Chairman Ed Reidman 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 - Review Land Use Ordinance Amendment – Street Construction Standards – Sections 201.76 and 502.5. The proposed changes will require the pavement of private ways, including paper streets that are used to provide access for substandard lots of record permitted in accordance with Section 203.7 of the Land Use Ordinance.

Enclosed in the Planning Board's packet are draft amendments that will require the paving of private ways. The draft standards have been developed by the City Attorney Natalie Burns at the Planning Board's request. Ms. Burns will be present at the Planning Board's April 17th meeting to address any Board or public comments and questions.

Natalie Burns as noted these amendments are relatively simple. This is something that the Planning Board asked Staff draft a few months ago. There are two sets of amendments; the first is to the definition of private way, right of way in Section 201 of the ordinance. That simply amends that to state that if a private way is created after the date of passage of this amendment then it has to meet the construction standard set forth in Section 502.5. Section 502.5 will be amended to require pavement of private ways which up until now could be graveled if so desired by someone who is building a private way. As noted by the Chair this will apply to both private ways and to paper streets that are not being brought up to full City standards for acceptance by the City.

If there are any questions, I will be happy to answer them. The changes are fairly limited to what is being done here.

Ed Reidman any comments from staff?

Public Hearing opened

Ed Reidman anyone care to come and speak?

Public Hearing closed

AMENDMENT TO LAND USE ORDINANCE
SECTIONS 201.76, 502.5.C

201.76 Private Right of Way; Private way – A strip of land at least fifty feet wide, meeting the minimum standards for the construction of a gravel base for a public road, over which abutters may pass. When abutting lots are held in other than single ownership, a road maintenance agreement must be established at the time of creation of the right of way, or at the time of the most recent sale of abutting land. Lots with no access to the private right of way are exempted from participating in the road maintenance agreement. A private way shall provide frontage for no more than three lots. Private ways in existence prior to May 1, 2007 shall continue to be able to build the number of lots allowed per the zoning district in which they are located. Private ways created or improved to serve lots developed with a principal structure for the first time after (date of passage) must meet the construction standards for private ways in Section 502.5C.

502.5 Subdivision General Provisions:

C. Design Standards for Streets and Private Rights-of-Way. All streets in a proposed subdivision must be constructed to the following specifications, and the cost of construction must be paid by the applicant. All streets and private ways must be designed by an engineer registered in the State of Maine. The plan and profile of the design must be approved by the City Engineer.

	Arterial	Collector	Local St.	Private Way
Minimum right-of-way	120'	60'	50-60'	50'
Minimum width of pavement	(4) 12 foot traffic lanes	(2) 12 foot traffic lanes	24'	20'
(3) Minimum grade	0.5%	0.5%	1%	1%
(4) Maximum grade	0.6%	8%	8%	8%
(5) Maximum grade at intersections	3%	3%	3%	
(6) Minimum angle of intersections	60 degrees	60 degrees	60 degrees	60 degrees
(7) Minimum center line radius curves	200'	200'	100'	200'
(8) Minimum paved shoulder width	10'	8'	1'	1'
(9) Minimum road base				
Excavation	24"	21"	21"	21"
Sub-base; Compacted-gravel	21"	18"	18"	18"
Upper-base;				

Crushed gravel	3"	3"	3"	3"
(10) Bituminous concrete				
Lower base; 12.5mm or 19mm superpave	2"-4"	13/4"-2"	1 1/2"	1 1/2"
Top; 9.5mm or 12.5mm superpave	11/2"-13/4"	11/2"-13/4"	11/4-11/2"	11/4-11/2"
(11) Minimum Underdrain	4"	4"	4"	4"
(12) Property line minimum				
Radii at intersection	20'	20'	20'	20'
(13) Road crown minimum	1/4"/ft.	1/4"/ft.	1/4"/ft.	1/4"/ft.
(14) Curb radii at intersection				
90 degree intersection	25'	25'	25'	25'
Less than 90 degree intersection	30'	30'	30'	30'
(15) Sidewalks				
Minimum width	5'	5'	5.5'	0
Compacted gravel base course	12"	12"	12"	
Top	(Approval of City Engineer)			

Public Hearing - Land Use Ordinance Amendment – Consumer Fireworks – Section 309 Gateway Commercial District. The proposed standards will govern the sale of consumer fireworks in the City of Westbrook and establish the locations where such sales will be allowed.

Enclosed in the Planning Board's packet are draft standards for the sale of consumer fireworks in the City of Westbrook. The draft has been prepared by the City Attorney Natalie Burns.

In summary, the proposal will allow the sale of consumer fireworks in the Gateway Commercial District. The district standards further limit the manner in which consumer fireworks sales can be conducted. These provisions are in keeping with the City's efforts to continuously improve the commercial environment along this section of Main Street. The following is a summary of these standards:

- No consumer fireworks sales will be permitted within 500 feet of Main Street.
- Specific sign standards shall pertain to establishments engaged in the sale of consumer fireworks.
- The sale of fireworks will be limited to the hours of 8:00 a.m. to 10:00 p.m.
- Establishment selling consumer fireworks must be separated by at least 1,000 feet. This will further limit the number of establishments that can be located in the zoning district.

- The sale of consumer fireworks must be the principal use of the property. This will limit, but not exclude, the ability to have accessory or mobile sale of fireworks within the zoning district.

Ms. Burns will be present at the Planning Board's April 17th meeting to present the draft and address the Board's comments and questions.

Natalie Burns in January of this year that law n Maine changed to allow the sale and use of fireworks. That statute did allow municipalities to make there own choices as to whether they wanted to allow the sale and use and if so if they wanted to regulate them in some manner.

The City Council determined that they did want to allow the sale and use of fireworks within City limits but did want to place some restrictions on it, one of those being the requirement of permit for sales. This amendment was adopted by the Council awhile ago and at the same time the Council asked the Planning Board look at Land Use regulations and come up with some proposals as to where sales could best occur and what regulations should apply to them.

Before you tonight is the second set of amendments which as you noted would allow sales in some areas of the Gateway Commercial District. There are some set back requirements, there are signage requirements set forth in the proposed amendments but that is where sales will be allowed so anyone who wished to conduct sales in the City of Westbrook would have to do it in that district subject to those performance standards and would also have to get a permit form the City Clerks office as well.

I would be happy to answer any questions.

Ed Reidman comments from the staff?

**Editors note: No comments

Ed Reidman before I open the Public Hearing. I have an e-mail from one of our missing members, Rebecca Dillon. She said she would like to make a comment on the Land Use Amendment for Consumer Fireworks regarding the hours of sale.

She said, (being her) "I would propose that the Board consider changing the hours of closing to an earlier hour, perhaps 6:00 or 7:00 pm. to hopefully require thoughtful planning along with appropriate safety measures on the public part of when purchasing fireworks."

Open Public Hearing

Patrick Donahue owner of 15 and 21 County Road, I would like to now if it would be possible to include it in the Industrial Zone for the sale of fireworks. I understand that we would need a Contract Zone due to no retail sales in that area, however this being a specific business such as Nortrax that sells heavy equipment, Dunkin Donuts and Mainly Small Engines that sell lawnmowers and such. I think the Gateway offer limited stand alone buildings that would be possible to sell fireworks in, where as in the Industrial Zone we have some larger parcels that we could build new buildings that will not need to be retrofitted for safety requirements, also with close proximity to he turnpike, it would reduce the impact to traffic to Main Street.

I was wondering if that could be a possibility and looked into as well.

Ed Reidman it will show in the notes and the Council will receive the notes. In order to put something in the Public Hearing it has to be advertised. The Board can constrict, but we can not expand during the Public Hearing period. It will show in the notes.

Natalie Burns Mr. Chair if I could just add that no retail sales are allowed in the Industrial Park or the Industrial District.

Ed Reidman that is correct unless it is ancillary in a small amount.
 Would anyone else care to speak?

Public Hearing Closed

AMENDMENTS TO LAND USE ORDINANCE
RE: SALES OF FIREWORKS IN THE GATEWAY COMMERCIAL DISTRICT

309 Gateway Commercial District.

This district is designed to provide for a regional retail center that takes advantage of major transportation linkages. The use of land in this zone is to be maximized, but according to a set of standards as part of the community’s gateway planning.

309.1 Permitted Uses. The following uses are permitted in the Gateway Commercial District as a matter of right: Accessory Use	Municipal Facility
Auto Repair Service	Neighborhood Grocery
Business Office	Private Recreation Facility
Child Care Center	Restaurants Class 2
Day Care Center	Retail Class 1, 3 & 4
Greenhouse or Florist	Service Business
Hotel/Motel	Telecommunication Towers
Industry	Veterinary Office or Kennel
Media Studio Class 1 & 2	Vocational Education Facility
Medical Offices*	

309.2 **Special Exceptions.** The following use is permitted in the Gateway Commercial District as a special exception under Section 204:

- Dwelling, Multiple Family
- Church
- Sale of consumer fireworks, subject to the performance standards set forth in Section 309.3.
- Theater

309.3 **Performance Standards.** The following uses are performance standards apply in the Gateway Commercial District:

A. Minimum Lot Size: With sewer: 10, 000 S.F.
Without sewer: 20,000 S.F.

B. Dimension Requirements:

(1) Minimum Lot Width: 100' at 10,000 S.F.
200' at 20,000 S.F.

(2) Yard Depth:
(a) Front 20'
(b) Rear 20'
(c) Side 20'

(3) Maximum Height: 40', or three stories

(4) Maximum Footprint: 160,000 S.F.

C. Maximum Footprint Factor: 50%

D. Maximum Gross Density Factor: 75%

E. Landscape Factor: 25%

F. Noise. Noise must be confined to the existing levels at the walls of the building on the site.

G. Odors. Odors must be limited to existing levels at the exterior of the building.

H. Hazardous Matter. The emission of hazardous matter must be so controlled that no concentration is permitted beyond the building limits that would be detrimental to or endanger the public health or cause damage to property. No storage of hazardous matter is permitted, except that used exclusively for ongoing production purposes.

I. Vibrations. Must not exceed existing levels at the exterior of the building.

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

K. Storage of Materials. All materials must be stored within an enclosed structure so as to be screened from view.

L. Installation of Utilities. All electric, telephone, and similar lines must be placed underground.

- M. Buffer Zones. Where a business or industry abuts a residential use, a 50' buffer zone must be maintained between the building and the lot line of the residential use.
- N. Telecommunications Towers. In order to maximize the land use, a maximum footprint factor of 100% is allowed, provided that any new structures still meet the district setback. The fall zone may be reduced to include the base of the facility upon a showing to the Code Enforcement Officer that the tower, as designed by a Maine licensed P.E., is designed to collapse upon itself. Any new facilities shall be of the monopole type.
- O. Gateway Standards

Purpose. In 2000, the cities of Portland and Westbrook worked jointly to develop a gateway plan for the entrances of our communities along the Brighton Avenue corridor. The study pointed to a number of improvements to the corridor, including those that would soften its appearance, creating a more pleasing experience to the automobile driver as they moved into or through the district. It is hoped that this “softening” will, in time, increase property values in this corridor, creating an incentive for further investment.

Improvement Standards. When there is new construction or when more than 20% of a property’s activity or use changes, the owners are required to submit an application for site plan review, demonstrating how the following performance standards are to be met:

(1) Landscaping: 25% of the entire site shall be landscaped, leaving 75% for building and paved areas. The landscape plan shall incorporate all plantings within the site such that pavement view shed is reduced, storage and loading areas screened, vehicle entry areas decorated/landscaped, and the general harshness of pavement and building reduced.

(2) Pedestrian Movement: The site must provide for a system of pedestrian ways that are protected and safe from vehicular movement. The system must connect the major building entrances/exits with parking areas. The system should connect with existing sidewalks in the area, bus stops, and with any other area amenities.

(3) Curbing and Esplanades: Wherever possible, curbing and esplanades shall be used to define parking and driveway areas. Curbing may also be used around building entrances and other pedestrian oriented areas such that the pedestrian is clearly separated from the vehicular movement. Granite curbing shall be used at all intersections with a public street and is encouraged for use through the remainder of the project.

(4) Vehicle Channelization: The layout of any site must provide for the safe movement of passenger, service, and emergency vehicles in an organized and defined fashion.

(5) Lighting: A lighting plan shall be developed for the site that provides for consistent treatment throughout the site. All lighting shall be of the “cutoff luminaire” style, such that light is directed down. No light shall spill beyond the property lines.

(6) Signage and Condition: In addition to meeting the sign ordinance requirements, the owner may be required to improve the existing signs when they are in poor condition. Examples of poor condition can include broken lights, broken lens covers, faded paint or colors, or broken connections of sign to building.

(7) Loading and storage areas: All loading and storage areas shall be screened from view from the street and abutters. Screening can include fencing, walls, or vegetation and shall block the loading and storage area from view.

(8) Underground utilities: All utilities, including electricity, shall be underground.

(9) Schedule for Improvements: Plans for improvements shall be reviewed and approved by the Planning Board prior to any change occurring. The Planning Board shall review the plans through the site plan review process. Improvements shall be completed within 6 months of the new use or activity taking occupancy. The owner shall provide a bond or appropriate surety instrument to insure that the work is completed. Staff will release the bond when they have inspected and found the improvements are consistent with the plan reviewed and approved by the Planning Board. That review and approval will be based on the criteria identified above.

P. Traffic Impact. The traffic pattern from a change or expansion of use must be designed so as to maintain the existing traffic operations levels of service and pedestrian safety within 200’ of is point(s) of ingress or egress.

Q. Sale of consumer fireworks. In addition to the standards of Section 204, the sale of consumer fireworks shall be subject to the following standards:

(1) Sales of consumer fireworks shall be allowed in the Gateway Commercial zoning district, except that such sales shall not occur in buildings located within five hundred (500) feet of Main Street.

(2) No sales of consumer fireworks shall occur unless the establishment has a permit issued under Article XIX of Section 20 of the Westbrook City Code and all required licenses and approvals from the State of Maine.

(3) An establishment selling consumer fireworks shall be located no closer than one thousand (1,000) feet from another establishment selling fireworks, as measured from the closest edge of each building.

(4) The sale of consumer fireworks shall be limited to between 8:00 a.m. and 10:00 p.m. each day.

(5) The sale of consumer fireworks shall be the principal use of the establishment.

(6) The following signage restrictions shall apply:

a. There shall be no more than one (1) building mounted sign on each side of a structure with frontage on a public road or a parking lot. Such signs shall not extend above the cornice line of the building on which it is located and shall not exceed five (5) percent of area of the wall on which it is located.

b. Signs may be located within windows on the ground floor of the structure in which the sales occur, provided that signage does not exceed twenty-five (25) percent of any individual window in which signage is located.

c. A freestanding sign that is either ground mounted or a pylon sign shall be allowed, with a limit of one (1) per establishment. Such a sign shall not exceed twenty-five (25) feet in height above ground level, as measured at the highest element of the sign. The area of a freestanding sign shall not exceed _____ square feet.

d. Signs shall contain only the name of the business. There shall be no graphics, painted, freestanding or otherwise, depicting items for sale.

e. The following sign types shall not be allowed;

i. Flashing or animated signs of any type.

ii. Message board signs.

iii. Sandwich board signs, blade signs or any type of banner sign.

iv. Signs placed on awnings, although awnings without signage are allowed.

f. No signage for the establishment shall be located within five hundred (500) feet of Main Street.

Where there is any conflict between any sign regulation set forth in this subsection and the sign regulations set forth in Section 404.3, the more stringent regulation shall apply.

1. **Call to Order**

2. **Approval of Minutes: March 20th, 2012 and April 3rd, 2012**

Rene Daniel I move to approve the March 20th, 2012 and April 3rd, 2012 minutes as presented.

2nd by Dennis Isherwood

The vote was unanimous in favor 4-0

Continuing Business

- 3. Review Land Use Ordinance Amendment – Street Construction Standards – Sections 201.76 and 502.5. The proposed changes will require the pavement of private ways, including paper streets that are used to provide access for substandard lots of record permitted in accordance with Section 203.7 of the Land Use Ordinance.**

Dennis Isherwood I would like to make a recommendation to the City Council that they accept or endorse our amendments to the Land Use Ordinance, Section 502.5 and 201.76.

2nd by Rene Daniel

The vote was unanimous in favor 4-0

- 4. Land Use Ordinance Amendment – Consumer Fireworks – Section 309 Gateway Commercial District. The proposed standards will govern the sale of consumer fireworks in the City of Westbrook and establish the locations where such sales will be allowed.**

Ed Reidman again, we have had our public hearing, could I have a motion to recommend this to the City Council?

Robin Tannenbaum I have a question. I concur with Ms. Dillon's recommendation. I do not know if 6:00 is the right time or 8:00. I think it is worth a discussion. Can we put that into the record?

Ed Reidman the motion would be to recommend to Council and ask them, as an add on, to consider limiting the hours to a shorter closing time.

Robin Tannenbaum I also noticed, if I am reading this right on the actual act from the State Legislature that it says that consumer fireworks maybe used between 9:00 am and 10:00 pm. So why would you need to buy them at 8:00 am? I am not as concerned about morning as I am concerned about evening in terms of continuing festivities.

Natalie Burns that was a recommendation from staff, specifically from the City Planner. I think she was trying to weigh when she thought people might be driving and looking for fireworks, I do not think that she would particularly have any problems with this Board moving the hours around, she has already recommended seven days a week. If you want to limit the hours of sales, that is certainly in this Boards jurisdiction.

I should note at the last meeting there was a question and I did research that. I was asked whether fireworks could be used on public property and the statute does limit their use to either the person's own private property or other private property where they have permission to use it. They can not use fireworks on public property under the provisions of the State Law.

I know that is not before you but one of the members asked that question and I wanted to answer it.

Dennis Isherwood I have a question about allowing mobile sales, a mobile vehicle to sell fireworks from that. I do not agree with that, I do not think we should have a "lunch type" of vehicle selling fireworks along our streets anywhere.

****Editors Note** Michael Taylor arrives

Natalie Burns I do not think you can under State Law. I believe under State Law it is a fixed structure and has to meet many Code requirements. I do not think a portable sales unit would be able to meet those requirements. One of the regulations here says you have to meet the State Law requirements.

Robin Tannenbaum I move to recommend the sale of fireworks from 8:00 am to 8:00 pm

2nd by Rene Daniel

Ed Reidman anymore questions or comments?

Rene Daniel I also agree with two of the Board Members. I would be in favor of shorter hours of operation. The stricter we would be and the closer to 6:00 pm, the happier I would be.

Ed Reidman would you care to make an amendment to the motion and recommend to the Council that the pm hour be changed to 6:00?

Rene Daniel yes

Ed Reidman the motion as prepared with the change of the hours of operation, to limit the operation to 6:00 at night.

2nd by Dennis Isherwood

Robin Tannenbaum does that override my motion?

Ed Reidman no, there is an amendment on the floor right now and we are voting to the amendment that would limit the pm hour to the recommendation of the pm hour to 6:00 pm.

Now we are on the amendment, everyone in favor of the amendment?

The vote was unanimous in favor 5-0

Ed Reidman now we have the amended motion that says we recommend to you with the closing time of 6:00 pm.

The vote was unanimous in favor 5-0

5. **Amended Subdivision Plan and Final Site Plan Application – Fertile Valley Subdivision Office Building – Sebago Technics, on behalf of Chase Custom Homes, for the construction of a 3-Unit Office Condominium in a single 8,748 S.F. building. The property is located on Bridgton Road between Pride Street and Bridge Street. Tax Map: 58, Lot: 10, Zone: Highway Services.**

Project Description. Chase Custom Homes & Finance, Inc. proposes to develop property located on Lot 2 of the Fertile Valley Subdivision. Fertile Valley is located on Bridgton Road, generally along its frontage with the Brydon Farm Contract Zone (condominium project). The project will involve an amendment of the original subdivision plan, which was approved on September 9th, 2009, and a Site Plan approval for the new 8,748 s.f. office building.

Shawn Frank Sebago Technics on behalf of Chase Custom Homes, with me here tonight is Brent Cyr with Chase Custom Homes.

As you may recall at the last meeting we had a sketch plan of the development that consists of lot two in the Fertile Valley subdivision just off of Bridgton Road. It is just less than two acres in the Highway Services Zone. You may recall the Skvorak Dentist Office is in this location here. What we are proposing is in accordance with the original subdivision plan to utilize that existing access to come back to construct a parking area for thirty-two vehicles and to construct a three story building which will actually be a three unit office condominium building to house three businesses which are to be relocated from the Chase Custom Homes and Finance currently on the Percy Hawkes Road in Windham.

You have three stories shown to the rear of the property and two stories along Bridgton Road. Part of our conversation if you remember was we had the dumpster at this location and some of the members did not think that was the greatest location as the first thing you saw was the dumpster. We have relocated that location over here and we will have that fully enclosed and have proposed some landscaping in that area.

There was also discussion of sidewalks and what we have proposed is a sidewalk to connect from the driveway to Bridgton Road and to the front doors. We do have a grade change that I was a little worried about and I am working with Brent and what we are proposing is kind of a terrace if you will. You will see two foot stone walls, two of them with vigorous landscaping in association with that, so I think it will have a nice feel and a nice look along Bridgton Road.

The building itself will be a wood stick building with cedar clapboard siding, asphalt shingles on the peaked roof with set backs so it will not be one big block.

It is in keeping with the comprehensive plan, with the overall subdivision approval associated with Fertile Valley and certainly what we have been talking about for a long time along this section of 302.

All the utilities are readily available. They have either been installed or are readily available from 302. As part of this there is an overall stormwater management pond in this location within the subdivision connecting to an existing culvert coming from the municipal system on Bridgton Road running that across with a couple of catch basins and constructing this

pond which will actually take care of our lot as well as the other lot development all in accordance with the original storm water permit as issued by the Maine Department of Environmental Protection.

We are hopeful to obtain a site plan and subdivision approval if appropriate from the Board tonight, Mr. Chairman.

With that I conclude my presentation and will answer any questions the Board may have.

Ed Reidman questions for Mr. Frank or the developer? Like I said when we met the last time we decided not to have a public hearing or a site walk, so the item is before us for action tonight.

There is a proposed motion in Mr. More's memo...

Robin Tannenbaum I had a comment that I really wanted to thank you for responding to our comments from last time, both in terms of moving the dumpster and having the landscape well planted out and the sidewalks. I understand getting from the lower to the upper would be a crazy stair situation and I can not foresee anyone would need to do that.

Shawn Frank you are right... it would basically be stairs.

Robin Tannenbaum my comment is that I am pleased you took our suggestion from that last meeting as I think it improves your project.

Brooks More Mr. Chair I have a comment, on page nine of the memo under others is the parking requirements. I asked Mr. Frank to speak statistically about the parking needs.

Ed Reidman would you address the question, please?

Shawn Frank obviously under the guidelines it is five per thousand square feet, we are almost nine thousand square feet and are actually required by ordinance to have forty (40) spaces, forty-three (43) is the exact number. We have thirty-two (32) and are very comfortable with that. We already know the majority of the users for the majority of the spaces. They utilize six (6) spaces on any usual point in time. They figure the thirty-two (32) is more than enough for the office space they are proposing here. Again I certainly think five (5) per thousand is very reasonable for an urban office. Under normal circumstances if you had an insurance company with many employees in cubicles they would need to utilize the space at its highest effort. I think this is a little different here in terms of real estate mortgage companies have most of the people out in the field, so they will have an office but actually will not be at the company very often.

We did get an e-mail from Mr. Skvorak who says he has sufficient parking for his needs and did state the is available for the very few times we may have an overflow requirement, they would utilize the existing parking spaces.

With that Mr. Chairman, I will be happy to answer any questions along those lines.

Ed Reidman it is my understanding that we need to make a separate motion to allow the parking as shown.

Brooks More correct

Ed Reidman we usually deal with variance motions up front.

Natalie Burns Mr. Chair that would be up-front before the site plan motion, not the subdivision motion.

Ed Reidman anyone consider making the motion to amend the parking to reflect what has been proposed?

Michael Taylor Mr. Chair, I will make a motion for the parking that we apply it to the site plan to be as shown on plans.

2nd by Rene Daniel

The vote was 5-0 in favor

Michael Taylor move the Subdivision Plan amendment for Fertile Valley Properties, LLC on Tax Map: 58, Lot: 1B is to be **approved with conditions** with the following findings of fact and conclusions:

FINDINGS OF FACT

A. POLLUTION AND SEWERAGE DISPOSAL

- The project will be connected to the public sewer system. As a result, it will not result in undue water pollution.
- The proposed office use will not result in undue air pollution.

B. WATER

- The Portland Water District has confirmed an adequate water supply to serve the proposed subdivision.

C. SOIL EROSION

- The proposed subdivision will not cause unreasonable soil erosion.

D. TRAFFIC

- Ingress and egress should be limited to two curb cuts and the four lots should be connected internally by shared driveways.
- The proposed amendment for the office building on Lot 2 will use the existing entrance on Bridgton Road created for the medical office located on Lot 3.

E. SEWERAGE

- Sewerage will be via the municipal wastewater system.

F. SOLID WASTE

- Trash will be the responsibility of the landowner.

G. AESTHETICS

- Appearance Assessment:
 1. Project to Site – The proposed building on Lot 2 will be an asset to the neighborhood from an architectural standpoint.
 2. Project to Surrounding Property – Individual Site Plan applications for each lot must include provisions for screening of parking areas and dumpsters from existing residential uses.
 3. Landscape Design – The landscape design will be an asset to the neighborhood as it includes a variety of plantings and the plantings should be somewhat close to maturity at the time of planting.
 4. Lighting – All proposed lighting shall be of a 90 degree cut-off.
 5. Signs - Any project sign should be consistent with the Comprehensive Plan (**see below**) and must comply with the City’s sign regulations.

H. CONFORMITY WITH LOCAL PLANS AND ORDINANCES

- Comprehensive plan – The property is in the Highway Commercial 2 (HC-2) district of the Comprehensive Plan. What follows is an excerpt from the Comprehensive Plan. The purpose of this district is to:
 - 1) Provide local entrepreneurs with an opportunity to capture trade from passing tourists and commuters;
 - 2) Increase non-residential property valuation;
 - 3) Provide a future neighborhood service center for the anticipated residential growth pressures in the R-1 and R-2 zones located in the northeast portion of the City.

The challenge to future development of the HC-2 corridor is to avoid random and disjointed development patterns, multiple curb cuts, criss-crossing traffic, and intrusions on future right-of-way expansions that currently plague the Rte 302 corridor to Bridgton.

<p>Permitted Uses:</p> <ul style="list-style-type: none"> • Retail, commercial services, offices • Food service, including take-out • Entertainment centers & Lodging • Warehousing • Day Care Centers • Equipment rentals 	<p>Conditional Uses</p> <ul style="list-style-type: none"> • Automotive Repair • Auto service centers • Vehicle
<p>Space & Bulk Standards</p> <ul style="list-style-type: none"> • Minimum Lot Size: 40,000 s.f. • Minimum Frontage 150 feet • Building Coverage Negotiated 	<p>In Conformance?</p> <p>Yes</p> <p>Yes</p>

<ul style="list-style-type: none"> • Front Yard Setback 80 feet • Parking lot setback from Rte 302 (100% landscape area) 60 feet • Distance between curb cuts 300 feet 	<p>Yes</p> <p>Perhaps</p> <p>Yes</p>
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Performance Standards:

- Driveways and parking isles shall be connected between adjacent parcels to minimize the number of curb cuts. In the event that adjacent properties are undeveloped, the site layout shall be designed to permit eventual linkage when the abutting properties are developed.
- All parking areas shall be screened from Bridgeton Road by a combination of earthwork, vegetation, and or fencing.
- Signage within the front setback line shall be restricted to an aggregate 30 square feet per parcel, and shall be no higher than 10 vertical feet.
- Community facilities impact analysis – If required.

I. FINANCIAL AND TECHNICAL CAPACITY

- The applicant has demonstrated adequate financial capacity to complete the subdivision.

J. RIVER, STREAM OR BROOK IMPACTS

- N/A

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.
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 OF APPROVAL

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated May 12, 2009 and plans dated April 14, 2009 and updated to April 12th, 2012 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 City Planner or the Planning Board.
2. There shall be no more than two curb cuts within the subject subdivision and they shall be placed a minimum of 300 feet apart. Driveways and parking lots may be connected to achieve this requirement.
3. The applicant or a Qualified Post-Construction Stormwater Inspector hired by the applicant, shall, at least annually, inspect, clean and maintain the stormwater management facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basin and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, the applicant shall take corrective action(s) to address the deficiency (ies). The applicant shall employ a qualified post-construction stormwater inspector to provide, on or by March 1st of each

year, a completed and signed certification to the City Engineer in a form acceptable to the City of Westbrook, certifying that the applicant has inspected, cleaned and maintained the stormwater management facilities, describing any deficiencies found during inspection of the stormwater management facilities and certifying that the applicant has repaired any deficiencies to the stormwater management facilities noted during annual inspection.

4. Approval of the application is conditional on Maine Department of Environmental Protection approval of the project.
5. The applicant shall work with the City Engineer to ensure that the recommendations of the letter dated July 20, 2009 from William Peterlein are followed to ensure that the utility lines, stormwater facilities and the proposed dental office are constructed in a manner that is compatible with the existing Swanton soils.
6. The hours for trash pick up shall be limited to between 8:00 am and 8:00 pm.

2nd by Rene Daniel

Rene Daniel I want to echo Ms. Tannenbaum comments and compliment you and the builders that you took into consideration a sidewalk and made it into a terrace that is going to be a beautiful area. It will open up the area and more businesses will want to move there in the quality buildings.

I also like the concept of no fencing around dumpsters by using landscaping, it can be done.

Ed Reidman any comments?

The vote unanimous in favor 5-0

Michael Taylor move the Site Plan application for Fertile Valley Properties, LLC on Tax Map: 58, Lot: 1B is to be **approved with conditions** with the following findings of fact and conclusions:

FINDINGS OF FACT

Utilization of the Site

- The site is vacant and consists mainly of unforested areas. This Site Plan includes a three-story, 8,748 square foot, office building and parking generally in the middle of the site. The project reflects the natural capabilities of the site to support development.
- The project proposes to put the building along Bridgton Road with the parking area in the rear. This meets the goals of the Comprehensive Plan and promotes better design in the corridor.

Adequacy of Road System

- Bridgton Road/Route 302 has adequate capacity to accommodate the additional traffic generated by the project.

Access to the Site

- The City Engineer finds that the proposed development will not generate enough trips to warrant a separate left turn lane into the site.
- The existing entrance from Lot 3 of the Fertile Valley Subdivision will be used by the development.

Internal Vehicular Circulation

- The layout provides for safe movement of passenger, service and emergency vehicles within the site.

Pedestrian and Other Modes of Transportation

- There is a sidewalk along this section of Bridgton Road.
- A sidewalk is provided along the driveway between the building and the existing sidewalk on Bridgton Road. An additional path has been provided from the sidewalk to the building's front door.

Stormwater Management

- The project is regulated by the Maine DEP stormwater permit for the Fertile Valley Subdivision.

Erosion Control

- An erosion and sediment control plan has been provided on plan sheet 4 of 5.

Utilities

- The Fertile Valley Subdivision application included a statement dated July 20, 2009 from William Peterlein, a Maine licensed engineer specializing in geotechnical engineering. Mr. Peterlein supports development on this site and provides recommendations for utility construction in the sensitive soils existing on the site. The applicant is encouraged to use Mr. Peterlein's recommendations for the installation of all utilities.

Hazardous, Special and Radioactive Materials

- Any hazardous materials generated by the proposed office building will be disposed of as required by law.

Technical and Financial Capacity

- The applicant has provided a statement of financial capacity from Machias Savings Bank.
- The applicant has successfully completed projects in the City of Westbrook.

- The project has been designed by a licensed professional engineer and licensed professional landscape architect.

Solid Waste

- Solid waste pick up will be the responsibility of the landowner.

Historic, Archaeological and Botanical Resources

- No historic, archaeological or botanical resources have been identified on the site.

Landscape Plan

- A landscaping plan has been provided. The plan proposes to focus landscaping on the public street side of the building. In addition, the proposed enclosed dumpster is proposed to be screened with vegetation.

Others

- **Parking:** Per Section 505.1 of the Land Use Ordinance, the minimum off-street parking requirement for offices is 5 spaces per 1,000 s.f. The proposed 8,748 s.f. office building will require a minimum of 43 parking spaces. The site plan depicts a total of 32 parking spaces. The applicant may apply for a waiver in accordance with Section 501 of the Land Use Ordinance.
 - The applicant is requesting a reduction of the required off-street parking standard (see attached letter dated April 12, 2012 from Shawn Frank, P.E.).
 - The Planning Board has the ability to relax the minimum off-street parking requirements in accordance with Section 505.1(I):

“Sec. 505.1(I) Planning Board Discretion. The Planning Board may relax or expand any of the requirements in Section 505.1 in the case of site plan review if the applicant can describe statistically how its operation will require a different treatment.”

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 OF APPROVAL

1. Approval is dependant upon, and limited to, the proposals and plans contained in the application dated March 27, 2012 and plans dated March 27, 2012 and updated to April 12th, 2012 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 City Planner or the Planning Board.
2. The applicant or a Qualified Post-Construction Stormwater Inspector hired by the applicant, shall, at least annually, inspect, clean and maintain the stormwater management facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basin and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved Post-Construction Stormwater Management Plan. If the Stormwater Management Facilities require maintenance to function as intended by the approved Post-Construction Stormwater Management Plan, the applicant shall take corrective action(s) to address the deficiency (ies). The applicant shall employ a qualified post-construction stormwater inspector to provide, on or by March 1st of each year, a completed and signed certification to the City Engineer in a form acceptable to the City of Westbrook, certifying that the applicant has inspected, cleaned and maintained the stormwater management facilities, describing any deficiencies found during inspection of the stormwater management facilities and certifying that the applicant has repaired any deficiencies to the stormwater management facilities noted during annual inspection. The hours for trash pick up shall be limited to between 8:00 am and 8:00 pm.

2nd by Rene Daniel

The vote is unanimous in favor 5-0

New Business

6. **Special Exception Application– Inspired Wire Studio – DWM, LLC for the establishment of a custom lighting fabrication business at 90 Bridge Street, Suite B-40 (a.k.a Dana Warp Mill). Tax Map: 32(3), Lot: 121, Zone: City Center District, Overlay Zone: General Development Shoreland Zone.**

Staff Comments:

1. The special exception review is triggered by the proposal to locate a Light Manufacturing use in the City Center District.

Adam Policky this is Dawn Hagin, we would like to move our custom lighting fabrication and design business from its current location in Bayside Portland to Dana Warp Mill. As it falls under light industrial use we are here to ask for a Special Exception for zoning.

Ed Reidman I understand why we are here as this is a special exception, what do we need to do tonight to deal with this issue?

Brooks More staff met with the applicants and met with the City Engineer, Code Enforcement and the Fire Inspector and I with most of the conversation was about noise in terms of saws and things like that. We also talked about proper ventilation because there is going to be some finishing and painting work. The applicant understands that they need to work with the Code Enforcement Officer and Fire Department to properly vent the area.

The other issue we talked about was deliveries. As we all know the loading bay at the Dana Warp Mill, if a large tractor trailer truck is delivering, it sticks out on Bridge Street... They did say most of the deliveries are by Fed Ex or UPS which is not an issue. In the letter to the Board they stated that large tractor trailer deliveries will be very rare and if they are we have put a condition in to limit it to very early morning or early afternoon as recommended by the City Engineer.

Ed Reidman Site Walk? Public Hearing?

**Editors note – none wanted

Ed Reidman comments?

Michael Taylor I just wanted to make a comment that I am glad you chose to move your business to Westbrook at the Dana Warp Mill.

Adam Policky we are glad to and are excited to move in there. On deliveries I actually have spoken to the local delivery that we get that would come in a large truck is from American Steel

and they will not deliver they anyway in a large truck so I think it will be very, very rare that a truck will be delivering.

Ed Reidman thank you, other questions or comments?

Robin Tannenbaum this shows my lack of knowledge on ventilation systems but whatever you will be doing and understand I am coming off a project where hood vents were installed, a lot of stuff on the exterior of the building, would there anything that will be visible on the exterior of the building? I know there are strict guidelines placed to the preservation of this building for not interfering with the exterior of the facade.

Adam Policky I am no expert myself but the exact unit we are looking at is what was once the mattress factory which is at the very far end of Dana Warp and on the ground floor and actually has two areas that have their own roof and do not have anything above them, so I think our venting will go straight up to the roof and have a vent cap on the roof.

Robin Tannenbaum it is just a cap not an air handling unit or something big like that...

Adam Policky my assumption is that something like that will be inside. I still have something to learn and need to have further discussions with staff of what is actually needed.

We really do not cause a lot of fumes. We are not heavy industrial, I hope there is not much to that, and it is really a simple system.

Ed Reidman other questions or comments?

Rene Daniel can you point out on the blue map which part of the building you will be in?

Editors Note - Adam Policky showed location on map

Rene Daniel thank you

Ed Reidman other questions or comments? There is a proposed motion on Mr. More's memo...

Michael Taylor move the Special Exception application for Inspired Wire Studio on Tax Map: 32(3), Lot: 121 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 requested use meets the requirements of the Land Use Ordinance.
- 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 requested use will not significantly devalue abutting property or property across a public or private way.

C. Effects of Land Use. That the use granted will:

- (1) Maintain safe and healthful conditions,
 - The applicant shall install all necessary ventilation and storage facilities in accordance with the requirements of the Code Enforcement Officer and Fire Department.
- (2) Not cause water pollution, erosion, or sedimentation
 - Not Applicable.
- (3) Not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat,
 - Not Applicable.
- (4) Conserve shared tree cover and visual, as well as actual, access to water bodies,
 - Not Applicable.
- (5) Not burden on-site septic or off-site waste disposal,
 - Not Applicable.
- (6) Not burden existing public ways.
 - The proposed use will not burden existing public ways. Deliveries by large tractor trailer trucks via the existing loading bay must be done during early afternoon hours.

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,
 - Not Applicable.
- (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,
 - Not Applicable.
- (3) Water, Air, Soil Pollution. The development will not cause unreasonable water, air, or soil pollution,
 - Not Applicable.
- (4) Soil Integrity. The development will not cause unreasonable soil erosion or reduction in the capacity of the soil to hold water,
 - Not Applicable.
- (5) Natural Environment. The development must not have an unreasonably adverse effect on a historic site or irreplaceable natural areas,
 - Not Applicable.

- (6) Nuisance Factor. The development must not cause unreasonable noise, odors, dust, gas, fumes, smoke, light or other annoying or dangerous emissions,
- Noise: The applicant has stated that woodworking tools will be used on an intermittent basis. The Dana Warp Mill building is designed to accommodate this type of activity.
 - Odors: The applicant has stated that some painting and wood finishing will be conducted in the space. The volume of work will be consistent with an artist studio and will not create undue amounts of odors.
- (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,
- Not Applicable.
- (8) Vehicular Access. The site layout must provide for safe vehicular access and egress, including that for emergency vehicles,
- Not Applicable.
- (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,
- The proposed use will use the existing parking provided for the Dana Warp Mill. The applicant anticipates that a maximum of 2 to 3 employees will occupy the space during business hours. This would require a total of 1.8 parking spaces in accordance with the Land Use Ordinance. The existing parking will be able to accommodate the proposed use.
- (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 applicant shall install all required ventilation and storage facilities as required by the Code Enforcement Officer and/or the Fire Department.

CONDITIONS

- (1) Approval is dependant upon, and limited to, the proposals and plans contained in the application dated April 3, 2012, 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 install all required ventilation and storage facilities as required by the Code Enforcement Officer and/or the Fire Department.
- (3) Deliveries at the existing loading dock on Bridge Street by tractor trailer trucks shall be limited to the hours of 6:00 a.m. to 7:00 a.m. or 12 noon to 3:30 p.m.

2nd by Robin Tannenbaum

The vote was unanimous in favor 5-0

7. **Adjourn**

Respectfully submitted by Linda Gain PECE Administrative Assistant
THANK YOU