

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF APRIL 21, 2015

MINUTES

Board Members Present:

**Paul Bolin, Chairman
Charles Boothby
John Kenney
John Miller
Wayne Mallar
Julie Williams
Dora McCarthy**

City Staff Present:

**David Gould
Paul Nicklas**

Chairman Bolin called the meeting to order at 7:00 p.m.

PUBLIC HEARINGS

Item No. 1: To amend the Land Development Code by changing a parcel of land located at 300 Forest Avenue from Urban Residence One District to Government and Institutional Service District. Said parcel of land containing approximately .57 acres. Duprey Enterprises, Inc., applicant. C.O. 15-139.

Chairman Paul Bolin opened the Public Hearing and asked the applicant or their representative to make a brief presentation of the request.

Mr. Brian Duprey told the Board he was seeking a rezoning to operate a day care facility at the church building. He noted that the facility had previously had day care there for a number of years. He noted that they would start off small and potentially expand with added parking on-site. In discussions with the City Engineer it was noted that a one-way traffic circulation pattern with cars routing to Milford Street and then Elm Street to avoid left hand turns out to Stillwater Avenue could be provided.

Mr. Beau Brigham of 277 Elm Street noted he was concerned about the long term impacts of the zone change. While the present proposal is limited, the rezoning would be permanent and the operation could expand or possibly change to a new owner and use in G&ISD.

Doug Belhumuer of 59 Milford Street noted he shared Mr. Brigham's concerns that there was no guarantee that the building would not become some other use after it was rezoned.

James Hartley of 235 Elm Street was concerned as to what the future implications might be and if this property changed to facilitate a day care would more requests follow suit to add other non-residential uses along Stillwater Avenue.

Craig Brigham was concerned about the impact on the adjacent residential properties and traffic impacts on the quiet residential street.

There were no other proponents or opponents to the rezoning request. Chairman Bolin closed the Public Hearing and asked for Staff comments.

Planning Officer Gould advised the Board that the application was to rezone the former church property to Government and Institutional Service District (G&ISD). The church has been at this location for over 100 years. While back in the 1960's the Comprehensive Plan recognized the church, subsequent versions have depicted the land use as low density residential. The property is zoned Urban Residence 1 District which allows single-family dwellings as a permitted use and churches as a Conditional Use. Mr. Gould noted that had the church requested to be rezoned for its own expansion there would be little question. The facilities are small and few improvements have been made to the site. With the existing church now vacant, the City is likely to see a number of reuse requests as the large structure is unlikely to be reused as a single-family residence. The Government and Institutional Service District provides for a range of uses, primarily intended to facilitate uses by nonprofits such as schools hospitals and governmental buildings. The district does provide for some for-profit uses such as medical office space and day care. Mr. Gould noted that a contract zone is an option but without details concerning what limitations need to be included it is a complicated process.

Mr. Boothby moved to recommend the proposed rezoning to the City Council. Member Kenney seconded the motion and the Board voted one in favor and six opposed to recommend that the City Council approve the rezoning from Urban Residence 1 District (URD1) to Government and Institutional Service District as contained in C.O. # 15-139.

Item No. 2: Conditional Use and Site Development Plan approvals to construct a 4,700 sq. ft. building located on Venture Way and Maine Avenue for use as a credit union with a drive-thru window in a Technology and Service District. Bangor Federal Credit Union, applicant.

Chairman Paul Bolin opened the Public Hearing and asked the applicant or their representative to make a brief presentation of the request.

Mr. Kenney noted that he worked for the project designer and may have a conflict of interest. Mr. Miller moved that Mr. Kenney had a conflict of interest and should be excused. Ms. Williams seconded the motion and the remaining Board members voted unanimously that Member Kenney be excused.

Mr. Ray Bolduc P.E. of WBRC representing Bangor Federal Credit Union, provided the Board with an overview of the project. Mr. Bolduc noted that Mr. Steve Clark with of the Credit Union was present. Mr. Bolduc indicated the applicant proposes a 4,700 square foot building with a drive up window. The parcel is approximately 2 acres. The drive-thru window is a conditional use in the Technology and Service District. Mr. Bolduc noted that the Staff Memorandum noted some outstanding details which have been provided to the City.

Chairman Bolin asked for any other proponents or opponents. There being none, he closed the Public Hearing and asked for staff comments.

Planning Officer Gould indicated that the application was for Conditional Use Review and Site Development Plan approval. Mr. Gould noted that in addition to Site Plan Review the City had a design review process for buildings in the Maine Business Enterprise Park to ensure consistency with the covenants. Planner Gould noted it was about a year ago that the Technology and Service District was amended to accommodate the credit union project.

Due to the fact that the Maine Business Enterprise Park is owned and operated by the City of Bangor, the City Engineer updated the City's Traffic Movement Permit with MDOT to add the trips from the Credit Union's drive thru window. The trip generation of around 100 trips will not require any new improvement to the roadway network. Mr. Gould noted that there was adequate parking and the Impervious Surface Ratio (ISR) was less than the maximum allowed. He also told the Board that within the MBEP buildings go through a design review process to insure compatibility to the Park's covenants.

Finally, Mr. Gould noted that WBRC had addressed all the elements noted in the Staff Report. Mr. Boothby made a motion to approve the Conditional Use & Site Development Plan for Bangor Federal Credit Union located on Venture Way in a

Technology and Service District. Ms Williams seconded the motion and the Board voted unanimously to approve the Conditional Use and Site Development Plan.

Item No. 3: Conditional Use and Site Development Plan approvals to demolish the existing building at 1049 Union Street and replace it with a 3,391 sq. ft. building with a drive-thru window in a Shopping and Personal Service District. G.D.G., applicant.

Chairman Bolin opened the Public Hearing and asked for a representative of the applicant to make a brief presentation.

Elliot Thayer of Thayer Engineering representing G.D.G. indicated they were asking for Conditional Use approval, as well as, Site Development Plan approval to replace the existing Wendy's restaurant on Union Street. Mr. Thayer noted he was joined by Jeff Marshall who oversaw the Wendy's facilities. He indicated the new building would be 3,391 square feet with seating for seventy five people. The foot print is slightly larger but seating will be somewhat smaller than the 1977 original building. The site is just under an acre with an ISR of .76. Mr. Thayer indicated because the number of seats are down he anticipated no increase in traffic from the site. They were providing 5 parking spaces where the City's zoning would require nineteen. The utilities are the same with stormwater catch basins and a sewer grease trap. The exterior light poles will be replaced consistent with City guidelines.

Board Members had questions concerning the parking spaces that appear to conflict with the drive thru window queue.

Planning Officer Gould indicated the application was for Conditional Use and Site Development Plan review. The plan was to replace the building in its entirety. Mr. Gould noted that while some parking appears to conflict with the queued cars the plan does depict more than the five required under our code. The required parking is one space per four seats which would require 19 spaces where 35 are proposed.

Mr. Gould indicated that elevation drawings are in the Board's package of information. Due to the lack of change in seating no changes are anticipated in traffic or trip generation. Mr. Gould noted a few features which need to be adjusted to be consistent with City standards.

Mr. Miller asked if there was a plan for the layout of the outdoor patio and any other options to eliminate the conflict between parked cars and the drive thru queue lane. Mr. Thayer noted the patio would be at the front of the building but is not presently labeled on the plan. He noted with the addition of outdoor seating the site would be in excess of the required parking. Mr. Thayer noted that Wendy's does not like to locate the trash dumpster close to the building and the parking in the rear of the

site is changing very little. Mr. Thayer noted some spaces could be labeled as "Employee Parking."

Mr. Kenney asked at what point would the applicant be asked to reduce the pavement to meet the Impervious Surface Ratio (ISR) especially where they have more than the required number of spaces. Planner Gould noted that many sites developed prior to 1991 do not have a limitation on the impervious area. When these sites redevelop we guide them to have the same or less pavement, so that it does not increase from the existing grandfathered condition. With Wendy's staff encouraged them to work within the perimeter of the existing parking lot. Staff did ask them to add some landscaping to the site in keeping with what Wendy's typically would provide.

Mr. Thayer noted that Wendy's would have liked even more parking but understands the City's intent to limit impervious areas.

Ms. McCarthy moved to approve the Conditional Use and Site Development Plan. Member Boothby seconded the motion, and the Board voted to approve the application.

Item No. 4: To amend the Land Development Code – Chapter 165-99 – Low Density Residential District and Chapter 165-100 – High Density Residential District and Schedule B related to the Low Density Residential District and High Density Residential District. City of Bangor, applicant. C.O. # 15-137.

Chairman Bolin opened the Public Hearing and asked for staff comments. Planning Officer Gould indicated that the amendment seeks to clarify a number of inconsistencies in the HDR District which lists housing types by name and provides differing densities and development standards for each. What we have discovered over time is that larger developments often mix housing types and it becomes unclear which development standard governs. To deal with that concern, the newly organized HDR language deals with the number of units within a building rather than the type of construction or arrangement of units.

As was discussed previously, the intent of the amendment was to correct some HDR shortcomings but we found a few details in LDR which warranted attention since we're doing a related amendment. Those are to eliminate Zero Lot Line Development as an option, as it has failed to gain any interest over the last 20 years. Secondly we have added a minimum lot size standard for LDR cluster developments based on some field experience where the resulting pattern is contrary to what is expected. Mr. Gould noted that we tend to see more subdivisions developed for the sale of lots than subdivides who build all the units in a subdivision.

Based on some of the Board's last comments, adjustments have been made in the minimum parcel area for larger multi-unit structures and congregate housing from five acres down to three acres.

There were no proponents or opponents to the rezoning request. Chairman Bolin closed the Public Hearing and asked for a motion. Mr. Boothby moved to recommend the proposed rezoning to the City Council. Mr. Kenney seconded the motion and the Board voted unanimously to recommend that the City Council approve the proposed Amendments to the Low Density Residential District, High Density Residential District and Schedule B as contained in C.O. # 15-137.

Item No. 5: To amend the Land Development Code – Chapter 13 – Definitions – Landscaping Services; Chapter 165-72V. – Required Number of Spaces and Chapter 165-105 – Rural Residence and Agricultural District to add Landscaping Services as a permitted Use. City of Bangor, applicant. C.O. # 15-138.

Chairman Bolin opened the Public Hearing and Assistant City Solicitor Paul Nicklas provided the Board with an overview of the proposed amendment. The amendment seeks to clarify landscape services as a permitted use in the RR&A District. For many years the Code Enforcement Office has viewed landscaping service (mowing, planting, maintenance and care of plants) as an agricultural use in the RR&A District. The amendment seeks to better define that use and provide some basic development guidelines to insure its compatibility with other uses in the district.

Mr. Mallar asked why such a business would not be required to be located on a Major Arterial Street as retailing of agricultural products is required to be.

Planning Officer Gould noted the intent of the landscaping service use is that it is a service business not a retail business.

Mr. Mallar figured it would be difficult to track which materials would be delivered off-site versus those sold on-site.

Chairman Bolin asked if there were anyone present who wished to speak in favor of or in opposition to the proposed amendment.

Mr. Ed Bearor of Rudman & Winchell indicated he represented Michael and Lori Edwards, Carolyn LaRochelle, and Mary Tedesco Schneck who are contesting the Certificate of Occupancy for a use deemed agricultural by the City's Code Enforcement Officer. Mr. Bearor indicated that most of the activity does not take place on the site but elsewhere. What occurs at the site in the RR&A District is the storage and maintenance of equipment used to undertake certain landscape services elsewhere.

Mary Tedesco Schneck who resides on Ohio Street indicated she has watched the adjacent residential property transform into a larger gravel storage area where workers gather every day and go off to job sites and return in the evening with equipment to be repaired.

Chairman Bolin indicated that he was not aware of the ongoing dispute or litigation but did not think the Board should be concerned with anything other than the amendment before them.

Mr. Kenney indicated there are a number of elements in this amendment which impact uses in the district and how they are reviewed. He was concerned that without further information the Board would not be able to make a sound recommendation of the amendment before them.

The Board discussed impacts of the amendment on pending litigation and other operating "agricultural uses" and whether they would be grandfathered nonconformities.

The Board discussed the option of continuing their discussion but concluded additional time may not provide answers to some of these questions. It was noted that the language of the amendment is what was advertised and printed. The Board and the City Council will have to take action on what's before them even if they conclude an alternative set of standards.

Mr. Boothby moved to recommend amending Zoning Ordinance Chapter 13 Definitions, Chapter 165-72 Parking, and Chapter 165-105 Rural Residence and Agricultural District as contained in Council Ordinance 15-138. The motion was seconded by Ms. Williams. The Board voted one in favor and six opposed.

APPROVAL OF MINUTES

Item No. 6: Planning Board Approval of Minutes

There were no Minutes for Board review.

MISCELLANEOUS BUSINESS

Item No. 7: Planning Board Review of Correspondence and Other Communications from the Planning Office.

There being no further items for discussion, the meeting was adjourned at 9:43 p.m.