

(As Amended)

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF JUNE 16, 2015

MINUTES

Board Members Present:

**Paul Bolin, Chairman
Charles Boothby
John Kenney
Wayne Mallar
Julie Williams
Pete Parizo, Alternate Member**

City Staff Present:

**David Gould
Paul Nicklas
Lynn Johnson**

Chairman Bolin called the meeting to order at 7:00 p.m. In the absence of Board Members McCarthy and Miller, Alternate Member Parizo was asked to vote.

Chairman Bolin asked if the Board was interested in entertaining Item No. 3 prior to the public hearing discussions. Ms. Williams moved that the Board consider Item No. 3 first on the agenda. Mr. Boothby seconded the motion, which carried by a vote of 6 to 0.

Mr. Kenney indicated that because he is employed by the firm that prepared the plans for this item he felt that he had a conflict of interest.

Ms. Williams moved that Mr. Kinney has a conflict of interest. Mr. Parizo seconded the motion, which passed unanimously.

Mr. Boothby indicated that he had a conflict of interest as he is a Board Member of the Bangor Housing Authority. Ms. Williams moved that Mr. Boothby has a conflict of interest. Mr. Mallar seconded the motion, which carried by a vote of 4 to 0.

NEW BUSINESS

Item No. 3: Site Development Plan approval to construct a 35,260 sq. ft. 24-unit apartment building at 100 and 101 First Street in a Contract Multi-Family & Service District. Bangor Housing Development Corporation, applicant.

Planning Officer Gould noted that because there were only four Board Members voting and the applicant would need four affirmative votes for passage, the applicant would have the option to continue this item until there are more voting members.

Mike Myatt, Executive Director of the Bangor Housing Authority, indicated that they would like to continue this item until there are more voting members present. Ms. Williams moved to continue this item to the Board's next meeting. Mr. Mallar seconded the motion. The Board voted 4 to 0 in favor.

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 Contract Government and Institutional Service District. Said parcel of land containing approximately .57 acres. Brian Duprey, applicant. C.O. 15-202.

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

Mr. Brian Duprey explained that he was previously before the Planning Board with a zone change request for the same parcel. At that hearing, neighboring property owners expressed their concerns and the Board recommended to the City Council that it not be approved. Mr. Duprey indicated that he is now seeking a contract zone change which would limit the use of the property to a place of worship and a day care center, limit the gross floor area of the building to a maximum of 5,000 sq. ft. and not provide any accessory dwelling units or overnight accommodations. The contract zone change request is to mitigate concerns of the neighbors and the Board. Mr. Duprey said that this would add to the tax revenue, it would continue as a church with a small day care center, and the building would be made ADA compliant. He has operated three day care centers over the last 20 years and he did not know of any complaints against them.

Doug Belhumuer, a neighboring property owner located behind the church indicated that the proposed contract zone change eliminated his concerns.

Craig Brigham, who owns property on Elm Street, indicated that he had concerns with increased traffic. He indicated that while he did not have a problem with the day care or church he felt that the rush hour traffic would add to the already congested area. He said that it was very difficult to make a left-hand turn from Elm Street onto Stillwater Avenue. He asked if the Maine Department of Transportation (MDOT) was going to allow for a left-hand turn off of the interstate onto Stillwater Avenue.

City Engineer John Theriault noted that last Friday the City received a draft copy of MDOT's recommendation which indicated that they were going to recommend it. However, he thought that it would be late fall of 2016 at the very earliest before it would be completed.

Mr. Brigham distributed a handout depicting making Milford Street one-way to Grove Street and installing a light at the corner of Forest Avenue and Stillwater Avenue as a means to solve the traffic problem in this area. Mr. Brigham asked that the Board table this discussion until such time as the traffic issue can be addressed.

Mr. Bolin indicated that traffic lights are not in the purview of the Planning Board but with the City Engineer and the Maine Department of Transportation.

Patty Kladder, a Burleigh Road resident, indicated that Stillwater Avenue is a major road for this area of the City to access shopping and other amenities. She also indicated that she felt that the day care would be a valuable service and asset to the City.

No one else spoke. Chairman Bolin closed the Public Hearing and asked for Staff comments. Planning Officer Gould discussed the previous zone change request and this contract rezoning request and indicated that the Board needed to review this to see if the proposed contract zone change conditions mitigated their concerns with the prior application.

Mr. Duprey said that he met with the City Engineer to discuss traffic. City Engineer Theriault explained that in order to install a traffic light there needs to be enough traffic at that location to warrant one. He indicated that he did not feel that the intersection of Forest Avenue and Stillwater Avenue would have enough traffic from this use to warrant the need for a traffic signal.

Mr. Kenney indicated that he was concerned with increased traffic from the proposed use of the building especially a day care center that could have up to 80 children at this site. Mr. Duprey indicated that they will be licensed for 49 children at this site.

Mr. Mallar asked for clarification on the language in Standard A of the contract conditions for limited to use as a place of workshop and a day care center. He asked if that standard required both to be in operation. Planning Officer Gould noted that he was not certain how the facility would be operated. Mr. Mallar asked Assistant City Solicitor Nicklas if one could exist without the other given the word "and." Assistant City Solicitor Nicklas indicated that in his legal opinion, that if one of them were to close he doubted that we would immediately say the other has to close as well.

Member Boothby made a motion to recommend that the City Council adopt the contract zone change request for 300 Forest Avenue from Urban Residence One District to Contract Government and Institutional Service District as contained in C.O. # 15-202. Mr. Kenney seconded the motion. The Board voted five in favor and one opposed.

Item No. 2: Conditional Use/Site Development Plan/Developmental Subdivision Plan approvals to construct one duplex building, 4 four-unit buildings, and 6 six-unit buildings for a total of 54, two-story single-family attached residential units (Chapter 165, Section 165-99 D. (1)) located off of Greenfield Avenue and Grandview Avenue in a Low Density Residential District. TJS Realty, LLC/Paradis Realty LLC, applicants.

Chairman Bolin opened the Public Hearing and asked for a presentation by the applicants or their representative.

Attorney Andrew Hamilton and Attorney Jonathan Pottle with Eaton Peabody along with Joe and Ashley Simpson, Travis Noyes, engineer with CES, Inc., Tom Gorrill, Traffic Engineer with Gorrill-Palmer, and Attorney Ed Bearor with Rudman and Winchell were all present in support of this application.

Attorney Hamilton briefly discussed the prior approval process this applicant went through. Because of delays and it being tied up in the court system, the project has not been completed. They have exhausted all of their completion date extensions they now needed to come back before the Board for re-approval. He indicated that there have not been any changes to the plan except for a raised sidewalk on the east side of Lupine Way to Essex Street as was suggested at the time of the original approval. He also noted that since the prior approval, there have not been any ordinance changes that would affect this application. He discussed the Superior Court upholding the Board's approval with the stipulation of dismissal with prejudice.

Mr. Hamilton reviewed the conditional use requirements of the district, as well as, the four standard conditions for granting approval indicating that the project met those standards.

Mr. Joe Simpson, one of the applicants, discussed his proposed project noting that the units were primarily designed to attract young professionals and older people wishing to downsize. He indicated that this is the same project as previously approved. They were asking for re-approval to restart the construction clock.

Travis Noyes, Engineer with CES, Inc., discussed the Site Development Plan which is for a 54-unit residential development on a 10.92 acre parcel which will be accessed through a right-of-way off of Greenfield Avenue. They have proposed 3.96 acres of open space (which is an upland area). The site is served by city water and sewer. The plan has been reviewed by the City Staff of the Engineering and Fire Departments. The project exceeds all of the minimum requirements and is below all maximum standards allowable. Mr. Noyes discussed improvements to the stormwater system which include upgrading the originally designed detention pond to a bio retention under drain system and installation of tree boxes which look like landscaping.

Tom Gorrill, Traffic Engineer with Gorrill Palmer, discussed the traffic studies done by Victor Smith at the time of the original approval. He reviewed the studies and found that the conclusions are still valid. He didn't feel that this project would create unreasonable traffic congestion or a hazardous condition.

Mr. Bolin asked if the road would be private. Mr. Hamilton indicated that it would. Mr. Boothby asked if the raised sidewalk could potentially be a hazard. Mr. Gorrill indicated that as designed it would not pose a hazard. The raised sidewalk was in response to the wishes of the Board at the time of the original approval.

Chairman Bolin then opened up the hearing to opponents.

Terri Baxter, a Labarca Lane resident, spoke in opposition. She told the Board that this is the only development in the City that has access through an existing development. She indicated that she was very much opposed to this development as she felt that by adding the sidewalk it would take up some of the street which would make it very narrow thus making it a safety hazard for the kids who wait for the school bus, it would create snow removal problems, and she was concerned about who will maintain it.

Anne-Marie Stroian, 5 Greenfield Avenue, indicated that she felt that this development would decrease the value of the existing homes (with Labarca Lane and Greenfield Avenue being the most affected), increase traffic, be a hazard to the kids in the neighborhood and increase flooding. She told the Board about the water problems that she has at her home and now needs two pumps to take care of the water in her basement. She also indicated that she did a survey of the residents in the mobile home park, on Whisper Drive, and on Darling Parke Drive and of those she spoke with all were against this development.

Mr. Gould introduced into the record a petition submitted by Ms. Stroian in opposition.

Mr. Ray Michaud, an abutting property owner on Essex Street, indicated that he would not have a problem if this land were developed into single-family homes. He said that when he purchased his property he was assured that this parcel would be developed as single-family homes. His property's value has gone down, it would affect the quality of life in the area, and would increase traffic. He asked the Board to rethink this project.

Alan Hunter, 20 Greenfield Avenue, discussed a handout that he distributed to the Board. He indicated that during this process he did his own wetlands survey and found vernal pools that were not declared. After his survey the plans were amended to show an additional vernal pool on the parcel. He outlined the history of activity during this process. He did not see an urgency in voting on this project as there has been no activity during the 2014 season. He asked the Board to extend more time to continue this process.

Matei Iilina, 5 Greenfield Avenue, said that he was hoping that this neighborhood would stay the same. He was against the development as he felt that the applicant wanted to build a low-quality development; access runs through an existing neighborhood of single-family homes; it was not developed 30 years ago because it was not suitable for development; the existing stormwater in his neighborhood was miscalculated; flooding is a big issue; it would create a traffic hazard; and he questioned the credibility of the developer as it was hard to trust someone who hasn't started building. He asked the Board how they would feel if they lived in this neighborhood and someone wanted to build 54 apartments.

Chris Partridge, a Grandview Avenue said that her foundation has cracked due to the water damage as a result of the poor drainage in the area. She now has to run two sump pumps. She agreed with the comments made by the other neighbors. She said that she was told that no one would build on this parcel because of the wetlands.

Mr. Hamilton rebutted by saying that there were inaccurate statements made and that the project as proposed met the requirements of the Low Density Residential District and the Land Development Code standards for conditional use, site development plan and developmental subdivision approvals.

Chairman Bolin closed the Public Hearing and asked for Staff comments. Planning Officer Gould told the Board that the applicant is seeking approval of a new application for attached residential. It is not the Board's responsibility to deal with other State Agencies and their permitting process. Staff found that the application meets the conditional use standards of the district as well as the four standard conditions for granting conditional uses. The application for developmental subdivision

plan approval also meets ordinance requirements. The Planning Staff did not have a concern with the application as presented.

Mr. Boothby asked if the applicant had updated a stormwater management plan for this area. City Engineer John Theriault indicated that the applicant submitted a management plan that meets City requirements. He noted that the post runoff is less than pre runoff.

Mr. Kenney asked if there would be a third party erosion control plan monitored during construction. Mr. Theriault indicated that there was a plan submitted at the time of the DEP approval process and the City plans to do the monitoring.

Board Members discussed condominium ownership. Mr. Hamilton indicated that the ownership would be a condominium form of ownership with private road maintenance.

Board Members also discussed the density and type of development proposed, traffic and stormwater issues.

Mr. Boothby moved to approve the Conditional Use/Site Development Plan/Developmental Subdivision Plan with the condition that the condominium association documents be executed and meet the approval of the City's Legal Department. Ms. Williams seconded the motion. The motion passed four in favor and two opposed.

APPROVAL OF MINUTES

Item No. 4: **Planning Board approval of Minutes.**

Chairman Bolin indicated that the Minutes of the June 2, 2015 Meeting were in order. Mr. Boothby moved to approve the Minutes of the June 2, 2015 Meeting as presented. Ms. Williams seconded the motion. The motion carried by a vote of 6 to 0.

MISCELLANEOUS BUSINESS

Item No. 5: **Planning Board Review of Correspondence and Other Communications from the Planning Office.**

This item was continued to the Board's next meeting. There being no further items for discussion, the meeting was adjourned at 9:47 p.m.