

PLANNING BOARD OF THE CITY OF BANGOR

MEETING OF MAY 20, 2014

MINUTES

Board Members Present: **Andy Sturgeon, Chairman**
 Paul Bolin
 Charles Boothby
 John Kenney
 Wayne Mallar
 Dora McCarthy, Alternate Member
 Julie Williams

City Staff Present: **David Gould**
 Paul Nicklas
 Lynn Johnson

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

CONSENT AGENDA

As no one wished to remove either item from the Consent Agenda, Chairman Sturgeon asked for a motion.

Ms. Williams moved to approve the Consent Agenda. Mr. Boothby seconded the motion.

Mr. Mallar asked if both lots shown on the plan for Item No. 1 could be built on. Planning Officer Gould indicated that they could build one house per lot.

Chairman Sturgeon asked for a vote. The Board voted 7 to 0 in favor of the motion. The items approved are as follows:

Item No. 1: **Site Development Plan approval of a flag lot located at 863 Essex Street in a Low Density Residential District. Selina Rozario, applicant.**

Item No. 2: Site Development Plan approval to demolish the existing building at 35 Court Street and construct additional parking at 35 Court Street in a Government and Institutional Service District. City of Bangor, applicant.

PUBLIC HEARINGS

Item No. 3: Conditional Use Review Request to revise conditions of approval related to off-site traffic improvements to construct a 22,700 sq. ft. building for medical office use located at 954 Broadway in a Contract Government and Institutional Service District. St. Joseph Healthcare, applicant.

Chairman Sturgeon opened the Public Hearing and asked for comments from the applicant or its representative. Mr. John Theriault, Traffic Engineer with the James W. Sewall Company, explained that in August of 2013 the applicant received conditional use approval to construct a 22,700 sq. ft. building for medical office use at 954 Broadway with the condition that no certificate of occupancy be issued until the off-site traffic improvements are constructed. Those off-site improvements included construction of turning lanes to facilitate left hand turning traffic off of Broadway. With the anticipated Broadway project pending by the City, the Maine Department of Transportation Traffic Movement Permit provided the applicant with two options: 1) to construct the improvements shown on the plans or 2) contribute the cost of their share of the improvements to the City as part of its widening project. Three cost estimates were gathered and it was determined that the applicant's cost would be \$170,000. The Broadway widening project has been delayed and the applicant's project will be completed prior to when the off-site improvements will be completed. Mr. Theriault indicated that under the TMP an additional 8,000 square feet of future space was included in the traffic analysis. Therefore, the applicant is requesting that the Board's condition of approval that no certificate of occupancy be issued until the off-site traffic improvements are constructed be removed.

Chairman Sturgeon asked for proponents. Mr. Randy Gardner spoke in favor of the request. No one from the audience spoke in opposition to the request. Chairman Sturgeon asked for Staff comments.

Planning Officer Gould indicated that there are no proposed changes to the Site Development Plan for this project at this time. The applicant is asking that the condition of the approval that no Certificate of Occupancy be issued until the off-site work is completed be deleted. He noted that the applicant requested an opinion from MDOT as to the delay of the off-site work. MDOT indicated that they did not object to the applicant's off-site improvements being done as part of the larger City Project to be constructed in 2015.

Mr. Kenney asked if it was definite that the City would do this project. Mr. Theriault indicated that it was already financed through BACTS. Mr. Sturgeon noted that the City would have the funds in escrow to complete St. Joseph's off-site improvements.

Mr. Bolin moved to approve the Conditional Use request to revise conditions of approval related to off-site traffic improvements to construct a 22,700 sq. ft. building for medical office use located at 954 Broadway in a Contract Government and Institutional Service District. St. Joseph Healthcare, applicant. Mr. Boothby seconded the motion. The Board voted 7 in favor and 0 opposed.

Item No. 4: To amend the Land Development Code by changing a portion of a parcel of land located at 143 Fruit Street from Government and Institutional Service District to Urban Residence One District. Said portion of a parcel of land containing approximately 700 sq. ft. Lori Hemphill, applicant. C.O. #14-171.

Chairman Sturgeon opened the Public Hearing. Planning Officer Gould explained that the applicant was requesting a zone change for a portion of a parcel of land (700 sq. ft.) located at 143 Fruit Street (Tax Map 053-227) from a Government and Institutional Service District to an Urban Residence One District. The applicant discovered that a portion of her garage was inadvertently built over her rear property line onto the City's property and requested to purchase that area from the City. On April 14, 2014 the City Council approved the sale of this area to Ms. Hemphill, thus bringing her property into compliance. The applicant is now requesting a zone change on this 700 sq. ft. area in order to have the zoning consistent on her entire parcel.

There were no proponents or opponents to the rezoning request. Chairman Sturgeon closed the Public Hearing.

The Board discussed whether or not this area would affect the buildings on the City's property and how it affects the applicant's accessory garage. Mr. Gould indicated that this area was not immediately next to any of the City's buildings and this area is now part of the applicant's parcel.

Ms. McCarthy moved to recommend approval of the zone change request from Government and Institutional Service District to Urban Residence One District as contained in C.O. # 14-171. The motion was seconded, and it passed six in favor and one opposed.

Item No. 5: Amending the Land Development Code, Chapter 165, Section 165-31 Temporary sales of food or merchandise – for multiple food vendors per lot in the USD, S & PS, GC & S and UID Districts. City of Bangor, applicant. C.O. # 14-170.

Chairman Sturgeon opened the Public Hearing. Paul Nicklas, Assistant City Solicitor, indicated that this ordinance amendment would allow up to four food vendors on a single-lot in certain zoning districts in most industrial and commercial zoned lots. The only district where more than a single vendor is allowed is the Waterfront Development District where four vendors are allowed per lot. This amendment would allow four vendors per lot in the Urban Service District, Shopping and Personal Service District, General Commercial and Service District, and Urban Industry District provided that there are five extra parking spaces on the lot per vendor. Mr. Nicklas indicated there was expressed interest in having additional vendors in Shopping and Personal Service District. The language would require 5 parking spaces per vendor above what is required by the existing land uses at the site.

No one from the audience spoke in favor of or in opposition to the proposed amendment. Chairman Sturgeon closed the Public Hearing and asked for Staff comments.

Planning Officer David Gould noted that such permits for the food vendors are issued through the Code Enforcement Office and they do not need Planning Board approval.

Ms. Williams moved to recommend approval of the Zoning Amendment contained in C.O. #14-170. Mr. Boothby seconded the motion. The Board voted 7 to 0 in favor.

Item No. 6: Amending the Land Development Code, Chapter 165, Section 165-32 Quarries, mining and excavations to eliminate nonconforming quarries from residential areas. City of Bangor, applicant. C.O. # 14-137.

Chairman Sturgeon opened the Public Hearing. Assistant City Solicitor Paul Nicklas requested that the Board open and continue the public hearing to its next meeting. He explained that the City is still working on the details of the new quarry site.

Mr. Gould indicated that a similar ordinance amendment was before the Board previously. Mr. Gardner indicated that until he has the new approval for the new quarry he does not want to relinquish his existing and approved quarries.

Mr. Bolin moved to continue the Public Hearing until the Board's meeting in two weeks. Ms. Williams seconded the motion, which carried unanimously.

Item No. 7: Amending the Land Development Code, Chapter 165, Section 165-13 Definitions for Restaurants and Bars and the new definitions into Section 165-92 (USD), Section 165-93 (DDD), Section 165-94 (WDD) Section 165-94.1 (BPD) and Section 165-95 (ADD). City of Bangor, applicant. C.O. #14-136.

The Public Hearing was opened by Chairman Sturgeon. Paul Nicklas, Assistant City Solicitor, indicated that this ordinance amendment would bring the definitions of restaurant and of bar, tavern, or lounge in the Land Development Code into alignment with state definitions. Presently, the definitions in the City's Land Development Code for restaurants, bars, taverns, and lounges differ from those in the State's liquor licensing laws. Changing the City definitions to match those of the State would serve to reduce the potential for confusion.

No one from the audience spoke in favor of or in opposition to the proposed amendment. Chairman Sturgeon closed the Public Hearing and asked for Staff comments.

Planning Officer David Gould noted the last time these definitions were reviewed was when the City was making a clear distinction between bars and restaurants. The new definitions will not alter the previous language to maintain harmony between residential properties and urban bars and clubs.

Ms. Williams moved to recommend that the City Council approve the zoning amendment as contained in Council Ordinance #14-136. The motion was seconded by Mr. Boothby. The Board voted unanimously in favor of the motion.

APPROVAL OF MINUTES

Item No. 8: Planning Board Approval of Minutes.

Chairman Sturgeon indicated that the Minutes of the May 6, 2014 and April 15, 2014 Meetings were in order. Mr. Bolin moved to approve both sets of Minutes as printed. Ms. Williams seconded the motion which carried by a vote of 7 to 0.

There being no further items for discussion, the meeting was adjourned at 7:48 p.m.