



Planning & Code Enforcement

2 York Street
Westbrook, Maine 04092
Phone: 207-854-0638
Fax: 866-559-0642

PLANNING & CODE ENFORCEMENT

WESTBROOK PLANNING BOARD TUESDAY, FEBRUARY 2, 2021, 7:00 P.M.

Performing Arts Center
Westbrook Middle School
471 Stroudwater Street, Westbrook

Enter Building from Street side (Performing Art Center Entrance)
Masks are required to enter building as well as proper physical distancing
Meeting attendance is capped at 50 attendees

AGENDA

1. Call to Order
2. Approval of Minutes

OLD BUSINESS

3. **2020.26 – Subdivision – Greenfield Place – Bramblewood, LLC:** The applicant is proposing a 3-lot and 28-unit condominium development on a private driveway located on New Gorham Road. Tax Map: 027 Lots: 184, 184B and 184C Zone: Residential Growth Area 1 Use: Dwelling, Single-Family; Dwelling, Two-Family

NEW BUSINESS

4. **2020.39 – Site Plan, Subdivision, Conditional Use – 511 Bridge Street – Chase Custom Homes & Finance – Public Hearing:** The applicant is proposing the demolition of the existing structure and construction of 9-unit subdivision consisting of 3-duplex units and 1-triplex unit. This application supersedes the previously approved 100-child daycare facility proposed at the same location. Tax Map: 048 Lot: 046 Zone: Residential Growth Area 2 Use: Dwelling, Two-Family; Dwelling, Multiple-Family
5. **2020.40 – Site Plan, Subdivision, Conditional Use – 98 East Bridge Street – Chase Custom Homes & Finance – Public Hearing:** The applicant is proposing a 3-unit subdivision with associated parking and site improvements located at 98 East Bridge Street. Tax Map: 048 Lot: 074 Zone: Residential Growth Area 2 Use: Dwelling, Multiple Family
6. **2021.01 – Zoning Map Amendment – Rocky Ledge Capital Westbrook Seavey Main, LLC – Public Hearing:** The applicant is proposing to include parcel 040/135 (Lot #4 of the approved subdivision located at 35 Seavey Street) and the portion of parcel 040/208 located between Main Street and the Pan Am rail line in the Village Review Overlay Zone. The area is proposed to be designated as Downtown District since the merged parcel has Main Street frontage. The proposed amendment does not change the underlying City Center District zoning of either parcel.

Deliberation of agenda items, including workshops, that have not been commenced by the Planning Board as of 10:00p.m. may be rescheduled to the next regularly scheduled meeting.

WORKSHOP

7. **2021.02 – Amendment to the Land Use Ordinance - §335-5.9 Gateway Commercial District – Dirigo Center Developers, LLC:** The proposed amendment clarifies the definition of Medical Office, creates and defines a new use ‘Medical/Diagnostic Center’ and adds the uses Hospital and Medical/Diagnostic Center as permitted uses in the Gateway Commercial District
8. **2021.03 – Amendment to the Land Use Ordinance - §335-1.5 Zoning Change – City of Westbrook:** The proposed amendment revises the notification requirements for amendments to the Land Use Ordinance to more closely align with the processes of other municipalities while upholding standards set forth by State Statute. The proposed amendment does not alter or otherwise change the notifications requirements for Site Plan, Subdivision or Conditional Use review.
9. **2021.04 – Amendment to the Land Use Ordinance - §335-1.6 Contract Zoning – City of Westbrook:** The proposed amendment incorporates the terminology of “Conditional” Zoning to the Contract Zoning process.



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PLANNING & CODE ENFORCEMENT

DATE: January 29, 2021

TO: Planning Board
FROM: Jennie P. Franceschi, City Planner & Rebecca Spitella, Assoc. City Planner
Cc: Plan Review Team

RE: February 2, 2021 Planning Board Meeting

-
1. **2020.26 – Subdivision – Greenfield Place – Bramblewood, LLC – SF/Duplex Condo Complex**
 2. **2020.39 – Site Plan, Subdivision, Conditional Use – 511 Bridge Street – Chase Custom Homes & Finance**
 3. **2020.40 - Site Plan, Subdivision, Conditional Use – 98 East Bridge Street – Chase Custom Homes & Finance**
 4. **2021.01 - Zoning Map Amendment – Rocky Ledge Capital Westbrook Seavey Main, LLC**
 5. **2021.02 - Amendment to the Land Use Ordinance - §335-5.9 Gateway Commercial District – Dirigo Center Developers, LLC**
 6. **2021.03 - Amendment to the Land Use Ordinance - §335-1.5 Zoning Change – City of Westbrook**
 7. **2021.04 - Amendment to the Land Use Ordinance - §335-1.6 Contract Zoning – City of Westbrook**
-

1. **2020.26 – Site Plan, Subdivision – Greenfield Place – Bramblewood, LLC**

OLD BUSINESS

Tax Map: 027 Lots: 184, 184B & 184C
Zone: Residential Growth Area 1
Use: Dwelling, Single-Family; Dwelling, Two-Family

Project Description:

The applicant is proposing a 3-lot and 28-unit condominium development on a private driveway located on New Gorham Road. The developer Bramblewood, LLC is creating the Greenfield Place Homeowners Association that will own the property, with the houses being owned as Condos, and maintenance responsibilities associated with the project. A lot previously split from the original parcel, Map 27 Lot 184C, is also included in this review process and will be served by the infrastructure provided with this project.

The project has opted to utilize the open space fee in lieu of providing for the required open space on the site.

Project History:

July 2020 – Neighborhood Meeting
August 4, 2020 – Planning Board Workshop
January 5, 2021 – Public Hearing
February 2, 2021 – Planning Board meeting (continued)

Staff Comments:

1. Noticing Fees Due: \$372.95
2. Lighting fixtures not shown to be connected to power. Revise utility plan to show connection to closest transformer.
3. Architectural Elevations –
 - a. Since the 1/5 Planning Board meeting the applicant has designated building type and location as well as provided a fourth color option.
 - b. Board can provide any further feedback to the applicant. Any required elements by the Board that are not currently shown would require addition of a condition of approval.
4. Sewer
 - a. Ability to Serve needed for sewer – in process.
5. Intersection with New Gorham Rd
 - a. Concern stands regarding potential ponding on the westerly side of the sidewalk at the NGR-Greenfield Dr intersection based on in-field changes to the grades. Recommend relocating both CBs to the base of the driveway to capture water at low point and divert to the ditchline behind the sidewalk which is where the flow had historically flowed prior to the sidewalk installation.
6. E/S control plan.
 - a. Based on construction conditions, additional measures along the easterly property line may be necessary. Item included as a Condition of Approval
7. Signage designating one side of driveway as no parking required – Item added as a condition of approval prior to first c/o.
8. Final mailbox location to be reviewed/approved by USPS.
9. Final revised plan set with signature blocks and conditions of approval (to be provided on/around Friday, 1/29) in the following format: 1-full size mylar set, 1-full size paper set, 2 additional paper copies of the subdivision plan (SB-1) for recording.

Motion:

Motion that the Planning Board approve the Site Plan and Subdivision application for Bramblewood, LLC for a 28-unit condominium development located adjacent to 167 New Gorham Road, Tax Map: 027 Lots: 184, 184B and 184C Zone: Residential Growth Area 1 is **(approved with conditions/ denied)** and the following findings of fact, conclusions and conditions as stated on pages 2 through 7 of this Staff Memo dated January 29, 2021 are adopted in support of that approval.

Site Plan – Findings of Fact

Standard	Finding
Utilization of the site	The proposed development is positioned so as to work with the site topography and minimize impacts to existing wetlands. The development is within the allowable density afforded by the site.
Handicap Access	The site is ADA compliant and provides for detectable warning at tip downs located at intersection of driveway and New Gorham Road.
Appearance Assessment	<ol style="list-style-type: none"> 1. Unit 1 façade fronting New Gorham Road includes enhancements to facilitate a street presence on the public right of way. All units are oriented toward the Greenfield Drive driveway representative of public street standards. 2. The project provides connection to New Gorham Road for abutting property 27/184C through deeded access over the Greenfield Drive Driveway. Structures are located so they do not impede with existing easements and natural resources.

	<ol style="list-style-type: none"> 3. A landscaping plan has been provided as part of the application demonstrating a vegetative buffer to the westerly abutting property and enhancements along the New Gorham Road driveway representative of public street standards. 4. Lighting is proposed at the intersection of Greenfield Drive and New Gorham Road as well as by both overflow parking areas. Lighting post and style are consistent with City Standards for street lighting. 5. Stop and Street Signage is provided at the intersection of Greenfield Drive and New Gorham Road as depicted on the grading & utility plan 6. Property is not located within the Village Review Overlay District – standard is not applicable.
Landscape Plan	A landscaping plan has been provided as part of the application demonstrating a vegetative buffer to the westerly abutting property and enhancements along the New Gorham Road driveway representative of public street standards.
Odors	No odors known or anticipated
Noise	Noise levels will be consistent with the residential nature of the abutting properties. No adverse impact known or anticipated.
Technical and Financial Capacity	The applicant has provided a letter from Machias Savings Bank dated November 30, 2020 to demonstrate financial capacity. The applicant has retained the services of DM Roma Consulting Engineers, which demonstrates technical capability.
Solid Waste	Trash removal to be privately hauled via curbside totes for each Condo unit - pickup along Greenfield Drive. No totes permitted on New Gorham Rd. Map 27 Lot 184C trash included in HOA.
Historic, Archaeological and Botanical Resources or Unique Features	None known
Hazardous Matter	None known
Vibrations	No adverse impact known or anticipated
Parking & Loading Design and Site Circulation	The site meets for the Ordinance requirement of 2-parking spaces per unit via a driveway and/or an attached garage. 13-additional spaces have been provided via two parking pods on opposite ends of Greenfield Drive for overflow parking.
Adequacy of Road System	New Gorham Road has adequate capacity to accept the traffic generated by the proposed development.
Vehicular Access	Access to the site is via an existing curb cut. The access point is shared with the abutting property 27/184C by deeded right which reduces curb cuts on New Gorham Road.
Pedestrian and Other Modes of Transportation	A sidewalk internal to the project is provided on the westerly side of Greenfield Drive from New Gorham Drive and around the cul-de-sac. The internal sidewalk connects to the existing infrastructure on New Gorham Road.
Utility Capacity	An ability to serve letter has been provided by Portland Water District. Additional ability to serve letters will be provided to the City upon receipt.
Stormwater Management, Groundwater Pollution	Stormwater management is provided by two underdrained soil filters located to the rear of the site.
Erosion and sedimentation Control	Adequate soil & erosion control measures are shown on the plan.

Conclusions – Site Plan

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 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.

Subdivision – Finding of Fact

Standard	Finding
Pollution	Disposal of sewage is via the public system accessible from within the New Gorham Road right-of-way. ABS letter will be provided to the City upon receipt.
Sufficient Water	Water services are accessible from within the New Gorham Road right-of-way and will serve the development via a public main located within a 40-foot easement to PWD along Greenfield Drive. An Ability to Serve letter from PWD has been provided as part of the application.
Municipal Water Supply	Water services are accessible from within the New Gorham Road right-of-way and will serve the development via a public main located within a 40-foot easement to PWD along Greenfield Drive, An Ability to Serve letter from PWD has been provided as part of the application.
Erosion	Adequate soil & erosion control measures are shown on the plan.
Traffic	New Gorham Road has adequate capacity to accept the traffic generated by the project. Access to the parcel is via an existing curb cut.
Sewage Disposal	Disposal of sewage is via the public system accessible from within the New Gorham Road right-of-way. ATS letter will be provided to the City upon receipt.
Municipal Solid Waste Disposal	This project will address waste removal through privately managed curbside toter collection along Greenfield Drive for each condo unit. No impact to the municipal Solid Waste Disposal System is anticipated.

Aesthetic, Cultural and Natural Values	N/A
Conformity with City Ordinances and Plans	All required plans, permits and legal documents have been provided as part of the final application. Plan conforms with City Ordinances & Comprehensive Plan
Financial and Technical Capacity	The applicant has provided a letter from Machias Savings Bank dated November 30, 2020 to demonstrate financial capacity. The applicant has retained the services of DM Roma Consulting Engineers, which demonstrates technical capability.
Surface Waters; Outstanding River Segments	No adverse impact known or anticipated to the wetlands located on site.
Ground Water	No adverse impact known or anticipated.
Flood Areas	The parcel is not located within a flood zone.
Freshwater Wetlands	All wetlands located on site are been identified on the plans.
Farmland	No farmlands have been identified on the site.
River, Stream or Brook	No rivers, streams or brooks have been identified within the boundaries of the site.
Stormwater	Stormwater management is provided by two underdrained soil filters located to the rear of the site. Applicant has received their MDEP Stormwater Permit for the impacts of this project.
Spaghetti Lots Prohibited	The subdivision does not have shore frontage.
Lake Phosphorus Concentration	The subdivision is not located near a great pond.
Impact on Adjoining Municipality	The subdivision does not cross municipal lines.
Lands subject to Liquidation Harvesting	Not applicable.

Conclusions – Subdivision:

1. The proposed subdivision **will not** result in undue water or air pollution
2. The proposed subdivision **has** sufficient water available for the reasonably foreseeable needs of the subdivision
3. The proposed subdivision **will not** cause an unreasonable burden on an existing water supply
4. The proposed subdivision **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 subdivision **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 subdivision **will** provide for adequate sewage waste disposal and **will not** cause an unreasonable burden on municipal services.
7. The proposed subdivision **will not** cause an unreasonable burden on the City's ability to dispose of solid waste.
8. The proposed subdivision **will not** have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
9. The proposed subdivision **conforms** with a duly adopted subdivision regulation or Ordinance, comprehensive plan, development plan or land use plan.
10. The subdivider **has** adequate financial and technical capacity to meet the standards of this section.
11. The proposed subdivision **will not** adversely affect the quality of any pond, lake, wetland, great pond or river, or unreasonably affect the shoreline of that body of water.
12. The proposed subdivision **will not**, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

13. The subdivision **is not** located in a flood-prone area, as determined by the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps.
14. All freshwater wetlands within the proposed subdivision **have** been identified.
15. All farmland within the proposed subdivision **has not** been identified. – Not applicable
16. Any river, stream or brook within or abutting the proposed subdivision **has** been identified.
17. The proposed subdivision **will** provide for adequate stormwater management.
18. Lots in the proposed subdivision **do not have** shore frontage on a river, stream, brook, great pond or coastal wetland as defined in 38 M.R.S.A. Section 480-B.
19. 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.
20. 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.
21. Timber on the parcel being subdivided **has not** been harvested in violation of rules adopted pursuant to 12 M.R.S.A. Section 8869, subsection 14.

Conditions:

1. Approval is dependent upon, and limited to, the proposals and plans contained in the application dated December 3, 2021 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. Consistent with Section 504.3, the Code Enforcement Officer shall not issue any permits until a site plan has been approved by the Planning Board and a Mylar signed by the Planning Board. *The signed Subdivision Plan must be recorded within 90 days of Planning Board approval or the approval shall be null and void.*
3. Prior to any site disturbance or building permits being issued for the project:
 - a. All Staff comments must be addressed.
 - b. Copy of Recorded subdivision plan must be provided to the Planning Office.
 - c. A pre-construction meeting must be held with City Staff and the site work contractor. Contact the Planning Office to coordinate.
 - d. Review of building elevations to be consistent with submitted documentation or testimony.
 - e. The applicant shall provide the digital data as required by Section 504.5.B.12 and 13. – verification with GIS coordinator.
 - f. An inspection fee shall be made payable to the City of Westbrook for inspection of site improvements made by the Code Enforcement Officer and/or other appropriate City staff. Inspection fee shall be 2% of the total amount of performance guarantee.
 - g. The applicant shall file a performance guarantee with the City of Westbrook. The amount of the guarantee shall be agreed upon in advance with the City of Westbrook and shall be of an amount to ensure completion of all on- and off-site improvements necessary to support the proposed project.
 - h. Coordinate with the E911 Coordinator on addressing of the building/units.
 - i. Best management practices shall be adhered to during all ground disturbance operations. All Street Catch basins in the vicinity of earthwork operations shall have silt sacks installed & maintained for the duration of the work.
 - j. Open Space fee paid - \$14,077
4. Prior to commencing any work in the City Right-of-Way, the applicant must obtain a road-opening permit from the Public Works Department.
5. Prior to any combustible products being brought on-site, the Fire Hydrant must be charged and tested.
 - a. Required flow rate: 1,000 gal/minute
 - b. Documentation provided to City's satisfaction. (Coordinate with Fire Department – Mike Corey)

6. Prior to the first Occupancy Permit issuance:
 - a. A site inspection of the required improvements by the City to ensure public health & safety is addressed and compliance with the approval. (This includes all paving, lighting, striping, sidewalks, off-site improvements etc.)
 - b. All signage including Stop Sign, Driveway Name and No Parking along one side of driveway installed
 - c. All water and sewer lines fully tested and approved.
 - d. All other site improvements must be installed, unless a performance guarantee amount is held for the full amount of any remaining improvements.
 - e. Provide copy to Planning Office of recorded Homeowners association by laws & Declaration of Covenants and Restrictions unless sale of first unit has not occurred.
 - f. Documentation of private trash management, inclusive of 027/184C and return of City property to Public Services.
 - g. Verify final USPS locations for mailbox
7. Immediately following the First Unit Created or Sold:
 - a. Provide copy to Planning Office of recorded Homeowners association by laws & Declaration of Covenants and Restrictions
8. Prior to release of the performance guarantee:
 - a. The site will be in compliance with the approved plan and as-built plan provided in City approved format for the GIS system
 - b. Documentation of maintenance contractor for Stormwater Best Management Practices.
9. Additional BMPs may be required to address erosion and sediment control during construction. Determination of the need for additional measures are at the sole discretion of City Staff.
10. The applicant shall comply with the requirements of local and state authorities for life and safety requirements.
11. The applicant shall comply with Chapter 37, the local Post Construction Stormwater Management Ordinance. A copy of the maintenance log for the previous year for the stormwater treatment features associated with this project needs to be provided to the Planning Office in accordance with Chapter 37 requirements.

2. **2020.39 – Site Plan, Subdivision, Conditional Use – 511 Bridge Street – Chase Custom Homes & Finance**

PUBLIC HEARING

Tax Map: 048 Lot: 046
Zone: Residential Growth Area 2
Use: Dwelling, Two-Family; Dwelling, Multiple-Family

Project Description:

The applicant is proposing the demolition of the existing structure and construction of 9-unit subdivision consisting of 3-duplex units and 1-triplex unit. This application supersedes the previously approved 100-child daycare facility proposed at the same location. A named Driveway of Collins Place will serve as access/addressing for the project.

Project History

November 18, 2020 – Neighborhood Meeting
December 1, 2020 – Planning Board Workshop
January 21, 2021 – Recreation and Conservation Commission
February 2, 2021 – Public Hearing

Recreation and Conservation Commission Comments

1. The Recreation and Conservation Commission voted unanimously in support of the open space plan as presented by the applicant.

Staff Comments:

1. Noticing Fees due - \$271.70
2. Utilities
 - a. Square off pavement trenching – shown notched on plan
 - b. Update CB covers on 8.3 to City Standards (as revised on 8.1)
3. Stormwater
 - a. Subcatchment 20
 - i. Why does the flow path begin midpoint in the subcatchment? Should this be located closer to the corner (elevation 136?). Please explain
 - ii. The revised analysis shows a doubling/tripling at SP#2. Can you verify this is correct – no changes shown to routing of subcatchment so unclear what caused the increase? If accurate, there will need to be some detention provided in the area of the northeasterly corner of the site to prevent the increase in flow to the abutting property.
 - b. Provide rip rap outlets for walking path culverts.
 - c. Concern for washout over trail located in subcatchment 15 – provide spot grades. May need culvert added to this portion of the trail as well?
 - d. Subcatchment 14 – runoff from regraded area behind building D directed toward abutting property 44/80. Direct water to remain on site so as to not impact abutting property. May need culvert under path for protection and/or slight berm along southerly property line.
4. Landscaping/Open Space
 - a. Provide rip rap outlets for walking path culverts.
 - b. Concern of grading and drainage generated by structures and parking will flow over mulch paths around the site. Appreciate the addition of two culverts to the rear of the site, however Staff recommends additional culvert(s) at the northerly & southerly starting of the path. (If nothing is

amended on this item, this will be a watch item during construction that may need to be addressed prior to a performance guarantee release.)

- c. Per the discussion at the 1/21/2021 Rec & Con meeting – at-grade garden area to be delineated in from meadow area (i.e. decorative fencing, pavers, rock, etc.)
5. Provide draft Condo/Association docs – **Not Provided**
6. Include driveway name “Collins Place” on final plan
7. Final plan set to include Conditions of Approval (to be provided by Staff on/around Friday, 1/29) and signature blocks on the cover sheet and subdivision sheet.

As of the printing of this Memo the applicant has not provided the Condo/Association documents and therefore the application does not complete the requirements of the Ordinance for approval. Staff requests the Board provide feedback to the applicant on site layout and building elevations and continue the application to the March meeting.

Included in this packet is the email from Marc Drouin for the Board’s review to be included in the file for Public Comment.

Motion

Continue the application for Chase Custom Homes and Finance to the March 2, 2021 Planning Board meeting.

3. **2020.40 - Site Plan, Subdivision, Conditional Use – 98 East Bridge Street – Chase Custom Homes & Finance**

PUBLIC HEARING

Tax Map: 048 Lot: 074
Zone: Residential Growth Area 2
Use: Dwelling, Multiple-Family

Project Description:

The applicant tearing down an existing structure at this location and is proposing to construct a 3-unit subdivision with associated parking, garage and site improvements located at 98 East Bridge Street. A named Driveway will serve as access/addressing for the project.

Project History

November 18, 2020 – Neighborhood Meeting
December 1, 2020 – Planning Board Workshop
January 21, 2021 – Recreation and Conservation Commission
February 2, 2021 – Public Hearing

Recreation and Conservation Commission Comments

1. The Recreation and Conservation Commission voted unanimously in support of the open space plan as presented by the applicant with consideration of the addition of at least one additional element (ex: picnic table, swinging chair, etc.) to further encourage the use of outdoor space.

Staff Comments

1. Noticing Fees Due: \$333.80
2. Final determination on driveway name required – Terina’s Place or Dovetail Drive were both determined acceptable from E-911. Final plan to state driveway name on plan.
3. Mill & fill area to cover all three utility trenches
4. Square trench from sewer demo – shown at diagonal
5. Final mailbox location to be reviewed/approved by USPS.
6. Provide copy of draft condo/association documents – **Not provided**
7. Elevations – Staff recommends the addition of a rain roof on back entrance, as this will be the primary entrance for residents.
8. Final plan set to include conditions of approval (to be provided on/around Friday, 1/29) and signature blocks on the cover sheet and subdivision plan.

As of the printing of this Memo the applicant has not provided the Condo/Association documents and therefore the application does not complete the requirements of the Ordinance for approval. Staff requests the Board provide feedback to the applicant on site layout and building elevations and continue the application to the March meeting.

Motion

Continue the application for Chase Custom Homes and Finance to the March 2, 2021 Planning Board meeting.

4. 2021.01 - Zoning Map Amendment – Rocky Ledge Capital Westbrook Seavey Main, LLC

PUBLIC HEARING

Tax Map: 040 Lot: 135 (Lot #4)
Tax Map: 040 Lot: 208
Zone: City Center District (CCD)

Project Description

The applicant is proposing to include the following City Center District parcels in the Village Review Overlay Zone:

- Parcel 040/135 (Lot #4 of the recently approved subdivision located at 35 Seavey Street) and
- 452 Main Street which was part of the RR siding heading towards Warren Ave 040/208 located between Main Street and the Pan Am Main rail line.

The subject parcels are proposed to be designated as “Downtown District” in the VROZ since the newly merged parcels have Main Street frontage (452 Main St). The proposed amendment does not change the underlying City Center District zoning for either parcel.

Project History

January 5, 2021 – Planning Board Workshop
February 2, 2021 – Public Hearing

Staff Comments

1. Noticing Fees Due: \$205.55

The applicant, Rocky Ledge Capital Westbrook Seavey Main, LLC, have a purchase and sale agreement with RMC Properties, LLC to purchase the subject parcels for the purposes of residential development.

Currently the VROZ district line ends at the back of the Stockhouse Station parcel. When the City had proposed the new Downtown District within the VROZ, it was not envisioned at the time that the Pan Am Railroad would ever sell off any of their land or that SAPPI would sell their siding parcel along Seavey Street. With private developers approaching both entities shortly after the City’s VROZ process concluded, the City was pleasantly surprised to hear back that those parcels have now been merged together to afford a future project in the heart of our community. If those parcels had been in merged ownership at the time of the VROZ rewrite, Staff would have recommended to include those parcels in the Downtown District due to the 452 Main St parcel having Main Street access. Staff had stated during the first VROZ process that we would look to expand the VROZ in the future over other CCD parcels once we had exercised the Downtown District for a few projects.

The applicant is now making a request to extend the VROZ district over the 2 merged City Center District lots. The VROZ/Downtown District affords the increased density allowance (from 2,500 sf/unit to 500 sf/unit) that we are encouraging in the Main Street area to boost development where:

- Utility infrastructure already exists
- Efficient land usage is necessary and is the intent of the Downtown District
- Our Comprehensive Plan goals align with density in our urban areas to support our downtown commercial operations
- Transit is located at the front door of this parcel to assist with mobility options for residents

Additionally, by placing the VROZ over these parcels, the standards of the Downtown District are now placed upon these parcels, which currently they are not. This project provides a new project at the eastern end of Main St where most of the activity we have seen on Main Street has been westerly.

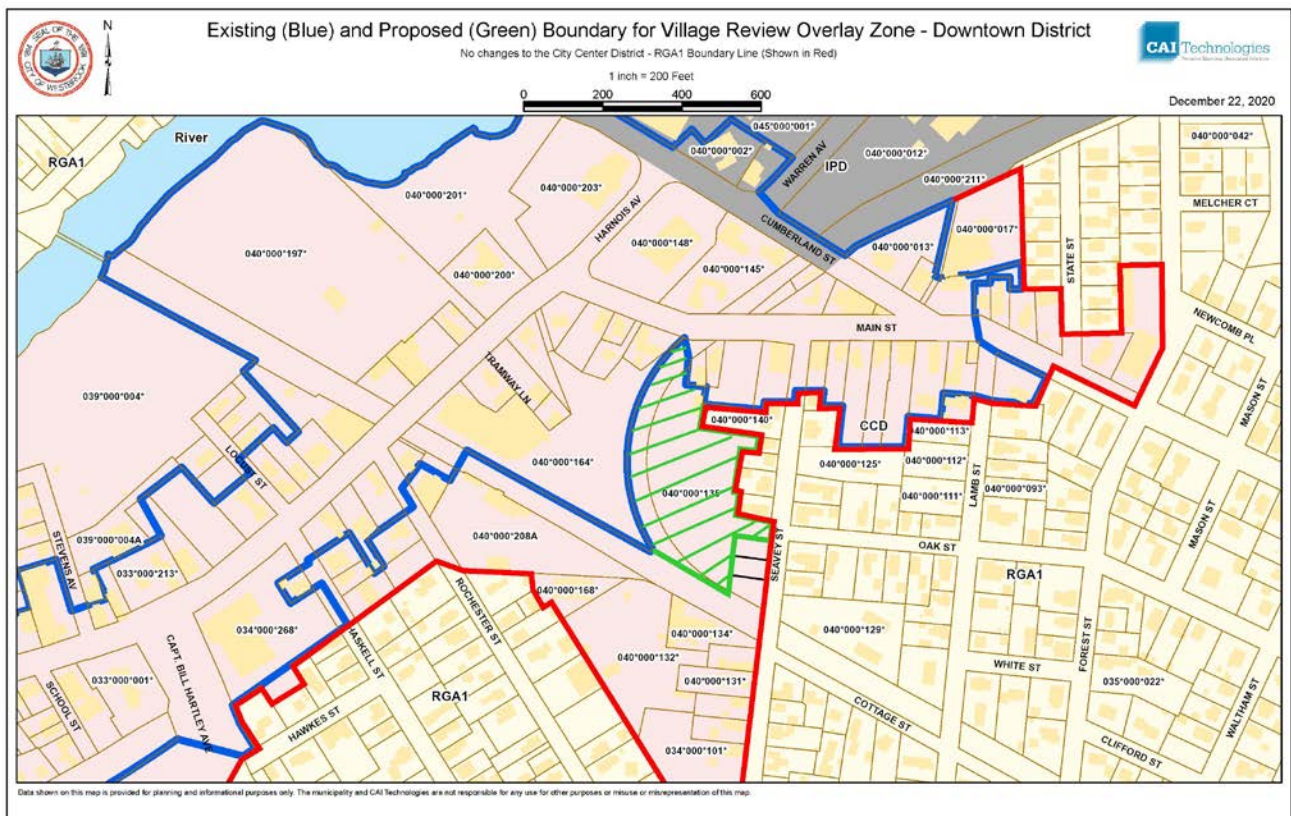
The applicant has provided examples of how a development plan could look under the Village Review Overlay Zone – Downtown District standards, though this plan is not part of this process and a future project proposal would follow up with a site plan/subdivision process at a later date.

The application before the Board is only to discuss the VROZ extension, with the Downtown District, over the subject parcels. See attached map showing specifically the location of the VROZ expansion.

Map Legend

- Blue Outline - Existing limits of Village Review – Downtown District
- Green Outline - Proposed limits of Village Review – Downtown District
- Red Outline – Existing City Center District / RGA1 Boundary Line (no changes)

- City Center District – Pink shading of parcels
- RGA1 District – Light Orange shading of parcels



Motion:

Recommend the Zoning Map amendment to place the VROZ/Downtown District overlay over the parcels as shown on the attached map (Tax Map: 040 Lot: 135 (Lot #4) & Tax Map: 040 Lot: 208).

5. **2021.02 - Amendment to the Land Use Ordinance - §335-5.9 Gateway Commercial District – Dirigo Center Developers, LLC**

WORKSHOP

Ordinance Description

The proposed amendment clarifies the definition of Medical Office, creates and defines a new use ‘Medical/Diagnostic Center’ and adds the uses Hospital and Medical/Diagnostic Center as permitted uses in the Gateway Commercial District.

Ordinance History

February 2, 2021 – Planning Board Workshop

Staff Comments

1. Noticing Fees Due: \$218.70

The applicant approached the Zoning Administrator seeking clarification on use classification for several potential medical industries looking to come into Westbrook on the Rock Row site. In analyzing the definitions of Medical Office and Hospital, it became apparent there was a gap in classifying services that are more intensive than a Medical Office, but not yet to the level of Hospital. Such examples include pharmaceutical, ambulatory, pulmonary or radiology services where limited inpatient care, medical research and/or the administration of drugs may be appropriate. Staff worked with the applicant to identify tiers of medical classifications utilized in other municipalities to address the gap within the Westbrook Ordinance in a manner that also meets the needs of the applicant’s proposal. Further, the amendment clarifies the current definitions of Medical Office and Hospital to clearly differentiate the three uses in an effort to limit overlapping uses.

Per the request of the applicant, the application is proposing to include the newly defined “Medical/Diagnostic Center” and “Hospital” as permitted uses within the Gateway Commercial District, which will then also permit them in the Rock Row Contract Zone. Both uses are consistent with the uses currently permitted in the Gateway Commercial District, such as Medical Office, Veterinary Clinic and Research and Development. The Gateway Commercial District intersects several major transportation modes and routes, which would support regional medical care. This proposal also includes clarifying the definition of Medical Office.

The application does not propose to add the Medical/Diagnostic Center to any other districts other than Gateway Commercial. Staff would not recommend the inclusion of this use into any other

Staff are supportive of this proposal and find the added uses and amendments to definitions to be consistent with the Ordinance and Comprehensive Plan.

Board Action:

1. Provide feedback to the applicant on this proposal as it moves forward to a Public Hearing.

6. 2021.03 - Amendment to the Land Use Ordinance - §335-1.5 Zoning Change – City of Westbrook

WORKSHOP

Ordinance Description

A referral from the City Council through the Administration: This proposed amendment revises the notification requirements for amendments to the Land Use Ordinance to more closely align with the processes of other municipalities while upholding standards set forth by State Statute. The proposed amendment does not alter or otherwise change the notifications requirements for Site Plan, Subdivision or Conditional Use review.

Ordinance History

January 4, 2021 – City Council Referral

February 2, 2021 – Planning Board Workshop

Staff Comments

The amendment to Section 335-1.5 is a repeal and replace. The current language was generated out of a land use process many years ago that did not go particularly well where zoning districts were changed without proper notification to property owners and ultimately ended with the City in a Court case that reversed rezoning actions of the City. As a response to that process, the current ordinance was then put forth with mailing notification requirements that don't just slightly exceed State Statutes but requires such a burdensome notification process that the City has avoided undertaking necessary ordinance amendments due to the excessive cost it places upon the City for mailing notices to every property owner in City for a "use or performance standard amendments".

The City has wanted to look at modern uses (or updating our current use labels) that need to evolve with the times to include in our zoning land use tables. For Example, recent advances in Solar Energy has pushed staff to look at how to afford this use to our citizens, with performance standards. Currently, we can only place Solar Arrays in the Manufacturing District as we have to define Solar Arrays, from a land use perspective, as "light manufacturing".

The City should have the ability to adjust land uses in zoning districts once vetted through a Planning Board and City Council Process and provided those uses are in line with our Comprehensive Plan. To take on the initiative to place Solar Arrays in all of the districts (again under specified standards), the notification cost to the City for this one initiative would cost roughly \$10,000 for the notices to be mailed to every property owner in the City for all the meetings. This is not the intent of the State Statute Notification requirements. The State requires posting of meetings in newspapers of regular circulation in the community you are in, plus posting in public locations. The requirement to mail notice for a "use or performance standard ordinance change" is exceptionally burdensome on the community, and is unlike any of our surrounding Maine Communities, namely South Portland, Gorham, Windham, Biddeford, Portland, Cumberland, to name a few. There have been many Planning initiatives we have wanted to conduct since I arrived 5 years ago, but have not moved forward due to this issue.

A "Solar Array" is not the only land use we need to deal with from a City-Wide use perspective. "Utilities", as a use, is missing from our ordinance as well, and we could not take on an initiative in a piece meal manner by adjusting the land use table as a zoning district have been under review because then we would cause nonconformance issues in other zones. These type of use amendments should be addressed on a City-Wide level, which is where our City leadership comes in.

The Planning Board and the City Council are the reviewing bodies for any process involving the ordinance. In the cases of altering uses or performance standards in zoning districts, it is the purview of these bodies to act on behalf of the community, while ensuring the uses being added or adjusted are compatible in those districts and compliant with the intent of the Comprehensive Plan.

In re-writing this section, we reviewed the State Statute as well as the ordinances of several of the communities listed above to take the best of what all do, and yet make it work for Westbrook. As the rezoning process was the point of contention years ago that drove these mailing notification requirements, we still have the provision in this proposal that if a “rezoning of property is to occur”, then the property or properties that are proposed for rezoning are mailed notices as well as 500’ around those properties to be rezoned. Additionally, we still retained the City Council notice process, which is not required by State Statute nor used by other municipalities, as an additional measure above traditional noticing requirements.

The additions above the minimum State Statute requirements (Mailings on rezoning, and the City Council notice process) would appear to address the local matters of concern, yet still affords the allowance by the City Leaders to move necessary amendments to the land use ordinance forward without the major financial implications to the City, while still in accordance with Maine State Statute and in line with our surrounding Maine communities.

In discussing the issues Staff have been dealing with due to the current ordinance, it was the recommendation of the Administration to move this item forward with a referral from the City Council for discussion and ultimately a recommendation by the Planning Board to provide to the City Council.

Board Action:

1. Provide feedback on this Ordinance Proposal to move forward to a Public Hearing.

7. **2021.04 - Amendment to the Land Use Ordinance - §335-1.6 Contract Zoning – City of Westbrook**

WORKSHOP

Ordinance Description

A referral from the City Council through the Administration: The proposed amendment incorporates the terminology of “Conditional” Zoning to the Contract Zoning process.

Ordinance History

January 4, 2021 – City Council Referral

February 2, 2021 – Planning Board Workshop

Staff Comments

The proposed amendment to Section 335-1.6 Contract Zoning is to incorporate the terminology of “Conditional” Zoning vs a contract process. The two methods of zoning have been utilized in Westbrook in various “Contract zones” over the course of time, however the terminology of the process needs to be cleaned up as not all of our current “Contract Zones” have true contracts between the developer and the City. Many of our Contract Zones are in fact “Conditional Zoning” where there are only conditions placed upon a parcel, much like performance standards for a zoning district, instead of a formal contract with the City.

This amendment will not alter the processes but rather clarify procedures that have been done in the past as well as afford the City the correct terminology to utilize in this process for each future proposal that is submitted. Additionally, we are clarifying that all noticing fees must be paid by an applicant.

The notification process is not being altered, but it is referenced to follow the same procedures as the amendment in Section 335-1.5 with the necessary components required by State Law.

In discussing the issues Staff have been dealing with due to the current ordinance, it was the recommendation of the Administration to move this item forward with a referral from the City Council for discussion and ultimately a recommendation by the Planning Board to provide to the City Council.

Board Action:

1. Provide feedback on this Ordinance Proposal to move forward to a Public Hearing.