

A regular meeting of the Bath Planning Board was called on 6-15-04 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxtan, Chair
Jim Harper, Vice Chair
Marjorie Hawkes
Robin Haynes
Gordon Reed
Jim Hopkinson

MEMBERS ABSENT

Richard Klingaman
Brandon Shaw(non-voting student member)
Jonathan Dolloff(non-voting student member)

STAFF PRESENT

Jim Upham, Planning Director
Marsha Hinton, Recording Secretary

Bob Oxtan, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, June 15, 2004.

Minutes of June 1, 2004, meeting

GORDON REED MOVED, SECONDED BY JAMES HOPKINSON TO ACCEPT THE MINUTES OF THE JUNE 15, 2004, MEETING AS PRESENTED.

UNANIMOUS APPROVAL**Minutes of June 8, 2004, meeting**

JIM HARPER MOVED, SECONDED BY ROBIN HAYNES TO ACCEPT THE MINUTES OF THE JUNE 8, 2004, MEETING AS WRITTEN.

UNANIMOUS APPROVAL**Old Business:****Item 1**

Subdivision Final Plan Review – 9-lot Subdivision, 1524 Washington Street, (Map 13, Lot 44-1); ICS Realty, LLC -- Robert Leblanc, applicant (continued from the June 1, 2004, meeting).

Jim Upham, Planning Director, reminded the Planning Board that the last time they had reviewed this application there were some outstanding questions and informed the Planning Board that the status of those questions are as follows:

1. Peer review of the traffic study performed by the applicant's traffic expert. That peer review has been completed and was provided to the Planning

Board members. He told the Board that the plans have not been changed as a result of this review.

2. The Department of Environmental Protection Maine Construction General Permit procedures. An information sheet has been provided to the Planning Board members. He told the Board that the plans have not been changed as a result of this information.
3. Interpretation by the City Solicitor of Land Use Code Section 13.76, A. That information has been provided to the Planning Board members. He told the Board that the plans have not been changed as a result of this information.
4. Peer review of the Storm Water Sedimentation and Erosion plan. That information has been provided to the Planning Board and the Site Plan has changed as a result of that peer review.

Chris Belanger, of SiteLines, representing the applicant, outlined the changes made in the Site Plan as a result of the peer review of the Stormwater and Erosion and Sedimentation plans. Mr. Belanger highlighted spacing of the check dams to every 20 feet, riprap placement shown on the site plan, adding a manhole and rerouting the culvert to further reduce ponding. Mr. Belanger stated that post-development flows will be less than pre-development flows on the abutter's property.

Discussion was held by the Planning Board on reduction in runoff, ponding, the Department of Environment Protection's Maine Construction General Permit, the rerouting of the culvert, discharging runoff, utilities, and conditions of approval.

There being no further discussion from the Planning Board Bob Oxton opened the floor to members of the public present.

Jonathan Harris, representing Katherine Hansen, passed out a letter dated June 15, 2004, and outlined the comments contained in the letter to the Planning Board. Mr. Harris emphasized the location of Ms. Hansen's buildings in relation to the ravine, the damage that erosion would cause and requested that the final approval be postponed until the soils' expert Ms. Hansen has hired could complete an erosion study. Mr. Harris told the Board that dumping all that water from the development on Ms Hansen's property was not appropriate and that an easement was required from her according to Section 13.63, A. Mr. Harris also told the Board that the report from Chris Belanger, dated May 25, 2004, may have met the requirements of Section 13.63, B, but that it was not supported by facts. And, Mr. Harris suggested that the Planning Board does not have the authority to waive the standard for Land Use Code section 13.76, A, according to State law.

Joseph Seigh, 1505 Washington Street, stated that he felt the peer review of the traffic study lacked substance. Mr. Seigh described the study by the State of Maine in 1994 through 1998 on accident rates and applied that to the section encompassing the area from Washington Street to Harward Street. Mr. Seigh asked

for data to support the opinion of the peer reviewer. Mr. Seigh pointed out that the traffic vibration has and will cause costly damage to his house.

Katherine Hansen provided the Planning Board with a letter from her insurance agency dated June 1, 2004.

There being no further comment from the members of the public present, Bob Oxtan closed the public portion of the meeting.

The Planning Board held discussion on conditions of approval, state law on the Board's authority to waive section 13.63, B, bonding, artificial water collection, erosion, easements, blasting, preservation of neighborhoods, protections, long term property damage from the construction, the difficulties of development of the site, the Comprehensive Plan, compliance with the City of Bath Ordinances and the Conclusions and Finding of Fact.

Jim Upham told the Board that the Notice of Planning Board Decision dated June 15, 2004, had been updated with respect to submissions from the applicant and that he had added a section of Submissions by Others. He said that the Conclusions were as reviewed by the Board on April 6, 2004.

The Board then reviewed the Notice of Planning Board Decision dated June 15, 2004, to determine if the Land Use Code Sections and the Title 30-A, Section 4404, criteria that they had not found had been met at their April 6, 2004, meeting were now met.

THE BOARD FOUND THAT LAND USE CODE SECTION 13.26 WOULD BE MET WITH THE CONDITION THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S NOTICE OF INTENT FOR THE MAINE CONSTRUCTION GENERAL PERMIT BE FILED AND A COPY BE PROVIDED TO THE CITY OF BATH PLANNING OFFICES AND ANY CORRESPONDENCE FROM THE DEPARTMENT OF ENVIRONMENTAL PROTECTION BE PROVIDED TO THE CITY OF BATH PLANNING OFFICE;

UNANIMOUS APPROVAL

THE BOARD FOUND THAT LAND USE CODE SECTION 13.35 WOULD BE MET WITH A CONDITON THAT A NOTE ON THE PLAN SAY "THE APPLICANT OR THE LOT OWNERS ARE REQUIRED TO MAINTAIN IMPROVEMENTS UNLESS OR UNTIL THEY ARE ACCEPTED BY THE CITY.";

UNANIMOUS APPROVAL

THE BOARD FOUND THAT, BASED UPON THE REPORT FROM THOMAS SAUCIER, DATED JUNE 8, 2004, LAND USE CODE SECTION 13.40 WAS MET.

4 FOR (JIM HARPER, MARJORIE HAWKES, GORDON REED, JIM HOPKINSON)

1 AGAINST (ROBIN HAYNES);

THE BOARD FOUND THAT LAND USE CODE SECTION 13.42 WOULD BE MET WITH THE CONDITION THAT THE APPLICANT PAY THE CITY \$50.00 PER LOT FOR RECREATION CAPITAL IMPROVEMENTS.

UNANIMOUS APPROVAL

THE BOARD FOUND THAT WITH THE CONDITION THAT LOT-SPECIFIC TREE PREPRESERVATION PLANS BE REQUIRED FOR THE ISSUANCE OF BUILDING PERMITS, LAND USE CODE SECTION 13.43 WOULD BE MET.

**4 FOR (JIM HARPER, MARJORIE HAWKES, GORDON REED, JIM HOPKINSON)
1 AGAINST (ROBIN HAYNES);**

THE BOARD FOUND THAT WITH THE CONDITION THAT THE CITY SOLICITOR DETERMINE THERE IS NO STATE LAW THAT RESTRICTS THE PLANNING BOARD'S AUTHORITY TO WAIVE LAND USE CODE SECTION 13.76, A, SECTION 13.76 WOULD BE MET.

UNANIMOUS APPROVAL

THE BOARD FOUND, BASED UPON THE REPORT FROM THOMAS A. ERRICO, DATED MAY 11, 2004, THAT TITLE 30-A, M.R.S.A., SECTION 4404 (5) HAS BEEN COMPLIED WITH.

**4 FOR (JIM HARPER, ROBIN HAYNES MARJORIE HAWKES, JIM HOPKINSON)
1 AGAINST (GORDON REED);**

THE BOARD FOUND, BASED UPON THE REPORT FROM THOMAS SAUCIER, DATED JUNE 8, 2004, THAT TITLE 30, M.R.S.A., SECTION 4404 (9) HAS BEEN COMPLIED WITH.

**4 FOR (JIM HARPER, MARJORIE HAWKES, GORDON REED, JIM HOPKINSON)
1 AGAINST (ROBIN HAYNES);**

THE BOARD FOUND, BASED UPON THE REPORT FROM THOMAS SAUCIER, DATED JUNE 8, 2004, THAT TITLE 30, M.R.S.A., SECTION 4404 (11) HAS BEEN COMPLIED WITH.

UNANIMOUS APPROVAL

THE BOARD FOUND, BASED UPON THE REPORTS FROM WOODLOT ALTERNATIVES AND WILLIAM COOK, MAINE DEPARTMENT OF ENVIRONMENTAL PROTECTION, THERE ARE NO RIVERS, STREAMS, OR BROOKS, AS DEFINED, ON OR ABUTTING THE SUBDIVISION AND THAT TITLE 30, M.R.S.A. SECTION 4404 (15) HAS BEEN COMPLIED WITH.;

UNANIMOUS APPROVAL

THE BOARD FOUND, BASED UPON THE REPORT FROM THOMAS SAUCIER, DATED JUNE 8, 2004, THAT TITLE 30, M.R.S.A., SECTION 4404 (16) HAS BEEN COMPLIED WITH.

UNANIMOUS APPROVAL

Robin Haynes stated for the record that on Land Use Code Section 13.68 C she had entered a "nay" vote at a previous meeting on this application and that "nay" vote on Land Use Code Section 13.68, C, still stands.

JIM HOPKINSON MOVED, SECONDED BY ROBIN HAYNES, IN ACCORDANCE WITH THE NOTICE OF PLANNING BOARD DECISION AS REVISED JUNE 15, 2004, AND THE CONDITIONS OF APPROVAL READ INTO THE RECORD FOR APPROVAL OF THE SUBDIVISION FINAL PLAN REVIEW FOR A 9-LOT SUBDIVISION AT 1524 WASHINGTON STREET, (MAP 13, LOT 44-1); ICS REALTY, LLC -- ROBERT LEBLANC, APPLICANT BE APPROVED WITH THE FOLLOWING CONDITIONS:

THAT ALL CONDITIONS CONTAINED IN THE CONCLUSIONS OF THE NOTICE OF DECISION FOR THE WASHINGTON HEIGHTS SUBDIVISION, DATED JUNE 15, 2004, ARE INCORPORATED HEREIN AND MUST BE COMPLIED WITH;

THAT THE APPLICANT MUST SUBMIT TO STAFF FOR REVIEW AND TO THE PLANNING BOARD FOR FINAL APPROVAL THE COST OF CONSTRUCTION AND PERFORMANCE GUARANTEE THAT CAN BE BY CHECK, LETTER OF CREDIT, OR PERFORMANCE BOND AND THAT THE PUBLIC WORKS DIRECTOR MUST APPROVE THE AMOUNT AND THE CITY SOLICITOR MUST APPROVE THE FORM OF THE GUARANTEE;

THAT THE APPLICANT PAY THE CITY AN INSPECTION FEE EQUAL TO 2% OF THE COST OF CONSTRUCTION OF THE IMPROVEMENTS;

THAT A LOT-SPECIFIC TREE PRESERVATION PLAN, WHICH REQUIRES THE IDENTIFICATION OF TREES 10 INCHES AND LARGER IN DIAMETER, IDENTIFIES HOW SIGNIFICANT ONES WILL BE PRESERVED IF POSSIBLE, SPELLS OUT HOW ONES ON THE EDGE OF DEVELOPMENT WILL BE PROTECTED, STATES THAT ONES IN THE BUFFER AREAS MAY NOT BE CUT, THAT THIS BE NOTED ON THE PLAN, AND BE REQUIRED PRIOR TO THE ISSUANCE OF A BUILDING PERMIT;

THAT THE APPLICANT PAY THE CITY A ONE TIME FEE OF \$1,644 TO COVER THE COST OF REMOVING STORM WATER FROM THE COMBINED STORM AND SANITARY SEWER COLLECTION SYSTEM THAT IS SERVED BY THE HARWARD STREET PUMP STATION;

THAT ALL CONSTRUCTION BLASTING BE DONE BY A SINGLE CONTRACTOR;

THAT THE EXISTING ROADS AND EXISTING FOUNDATIONS BE VIDEO TAPED, THE ABUTTER'S WELL BE TESTED FOR QUANTITY AND QUALITY, AND DUPLICATES OF THE VIDEO TAPE AND THE REPORT ON THE WELLS BE PROVIDED TO THE CITY PLANNING DEPARTMENT;

THAT NO BLASTING ACTIVITY, INCLUDING DRILLING AND ALARMS, BE ALLOWED BEFORE 9:00 A.M. NOR AFTER 5:00 P.M. AND NO BLASTING ACTIVITY INCLUDING DRILLING AND ALARMS BE ALLOWED ON WEEKENDS OR HOLIDAYS;

THAT TWO POINTS OF RECORDING BLASTING TEST RESULTS BE REQUIRED;

THAT THE APPLICANT PROVIDE TO ABUTTERS WITHIN A 500 FOOT RADIUS OF THE PROPERTY AN INFORMATIONAL SHEET LISTING HOURS OF OPERATION, WHERE THE TAPE IS LOCATED, AND POINT OF CONTACT FOR PROBLEMS;

THAT THE PLANNING BOARD REVIEW THE SPECIFIC SPECIFICATIONS OF THE INSURANCE AND/OR THE BOND AND THAT THE CITY SOLICITOR REVIEW THE INSURANCE AND/OR BOND FOR FORM AND SUFFICIENCY; AND

THAT THE IMPERVIOUS AREA OF EACH LOT BE NO GREATER THAN 2,600 SQUARE FEET INCLUDING DRIVES AND BUILDINGS AND THE LAWN AREA OF EACH LOT BE NO GREATER THAN 11,000 SQUARE FEET AND THAT SUCH RESTRICTIONS BE ADDED TO THE RECORDED PLAN.

3 FOR (JIM HARPER, MARJORIE HAWKES, JAMES HOPKINSON)

2 AGAINST (GORDON REED, ROBIN HAYNES)

MOTION APPROVED

Robin Haynes expressed her appreciation for the patience of the applicant and the public during this process.

New Business:

No new business.

Other Business:

Item 1

Approve the Notice of Decision – Washington Heights Site Plan Approval.

Discussion was held by the Planning Board on number of truck trips.

JIM HARPER MOVED, SECONDED BY ROBIN HAYNES, FINDING THAT THE NOTICE OF PLANNING BOARD DECISION DATED JUNE 1, 2004, ON THE WASHINGTON HEIGHTS EARTH MOVING IS ACCURATE AS SUBMITTED.

**4 FOR (JIM HARPER, MARJORIE HAWKES, ROBIN HAYNES, JAMES HOPKINSON)
1 ABSTAIN (GORDON REED);**

MOTION APPROVED

Item 2

Signing of the amended Subdivision Plan for the WingFarm Subdivision, which had been signed by the Planning Board from West Bath on February 10, 2004.

There being no further business to come before the Board, **JIM HOPKINSON MOVED, SECONDED BY GORDON REED, THAT THE MEETING BE ADJOURNED.**

UNANIMOUS APPROVAL

APPROVAL

The meeting was adjourned at 8:10 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary