

A regular meeting of the Bath Planning Board was called on 7-6-04 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxtan, Chair
Marjorie Hawkes
Robin Haynes
Richard Klingaman
Gordon Reed
Jim Hopkinson
Brandon Shaw(non-voting student member)

MEMBERS ABSENT

Jim Harper, Vice Chair
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, July 6, 2004.

Minutes of June 15, 2004, meeting.

Jim Hopkinson pointed out that a condition for a report from the City Solicitor with regard to State Statute restrictions on the Planning Board's authority to waive section 13.76 was omitted from the June 15, 2004 minutes.

GORDON REED MOVED, SECONDED BY MARJORIE HAWKES TO ACCEPT THE MINUTES OF THE JUNE 15, 2004, MEETING WITH THE FOLLOWING ADDITION:

THAT THE CITY SOLICITOR CONFIRM THAT THERE IS NO STATE STATUTE RESTRICTION ON THE PLANNING BOARD'S AUTHORITY TO WAIVE LAND USE CODE SECTION 13.76, A.

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

Approve the Notice of Decision and the performance guarantee – 9-lot Subdivision, 1524 Washington Street, (Map 13, Lot 44-1); ICS Realty, LLC -- Robert Leblanc, applicant.

Jim Upham informed the Planning Board that the City Solicitor has asked that language be added to the Notice of Decision as follows: Page 19 number 6 clarifying that one contractor will be responsible for and to perform all blasting; Page 20 number 11 to clarifying that the blasting contractor's insurance would be reviewed by the City

Solicitor; and Page 20 number 12 identify the June 8, 2004 letter from Tom Saucier to Jim Upham as the basis for this condition.

Robin Haynes pointed out that the language the Planning Board had requested on page 6 Section 13.35 had been omitted and that it should read "This section requires the applicant to maintain improvements **unless or** until they are accepted by the City."

Richard Klingaman stated that there was a general note number 8 on the site plan which said that the City of Bath would be responsible for the culverts and Mr. Klingaman said that it was his recollection that the Planning Board had discussed this and decided the City of Bath would not be responsible for maintenance of the culvert.

The Planning Board held discussion on the authority to waive Land Use Code Section 13.76, a requirement to have only one contractor for all blasting for the road and construction of the homes, review of the letter of credit, the culvert, and wording for the letter of credit.

JIM HOPKINSON MOVED, SECONDED BY RICHARD KLINGAMAN THAT THE NOTICE OF PLANNING BOARD DECISION FOR THE WASHINGTON HEIGHTS SUBDIVISION, ICS REALTY, LLC, APPLICANT DATED JULY 6, 2004 BE APPROVED WITH THE FOLLOWING AMENDMENTS:

THAT THE CITY SOLICITOR CONFIRM THERE IS NO STATE STATUTE RESTRICTION ON THE PLANNING BOARD'S AUTHORITY TO WAIVE LAND USE CODE SECTION 13.76, A;

THAT ALL BLASTING REQUIRED FOR THE CONSTRUCTION OF THE ROAD AND CONSTRUCTION OF SUBSEQUENT HOMES BE PERFORMED BY THE SAME CONTRACTOR SO THAT ONLY ONE CONTRACTOR WILL BE RESPONSIBLE FOR ANY BLASTING DAMAGE;

THAT THE NOTE ON PAGE 20 NUMBER 11 BE AMENDED AS FOLLOWS: THAT THE PLANNING BOARD REVIEW THE SPECIFIC SPECIFICATIONS OF THE BLASTING CONTRACTOR'S INSURANCE AND/OR THE BOND AND THAT THE CITY SOLICITOR REVIEW THE BLASTING CONTRACTOR'S INSURANCE AND/OR BOND FOR FORM AND SUFFICIENCY;

THAT THE NOTE ON PAGE 6 SECTION 13.35 BE AMENDED AS FOLLOWS: THIS SECTION REQUIRES THE APPLICANT TO MAINTAIN IMPROVEMENTS UNLESS OR UNTIL THEY ARE ACCEPTED BY THE CITY. A NOTE ON THE PLAN INDICATES THAT THE APPLICANT OR THE LOT OWNERS ARE REQUIRED TO MAINTAIN IMPROVEMENTS UNLESS OR UNTIL THEY ARE ACCEPTED BY THE CITY.

THAT THE NOTE ON PAGE 20 NUMBER 12 BE AMENDED TO AS FOLLOWS: THAT BASED ON THE JUNE 8, 2004 LETTER FROM TOM SAUCIER TO JIM UPHAM 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 AS A NOTE TO THE RECORDED PLAN.

THAT GENERAL NOTE 8 ON THE SITE PLAN BE AMENDED TO READ THAT THE CITY OF BATH WILL NOT BE RESPONSIBLE FOR MAINTENANCE OF THE CULVERT.

AND THAT THE PLANNING DIRECTOR BE AUTHORIZED TO SIGN THE FINAL VERSION OF THE NOTICE OF PLANNING BOARD DECISION.

UNANIMOUS APPROVAL.

JIM HOPKINSON MOVED, SECONDED BY ROBIN HAYNES THAT THE SCHEDULE OF VALUES DATED MARCH 12, 2004, BE ACCEPTED AND THAT THE PROPOSED IRREVOCABLE LETTER OF CREDIT DATED JUNE 28, 2004, BE ACCEPTED WITH A REVISION TO BE APPROVED BY THE CITY SOLICITOR ADDRESSING ANY EXTENSION OF THE DATE OF EXPIRATION.

UNANIMOUS APPROVAL.

New Business:

Item 1

Public Hearing – Request for Zoning Map Amendment – Request to change the zoning on the parcel of land designated as Map 9, Lot 15 from GC – Golf Course to R3 – Low-Density Residential, to change the zoning on portions of the parcel of land designated as Map 16, Lot 18, from GC – Golf Course to R3 – Low-density Residential to GC – Golf Course; Jason Harris, Harris Golf, Inc, and Walter Taggart, applicants.

Bruce Martinson, of Dirigo Land Services, representing the applicants, stated that the Golf Course had transferred a piece of land to Jason Harris to build a house. Mr. Martinson added that this piece of land was unusable for Golf Course purposes. Mr. Martinson asked for the Planning Board's recommendation to change the zoning as requested.

Bob Oxtan opened the floor to members of the public who wished to comment.

None being seen, Bob Oxtan, Chair closed the public portion of the meeting.

Jim Upham stated that the zoning lines in the Comprehensive Plan's Future Use Map cut right through this area. Mr. Upham also noted that this parcel was unusable by the Golf Course for Golf Course purposes. Mr. Upham added that because this request will not impact the Golf Course use that this request would be appropriate for recommendation to the City Council for Zoning Map Amendment.

ROBIN HAYNES MOVED, SECONDED BY MARJORIE HAWKES TO RECOMMEND THAT THE CITY COUNCIL APPROVE THE REQUEST FOR ZONING MAP AMENDMENT TO CHANGE THE ZONING ON THE PARCEL OF LAND DESIGNATED AS MAP 9, LOT 15 FROM GC -- GOLF COURSE TO R3 – LOW-DENSITY RESIDENTIAL, TO CHANGE THE ZONING ON PORTIONS OF THE PARCEL OF LAND DESIGNATED AS MAP 16, LOT 18, FROM GC – GOLF COURSE TO R3 – LOW-DENSITY RESIDENTIAL TO GC – GOLF COURSE; JASON HARRIS, HARRIS GOLF, INC, AND WALTER TAGGART, APPLICANTS.

UNANIMOUS APPROVAL.

Item 2

Public Hearing – Request for Land Use Code Text Amendment – Request to amend Article 8, Section 8.01, C – High density Residential District, and to amend Article 10 by adding Section 10.34 – R1 Setback Reduction Plan.

Jim Upham stated that the Planning Board has discussed the value of having the set back requirements for non residential or multi-family use conform to the set back requirements for single and two-family residential uses. Mr. Upham added that comments from the City Solicitor included a concern over the use of the term “visually compatible” in Section 10.34 C 2 as being too vague.

Bob Oxtan stated that he was strongly opposed to this change in the Land Use Code. Mr. Oxtan added that he would rather see the set back for single and two-family residential be moved back to 20 feet and expressed great concern on the impact this change would cause to the City of Bath over the next ten or twenty years.

The Planning Board held discussion on alternate wording, flexibility of use by owners, and Planning Board control on implementation of this Land Use Code text amendment.

There being no further discussion from the Planning Board, Bob Oxtan opened the floor to members of the public present who wished to comment.

Brian Verville, 19 Dummer Street, stated that he was in favor of this amendment. Mr. Verville added that he also owns 28 and 30 Dummer Street and discussed how this amendment would allow him to improve the appearance of these properties.

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

JIM HOPKINSON MOVED, SECONDED BY RICHARD KLINGAMAN TO RECOMMEND APPROVAL BY THE CITY COUNCIL THE REQUEST FOR LAND USE CODE TEXT AMENDMENT FOR ARTICLE 8, SECTION 8.01, C – HIGH DENSITY RESIDENTIAL DISTRICT, AND TO AMEND ARTICLE 10 BY ADDING SECTION 10.34 – R1 SETBACK REDUCTION PLAN AS OUTLINED IN THE

**PROPOSED JULY 6, 2004, ORDINANCE WITH THE LANGUAGE IN SECTION 10.34
C 2 AMENDED AS FOLLOWS:**

**THE RELATIONSHIP OF SOLID WALL TO VOIDS – WINDOWS AND DOORS – IN
THE FAÇADE OF ANY NEW BUILDING OR ADDITION TO AN EXISTING BUILDING
MUST BE COMPATIBLE IN DESIGN WITH THAT OF BUILDINGS TO WHICH THE
NEW BUILDING OR ADDITION ARE VISUALLY RELATED.**

UNANIMOUS APPROVAL.

Item 3

Request for Site Plan Approval Amendment – Amendment to the approved site plan – changes to the approved façade; 1 Washington Street (Map 43, Lot 21); Plant Memorial Home, applicant.

Art Mayo, President of the Plant Memorial Home, introduced John Chapman and Josh Cushman and stated that unknown to the Plant Memorial Home an unapproved site plan was used in the construction of the façade of the Plant Memorial Home. Mr. Mayo explained that all parties involved believed that a representative from SMRT had been coming before the Planning Board and receiving approval for these changes. Mr. Mayo pointed out the changes to the south entry area, the four windows on the west elevation and the connector for the east and west elevation. Mr. Mayo apologized for this error and asked the Planning Board to approve changes that are already in place.

Josh Cushman, general contractor, stated that he was under the impression that the plan given to him was the approved plan.

John Chapman, Chair of the Plant Memorial Home Building Committee, apologized to the Planning Board for allowing an unapproved plan to be used.

The Planning Board held discussion on the façade changes as they differed from the approved plan.

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

Tammy Harkins, 14 Washington Street, stated that the trees used as a buffer for the parking lot would block the river views from her home. Ms. Harkins added that she has lived in that house for 15 years and has been able to enjoy the river views until now. Ms. Harkins asked that if this screening is necessary that other types of trees be used to lessen the restriction on the river view from her home.

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

The Planning Board held discussion on screening for the parking lot, Land Use Code Section 16.08, the various plans to come before the Planning Board on this project, comments from meeting minutes as those comments related to this request and the dangers of setting a precedence for approving projects post completion.

Robin Haynes stated that to go ahead with unapproved plans showed contempt for the Planning Board. Dr. Haynes added that while she understands that this was not something the Plant Memorial Home was aware of until recently and that there are financial constraints, she continues to be very angry that the Plant Memorial Home had allowed an unapproved plan to be implemented.

GORDON REED MOVED, SECONDED BY JIM HOPKINSON TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AMENDMENT TO THE APPROVED SITE PLAN FOR CHANGES TO THE APPROVED FAÇADE; 1 WASHINGTON STREET (MAP 43, LOT 21); PLANT MEMORIAL HOME, APPLICANT.

**THREE FOR (GORDON REED, JIM HOPKINSON AND RICHARD KLINGAMAN)
TWO AGAINST (ROBIN HAYNES AND MARJORIE HAWKES)**

Item 4

Request for Site Plan Amendment – Earth Moving Associated with the Washington Heights Subdivision; 1524 Washington Street, (Map 13, Lot 44-1); ICS Realty, LLC Robert Leblanc, applicant.

Chris Belanger, Site Lines, stated that in order to speed up the time needed to complete the road construction and reduce impact to the neighbors that the applicant was before the Planning Board requesting an amendment to the site plan which would allow two trucks in tandem to come and go from the site. Mr. Belanger said that this would reduce the time needed from three and a half weeks to ten days. Mr. Belanger also requested that the number of flagmen be reduced to one with a radio.

The Planning Board held discussion on the condition of the approval for the number of flagmen to be determined by the Police Chief and Public Works Director.

There being no further discussion from the Planning Board, Bob Oxtan opened the floor to members of the public present who wished to comment.

Joseph Seigh, 1505 Washington Street, recommended that they do not have two trucks going together and stressed that that two flagmen were necessary because of the inability to see and narrowness of the road. Mr. Seigh added that he doubted the contractor would be able to finish the hauling for the road construction in 10 days.

Antoinette Mercadante, 1530 Washington Street, pointed out to the Planning Board that using two trucks was wishful and unrealistic. Ms. Mercadante stated that the condition exists that people may have to wait a long time for trucks to pass and that residents may be forced to pull into private yards to wait for trucks to pass or cause damage to

their cars in trying to avoid trucks. Ms. Mercadante recommended requiring two flagmen.

Jackie Dwinal, 1552 Washington Street, stated she was in full agreement with the previous statements from residents.

The Planning Board held discussion flagmen, trucks, and traffic safety.

JIM HOPKINSON MOVED, SECONDED BY RICHARD KLINGAMAN TO APPROVE THE REQUEST FOR SITE PLAN AMENDMENT FOR EARTH MOVING ASSOCIATED WITH THE WASHINGTON HEIGHTS SUBDIVISION; 1524 WASHINGTON STREET, (MAP 13, LOT 44-1); ICS REALTY, LLC ROBERT LEBLANC, APPLICANT FOR 20 TRIPS PER DAY WITH TWO TRUCKS ENTERING AND EXITING TOGETHER NO MORE THAN 75 FEET APART FROM THE HARWARD INTERSECTION TO THE SITE.

**FOUR FOR (MARJORIE HAWKES, GORDON REED, JIM HOPKINSON, AND RICHARD KLINGAMAN)
ONE AGAINST (ROBIN HAYNES)**

Robin Haynes stated that she was not able to vote for approval due to the unanimous comments from the neighbors against this proposal.

Item 5

Pre-application workshop – Construction of a building for a place of assembly; Oak Grove Avenue (Map 19, Lot 2-1); United Methodist Church of Bath, applicant.

Tom Saucier, SYTDesign Consultants, representing the applicant, outlined the proposed construction discussing parking, access, utilities, wetlands, Department of Environmental Protection permit and the Army Corps of Engineers permit to cross a stream, lighting, landscaping, topography, construction, view from the road, buffering, and elevations.

The Planning Board held discussion on changes to the building height definition, parking lot placement, steeple height, wetlands, and landscaping.

The Planning Board was polled and it was agreed to have Jim Upham start the process for a change in Article 2 to the building height definition.

Item 6

Planning Board review of Community Development Block Grant applications.

Jamie Silvestre discussed the \$10,150 Public Service Grant and how it would be utilized for salaries for two professional artists and one student artist, purchase supplies and purchase a van to provide a mobile art class room to various areas of the City. This

ArtWorks van would spend two hours every day in a different area where art would be created by participants which they could take home and some that would be used to enhance City of Bath facilities.

The Planning Board held discussion on how this project was supported by the Comprehensive Plan.

The Planning Board was polled and unanimously agreed that the ArtWorks proposal is supported by the City of Bath Comprehensive Plan.

Al Smith, Community Development Director, discussed how the \$400,000 Economic Development Infrastructure Grant would be used by the City to facilitate a new company's start-up in Bath. This grant would be used to purchase the Downeast Woodcrafter building at 2 Town Landing and do some retrofitting for Monolite, LLC. Mr. Smith stated that Monolite would be an employee owned company, would employ 40 to 60 people, and was the sole distributor for Monolite on the east coast.

The Planning Board held discussion on the Downeast Woodcrafter building, creation of jobs and retrofitting.

The Planning Board was polled and unanimously agreed that the Monolite proposal is provided for in the City of Bath Comprehensive Plan.

Other Business:

Jim Upham stated that he would notify the Planning Board members when the corrected subdivision plan is ready for the Planning Board to sign.

Jim Upham stated that the next meeting would be August 3, 2004.

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

UNANIMOUS APPROVAL

The meeting was adjourned at 8:56 p.m.

Minutes prepared by Marsha Hinton, Recording Secretary