

A regular meeting of the Bath Planning Board was called on 11-15-05 for the purpose of conducting regular business.

MEMBERS PRESENT

Jim Harper, Chair
Jim Hopkinson, Vice Chair
Bob Oxtan
Robin Haynes
Bill Vahey
Andy Omo
Jennifer DeChant
Jonathan Dolloff (non-voting student member)
John Underwood (non-voting student member)

MEMBERS ABSENT**STAFF PRESENT**

Jim Upham, Planning Director
Marsha Hinton, Recording Secretary

Mr. Harper, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, November 15, 2005.

Minutes of November 1, 2005, meeting.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO ACCEPT THE MINUTES OF THE NOVEMBER 1, 2005, MEETING AS SUBMITTED.

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

Request for Final Subdivision Approval – Stonehouse Woods Subdivision; Oak Grove Avenue (Map 15 Lot 46), Sewall Family Associates, LLC, applicant. (Continued from October 4, 2005, meeting).

Mr. Harper informed the Planning Board that the applicant is working with City staff and has requested a continuation of this request.

DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, TO CONTINUE THE HEARING ON THE REQUEST FOR FINAL SUBDIVISION APPROVAL FOR STONEHOUSE WOODS SUBDIVISION AT OAK GROVE AVENUE (MAP 15 LOT 46) FOR SEWALL FAMILY ASSOCIATES, LLC, APPLICANT TO THE DECEMBER 20, 2005, MEETING OF THE BATH PLANNING BOARD.

UNANIMOUS APPROVAL

Item 2

Request for Historic District Approval and Contract Rezoning; 950 Middle Street (Map 26 Lot 112); David Enright and Barbara Cornell, applicants. (Continued from October 4, 2005, meeting)

Mr. Harper informed the Planning Board that the applicant is working with City staff and has requested a continuance on this request.

DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON TO CONTINUE THE HEARING ON THE REQUEST FOR HISTORIC DISTRICT APPROVAL AND CONTRACT REZONING AT 950 MIDDLE STREET (MAP 26 LOT 112) FOR DAVID ENRIGHT AND BARBARA CORNELL, APPLICANTS TO THE DECEMBER 20, 2005 MEETING OF THE BATH PLANNING BOARD.

UNANIMOUS APPROVAL

New Business:

Mr. Harper polled the Planning Board with regard to rearranging the agenda items by hearing Item 2 first, Item 3 second and hearing Item 1 last.

The Planning Board agreed unanimously to rearrange the agenda as recommended.

Item 2

Request for Historic District Amendment – modifications to the front steps railing; 10 Garden Street (Map 26 Lot 139); Edward Benedikt, applicant.

Mr. Benedikt explained the safety need to add another railing to his front steps describing how a guest at his home had fallen.

DR. HAYNES MOVED, SECONDED BY MS. DECHANT TO APPROVE THE REQUEST FOR HISTORIC DISTRICT AMENDMENT FOR MODIFICATIONS TO THE FRONT STEPS RAILING AT 10 GARDEN STREET (MAP 26 LOT 139) FOR EDWARD BENEDIK, APPLICANT.

UNANIMOUS APPROVAL

Item 3

Pre-Application Workshop – Old Shipyard Land, LLC (Map 21, Lots 225, 229-232 & 235); Catherine Davis, applicant.

Ms. Davis presented her proposal for development of the site at Map 21 Lots 231, 232 and 235 with 28 single family units on the approximate 2 acres located there. Ms. Davis described the flood zone, sewer, view corridors, green space, parking, traffic, wetlands, piers, the Brownfield study, permitting, and the cost of development. Ms. Davis also

discussed how this project was in compliance with the Comprehensive Plan and State Smart Growth guidelines.

The Planning Board discussed the location of access into the site, size of the site, density, contract rezoning, traffic study, ordinance restrictions, and right title and interest.

There being no further comment from the Planning Board, Mr. Harper opened the floor to members of the public who wished to comment on this agenda item.

Richard Director, 374 Front Street, stated that the river view would be obliterated by the building as proposed.

Rebecca Belanger, 390 Front Street, pointed out ways in which this proposal did not meet the Comprehensive Plan. Ms. Belanger also described the narrowness of Front Street in that area and the increase in traffic this proposal would create.

Hal Sreden, 406 Front Street, expressed his concern with density, traffic, the elevation, setbacks, blasting, and asked whether this was a phased development.

Jean Rice, 355 Front Street, said that the connecting roads between Washington and Front streets were narrow and that additional traffic would make accessing Washington or Front streets from those side streets more difficult.

Nyree Thomas, 7 Dummer Street Court, agreed that the proposal did not meet the guidance of the Comprehensive Plan and requested an independent traffic study. Ms. Thomas also requested that in the future the Planning Board should arrange for a larger meeting place.

There being no further comment from the public present, Mr. Harper closed the public portion of the meeting. Mr. Harper thanked the applicant.

Item 1

Public Hearing – Request for Site Plan, Final Subdivision, Historic District Approval and Contract Rezoning – Complete demolition and rebuild of 99 Commercial Street; (Map 26, Lot 272); New BathPort LLC, applicant.

DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, TO FIND THE APPLICATION FOR SITE PLAN APPROVAL TO BE COMPLETE.

UNANIMOUS APPROVAL

MR. HOPKINSON MOVED, SECONDED BY MR. VAHEY TO FIND THE APPLICATION FOR SUBDIVISION APPROVAL TO BE COMPLETE.

UNANIMOUS APPROVAL

Matt Senecal, BBI Builders, discussed the Contract Rezoning, disposal of the existing structure, height, the feasibility study, bore samples, viewshed, and the need for steel pilings.

Frank Cushing, landscape Architect with Site Lines, presented various views of the proposal from Woolwich, the river, the library, down town, and Summer Street.

Jay Herrick, Architect, described the historic character of the City of Bath to be reflected in this proposal, type of materials to be used in construction, viewsheds provided by the proposal, and various uses for the lobby area.

Charlie Wiercinski, of Site Lines, listed ways that the proposal was in keeping with the guidance of the Comprehensive Plan, the site plan, river walk, sidewalks, removal of two utility poles, sewer, erosion control, stormwater, flood elevations, slopes, permits and applications, solid waste, signage, financing, traffic, building materials, water volume and quality, the subdivision plan, subsurface soils, Inland Fisheries and Wildlife letter, historic district approval, comments from Sagadahoc Preservation Inc, and a shadow study.

John Hall, applicant, discussed the mitigation for the Contract Rezoning for the height modification. Ed Rogers discussed the benefits of removal of the existing structure, smart growth, the benefit to downtown Bath, mixed use, and the interest shown in this proposal by people in owning one of the units.

The Planning Board discussed recycling, shadows, photometrics, architectural details, lighting fixtures, comments from Sagadahoc Preservation Inc., and input from the Maine Historic Preservation Commission.

There being no further comment from the Planning Board, Mr. Harper opened the floor to members of the public who wished to comment on this agenda item.

Harry Story, 20 Western, said that the City of Bath needs the economic boost that would be provided by this proposal. Mr. Story pointed to the increase in jobs as well as the improvements to the Bath waterfront.

Phil Maione, 103 South Street, stated that he was one hundred percent in favor of this project and said that it would increase the tax base.

Gordon Reed, 15 Mechanic Street, said that the City of Bath needs the responsible development of a sizeable project. Mr. Reed also pointed to the tax base increase, that he has no objection to an attractive tall building, felt that the scale was in keeping with the rest of the downtown and taking down the power lines would be an improvement. Mr. Reed reminded the Planning Board that "big" did not necessarily mean "bad."

Carolyn Lockwood, 773 High Street, pointed out that her house is seventy feet high from Fisher Court. Ms. Lockwood also stated that having this as a single use rather

than a mixed use is okay with her. She added that she felt the appearance is institutional and a little too much like the Bath Savings building.

Tom Perry, 1325 High Street, deplored the negativity evidenced by the City of Bath against development. Mr. Perry stated he was in favor of this proposal and it was time that the City started looking positively at development.

Andrea Galuza, Arrowsic, said that as a realtor she knew that a condominium in downtown Bath is something that her clients would be very interested in purchasing.

Philip Haskell, 660 High Street, stated that as a Mainer that has lived in New York City for many years who is now seeking to escape the large luxury condominiums, he is disappointed to find he may be coming home to another large development of luxury condominiums. Mr. Haskell encouraged the Planning Board to not allow this proposal to go forward. He said the City needs more low cost housing and that the City should develop the water front in it's own time.

Meadow Merrill, 390 High Street, discussed how we tend to discard items just because they are old and not necessarily because they are no longer useful. Ms. Merrill informed the Planning Board of her experience as a summer guide at Castle Tucker and the heirlooms passed down in her family that can not be purchased today. Ms. Merrill stated the scale of this proposal was more appropriate to Portland. Ms. Merrill also pointed out that the average Bath citizens would not be able to afford one of these condominiums.

Gene Nygaard (Kennebec Tavern), 119 Commercial Street, stated he liked the building, that the shadow would not be an issue for him, it would increase the tax base, and that the positives are greater than the negatives with this proposal.

Heather Krause, Woolwich, stated that she enjoys the patio at the Kennebec Tavern, did not like the height of the proposed building, did not feel that it looks like a residence, that the view corridors only worked when you were look straight through them, and warned of the precedent this proposal would set.

Joann Adams, 10 Marshall, stated that she was in favor of this project, that Bath needed the money and that she would like to see her parents purchase one of the proposed condominiums.

Karen Fassey, 99 North Street, recommended that the Planning Board be very careful in what they do with the water front because any action they take will be setting a precedent.

Kimberly Bracket, 887 Middle Street, stated that as a business owner this proposal would bring in more business for Bracket's Market, resolve the parking issue, remove an ugly building, and that the shadow issue didn't bother her. Ms. Bracket stated that this was a wonderful and positive addition for Bath.

Martha Mayo, 83 Green Street, read a statement from the Maine Street Bath current and incoming Board of Directors and the Economic and Design Committees made the following statements:

1. Main Street Bath encourages development through innovative and appropriate projects that encourage economic vitality and commerce.
2. Main Street Bath supports the value of having people live in our downtown.
3. Main Street Bath believes the architecture in our downtown should be of high quality and compatible with our historic architecture.
4. Main Street Bath supports creative and effective solutions to parking challenges.
5. Main Street Bath supports both single use and multi-use projects that contribute to a healthy blend of residential and commercial uses in Bath's downtown.
6. Main Street Bath recognizes the value of maintaining a balance between private use and public access to the waterfront.
7. Main Street Bath recognizes that the Bath Port project is still evolving, and we look to experts to determine the appropriateness of the details as it clears permitting and approval processes.

David King, 11 Mill Pond Road, expressed his concerns about the view of the proposed building from the door to his office and his boat that he keeps at the Kennebec Tavern. He told the Board that he was chair of the Library building committee and that this building as proposed would block the view of the river from the library. He said there would be a shadow at the Kennebec Tavern, that the applicants already have apartments in the downtown that they have converted to offices. He pointed out that the applicants had no intention of complying with the code's height requirements, the proposal is not consistent with the Comprehensive Plan, and if approved this would be a rezoning of the entire lot to a height of 95 feet. He also said that contract rezoning was never intended to be used for major adjustments in space and bulk requirements. He asked where the special circumstances are that necessitate this height. He also told the Board that if they approved this height they were setting a precedent and could not deny other landowners this height. He suggested that the Planning Board take the opportunity to have a 180 day moratorium and perform an analysis of the entire waterfront.

Jayne Palmer, 300 Front Street, asked that the Planning Board find a way to make this project a reality.

Michael Ambler, 912 Middle Street, stated that the waterfront is the City of Bath's greatest and worst utilized asset adding that this proposal is a major step in the redevelopment of this area. Mr. Ambler also noted that this would bring residents into the down town area, that there are reasons why this proposal needs to be so high, and that it does comply with the Comprehensive Plan.

Amy Leonard, 25 Shaw Street, pointed out that the City of Bath had received the National Trust Award for well managed growth. Ms. Leonard stated that this proposal was the length of a football field, had no relationship to the City of Bath or the neighborhood and that it would be a disservice to accept this proposal.

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

The Planning Board discussed scale, height, compatibility, shadows, contract rezoning, the Land Use Code standards, impact on the river, development of the river walk, the landscaping plan, wastewater, recreational space, opportunity to remove overhead power lines, the public restroom at the park, the bases for lighting on Front Street, and the size of structures historically in Bath. The Planning Board also discussed the opportunity to reassess the height requirements of the code with regard to the waterfront area and the use of Contract Rezoning.

MS. DECHANT MOVED, SECONDED BY DR. HAYNES TO CONTINUE THE REQUEST FOR SITE PLAN, FINAL SUBDIVISION, HISTORIC DISTRICT APPROVAL AND CONTRACT REZONING FOR COMPLETE DEMOLITION AND REBUILD OF 99 COMMERCIAL STREET (MAP 26, LOT 272) FOR NEW BATHPORT LLC, APPLICATION TO THE DECEMBER 20, 2005 PLANNING BOARD MEETING TO ALLOW TIME TO EXPLORE THE FOLLOWING ISSUES: REVIEW OF A SHADOW STUDY, A FINANCIAL REVIEW, BORING TESTS RESULTS, PROOF THAT STRUCTURALLY THE PROPOSAL WILL BE CONSTRUCTED IN ACCORDANCE WITH ACCEPTED CONSTRUCTION STANDARDS, A MORE FORMAL CONSTRUCTION REVIEW PROCESS BE PART OF THE APPROVAL, A FINAL PLAN ON FAÇADE FOR MATERIALS FOR HISTORIC REVIEW, IMPACT ON THE RIVER FROM STORMWATER RUNOFF, CROSS EASEMENTS WITH THE KENNEBEC TAVERN TO MAKE CERTAIN THAT THIS PROPOSAL WILL NOT VIOLATE THE KENNEBEC TAVERN'S SITE PLAN APPROVAL, UP TO DATE ENGINEERING INFORMATION, UP TO DATE LETTER FROM THE MAINE HISTORIC PRESERVATION COMMISSION, AND TO CAREFULLY CONSIDER THE COMMENTS FROM COMMUNITY BUSINESS OWNERS.

UNANIMOUS APPROVAL

The Planning Board discussed the value of holding a workshop with the applicant to work out some of their issues. It was decided to do this at the next scheduled meeting.

DR. HAYNES THEN MOVED, SECONDED BY MR. VAHEY, TO CONTINUE DISCUSSION ON THE REQUEST FOR SITE PLAN, FINAL SUBDIVISION, HISTORIC DISTRICT APPROVAL AND CONTRACT REZONING FOR COMPLETE DEMOLITION AND REBUILD OF 99 COMMERCIAL STREET (MAP 26, LOT 272) FOR NEW BATHPORT LLC, APPLICATION TO THE DECEMBER 6, 2005 PLANNING BOARD MEETING.

UNANIMOUS APPROVAL

Other Business:
No other business.

There being no further business to come before the Planning Board, **MR. VAHEY MOVED, SECONDED BY MR. HOPKINSON, THAT THE MEETING BE ADJOURNED.**

UNANIMOUS APPROVAL

APPROVAL

The meeting was adjourned at 10:05 p.m.