

A regular meeting of the Bath Planning Board was called on 09-19-06 for the purpose of conducting regular business.

**MEMBERS PRESENT**

Jim Harper, Chair  
James Hopkinson, Vice Chair  
Andy Omo  
Robin Haynes  
Bob Oxtan  
Chelsea Hall (non-voting student member)

**MEMBERS ABSENT**

John Underwood (non-voting student member)  
David King  
Jennifer DeChant

**STAFF PRESENT**

Jim Upham, Planning Director  
Tom Hoerth, City Arborist  
Morgan Decker, Recording Secretary

Mr. Harper, Chair, called the meeting to order in the third floor Council Chambers at 6:01 p.m. on Tuesday, September 19, 2006.

Minutes of September 5, 2006 meeting

**DR. HAYNES MOVED, SECONDED BY MR. OXTON, TO APPROVE THE SEPTEMBER 5, 2006 MINUTES WITH THE FOLLOWING CORRECTIONS:**

**PAGE 3: PARAGRAPH 8 TO READ: "MR. FAVREAU SAID THAT THIS CONSTRUCTION AND PROPOSED IMPROVEMENTS WOULD HELP THE SOUTH END IN GENERAL AND IS NECESSARY FOR EFFICIENT MODERNIZATION OF THE SHIPBUILDING PROCESS, AND DIVERSIFICATION WAS CONTAINED BY THE RIVER AND EXISTING TRACK BUILDINGS."**

**PAGE 7: UNDER "OTHER BUSINESS" CHANGE ", PARTIALLY LANDSCAPED AND READY FOR POTENTIAL PURCHASE" TO SIMPLY READ "AND READY FOR POTENTIAL PURCHASE."**

**UNANIMOUS APPROVAL**

**Old Business**

**Item 1**

**Request for Site Plan Approval** (Walgreens Pharmacy) – 11 State Road (Map 31, Lot 67); Finast Properties, LLC, applicant. (Continued from September 5, 2006 meeting.)

Mr. Upham, Planning Director, updated the Board with regard to this application, saying that the stormwater management plan had been approved by Mr. Saucier, the City's peer reviewer.

Peter Hedrich, traffic engineer from Gorrill-Palmer Consulting Engineers, representing the applicant, presented two plans of proposed roadway improvements for State Road; drawing A1 with a center left turn lanes, which he said had been approved by Maine Department of

Transportation, and drawing A2, which proposes the same center left turn lanes, however with the roadway moved northerly to allow for the possibility of a redesigned parking area in front of the Coastal Plaza shopping center.

Dr. Haynes asked Mr. Hedrich if a sidewalk could be installed on either side of State Road for greater pedestrian safety. Mr. Hedrich said he does not feel a sidewalk would be feasible as there are utility poles and landscaping that would prohibit a sidewalk.

Mr. Harper cautioned the Board against lobbying for an "orphaned sidewalk" that would not be connected to any other sidewalk. Dr. Haynes mentioned that in her own personal experience, a pharmacy within walking distance of a hotel is sometimes important, therefore something should be done with regard to making pedestrian traffic safer. Dr. Haynes and Mr. Harper agreed that a safe crossing of State Road should be achieved.

Mr. Harper addressed the proposed stamped pavement delineating the medians. Mr. Upham said Peter Owen had commented on this, saying stamped pavement works well for a while, but wears down and must be maintained by the City, creating a future responsibility for taxpayers. He said it is Mr. Owen's opinion that concrete islands are more appropriate.

Mr. Hedrich made comments in favor of stamped pavement, saying the maintenance was a fair trade-off and more appropriate because it is easier to removed if the road is moved to the north in the future.

The Board in general expressed their opinions regarding concrete medians rather than stamped pavement, citing added measures of safety and being inclined to agree with the Public Works Director as reasons they would not support stamped pavement.

Mr. Upham asked Tom Errico, the City's peer traffic engineer, to speak about the updated plan A2.

Mr. Errico said the proposed center left turn lanes were to provide safety to vehicles turning into the Walgreen and VIP site as well as into the Coastal Plaza site. He said the design would slow traffic somewhat, but that it was primarily a design for safety for turning vehicles. He said that the suggested design of the Coastal Plaza parking area was appropriate. Mr. Errico also said that the design in general is good, and that he is in support of concrete median islands rather than stamped pavement.

Ray Remillard, representing The Richmond Company, said that the company will take concrete median islands into consideration.

Mr. Oxton inquired whether a study of pedestrian traffic had been done. The applicant said such a study has not been done.

Mr. Errico spoke with regard to traffic and pedestrian safety, saying the City has a desire to create a different safer design for the intersection at Congress Avenue and State Road,

namely a roundabout. Mr. Upham explained roundabouts, saying that they are safer and move vehicles through an intersection differently from a rotary or traffic circle.

Mr. Oxton asked if anyone had looked into installing rubber posts to calm traffic in the same manner as the Town of Woolwich.

Mr. Errico and Mr. Harper both agreed that concrete islands and two turning lanes would improve traffic flow and be better than the design used on Route 1 in Woolwich.

Mr. Hedrich told the Board that the applicant was proposing to make improvements to the Congress Avenue – State Road intersection by widening and paving the southern shoulder of State Road west of the intersection and widening Congress Avenue for 200 feet north of the intersection to create left- and right-turn lanes. Mr. Hedrich reminded the Board that this would be an improvement to the intersection and that because Walgreen's would only be increasing the traffic at the intersection 2% they should only have to pay for 2% of the final improvement. He told the Board that if the City wanted to construct a different type of intersection the applicant was willing to contribute the cost of their proposed improvements, about \$29,500.00 to the City to fund another alternative. He said that landowners were willing to match the \$29,500.

Mr. Upham asked Mr. Hedrich for his opinion on how challenging it would be to construct a roundabout intersection at this location. Mr. Hedrich said a roundabout would be challenging in that area, due to the ravine to the northwest and the grade of Congress Avenue.

Mr. Harper asked Mr. Upham if the City Manager had been consulted about a possible roundabout intersection. Mr. Upham said that the Congress Avenue - State Road intersection is enough of a priority that the City Manager is willing to budget funding as soon as possible. Mr. Upham said that the contribution proposed by the applicant would be a big help in funding the reconstruction of the intersection, waiting for the State of Maine to contribute could delay the project for years, because of the State's two-year highway funding process.

Mr. Errico said that the intersection is a difficult situation. If a roundabout intersection is feasible, and the funding is available, a \$60,000.00 contribution is a big help. He also said that the immediate concern is to fix the safety problem. He told the Board that the improvements proposed by the applicant would not solve the safety and congestion problems at this intersection. He said that if the City were to wait for funding for a more long-term improvement, than some improvements should be made now.

Mr. Upham asked Mr. Errico if he would be willing to give a verbal estimate of a roundabout. Mr. Errico said that he would be uncomfortable doing so without comparing the job to others.

Mr. Omo asked if it were possible to have part of the monetary contribution put toward an engineering study for a roundabout and the other part be saved to put toward the improvements, whatever they may be.

Dr. Haynes asked who would be doing such a study and what the cost of that study might be.

Mr. Errico reiterated that some sort of interim improvement to the Congress Avenue – State Road intersection be made now. He reminded the Board that the improvements proposed by the applicant still do not alleviate the problems at this intersection. He pointed out that the intersection already functions as if it has left- and right-turn lanes.

Mr. Hopkinson asked if the City had the funding to start some sort of improvement immediately. Mr. Upham clarified by reiterating the City Manager's comments that improving the Congress Avenue - State Road intersection is a priority and he is willing to budget money to accomplish the task. He said he did not know if funding was available in this year's budget.

Mr. Hopkinson said he would be uncomfortable with the Board making a determination of what an appropriate monetary contribution may be, and feels it should be determined based on the cost of improvement and decided by the City Manager and staff.

Dr. Haynes asked if the applicant should start their process following site plan approval with an unknown, such as not knowing what their contribution to the traffic improvements will be.

Mr. Hedrich addressed the Board and said that the \$60,000.00 donation as well as other proposed improvements to the roadway would cost near \$200,000.00, and suggested that this was not fair for only increasing traffic 2%.

Mr. Harper reminded Mr. Hedrich that the increase in traffic would further degrade the intersection.

Mr. Hedrich said that this matter had already been discussed with the City staff, and urged the Board to consider what is fair.

Mr. Hopkinson reminded Mr. Hedrich that the Board does not have the authority to approve a project that would increase traffic at an intersection with failing a level of service. He said that the Board is looking for an improvement over the current situation.

Mr. Harper opened the meeting up to comments from the public. There being no public wishing to comment, the public comment portion was closed.

Dr. Haynes said there is no "stop" sign being proposed at Route 1 intersection, which does not seem reasonable. She also asked if there were tree preservation and landscape plans.

Mr. Upham explained that changing the "yield" to a "stop" sign could only be done by DOT.

Tom Hoerth, City Arborist, said he is missing a complete plant list as well as a tree preservation plan.

Mr. Harper reminded the Board that tree preservation may be one of the conditions of approval, and asked if there were any other items still open for discussion.

Mr. Hopkinson asked where a crosswalk might be located.

Mr. Upham said that because crosswalks are created by ordinance, the City Council is responsible for determining their location.

Mr. Hopkinson said that if he were to make a motion, he would want to remember to clarify that some of the improvements on drawing A2 would not be required, mostly those on south side of State Road.

Mr. Upham said that the original plan had a white line shown on the south side of State Road.

The Board discussed what conditions should be included in a motion.

Mr. Remillard of the Richmond Company asked the Board if they would consider the waiver of the parking requirement to allow 72 parking spaces rather than 74.

Dr. Haynes also mentioned that there was a small spillover of the Code-allowed illumination that may need a waiver.

**MR. HOPKINSON MOVED, SECONDED BY MR. OMO, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL (WALGREENS PHARMACY) – 11 STATE ROAD (MAP 31, LOT 67); FINAST PROPERTIES, LLC, APPLICANT; INCLUDING THE APPLICANT’S PROPOSAL AS CONFIGURATED IN UPDATED DRAWING A2 WITH CONSTRUCTION IMPROVEMENTS SHOWN THEREON INCLUDING SHIFTING THE ROADWAY NORTHWARD AND WITH THE FOLLOWING CHANGES:**

- **RATHER THAN STAMPED PAVEMENT, CONSTRUCTING CONCRETE MEDIAN ISLANDS;**
- **ANY IMPROVEMENTS SOUTH OF THE DELINEATED TRAVEL LINE ON THE SOUTH EDGE OF STATE ROAD ARE NOT REQUIRED;**
- **IMPROVEMENTS TO THE CONGRESS AVENUE INTERSECTION SHOWN ON THE PLAN NOT BE REQUIRED;**
- **THAT THE APPLICANT SUBMIT A DESIGN FOR A ROUNDABOUT AT THE CONGRESS AVENUE – STATE ROAD INTERSECTION, OR AN ALTERNATE SOLUTION IF A ROUNDABOUT IS NOT FEASIBLE, AND MAKE A FINANCIAL CONTRIBUTION TO THE CONSTRUCTION OF THE INTERSECTION THAT IS ACCEPTABLE TO THE CITY MANAGER, CITY PLANNER, PUBLIC WORKS DIRECTOR PRIOR TO CONSTRUCTION;**
- **THAT A FINAL TREE PRESERVATION PLAN, PLANTING LIST, AND PLANTING DETAIL BE SUBMITTED TO AND APPROVED BY THE CITY ARBORIST;**
- **THAT A CROSSWALK BE ESTABLISHED IN A LOCATION AS APPROVED BY THE CITY COUNCIL;**
- **PEER REVIEW ENGINEERS’ COSTS BE PAID PRIOR TO THE ISSUANCE OF A BUILDING PERMIT;**
- **THAT THE APPLICANT’S REQUEST FOR A WAIVER CONCERNING 72 RATHER THAN 74 SPACES BE APPROVED; AND**

- **THAT THE APPLICANT'S REQUEST FOR A WAIVER CONCERNING SPILLAGE OF LIGHT ILLUMINATION ON THE WEST AND SOUTH SIDE OF THE PROPOSED PROJECT BE APPROVED.**

Dr. Haynes asked how much the engineering plan for a roundabout would cost, and if this would use all of the funds proposed to be donated by the applicant.

Mr. Hopkinson said that he expected the City staff would take the cost of the design of the roundabout into consideration when determining the applicant's total contribution amount, but that he was not including this in his motion.

Mr. Harper said that all the applicant is required to submit is enough of a plan to determine if a roundabout is feasible, not a fully engineered design.

### **UNANIMOUS APPROVAL OF THE MOTION.**

#### **Item 2**

**Request for Site Plan Approval and Contract Rezoning** – 700 Washington Street (Map 27, Lot 142); Bath Iron Works, applicant.

Mr. Upham told the Board that he, Peter Owen, Tom Hoerth, and Bob Herman from Bath Iron Works had walked the site and come up with improvements to the original plan. He also told the Board that Peter Owen has approved of the proposed protection of the 54-inch stormwater outfall pipe.

Mr. Harper asked the applicant to speak.

Mr. Favreau, representing BIW, said that BIW was proposing the following conditions for the site plan and contract rezoning:

1. Pile driving will occur only between 7:00 am and 7:00 pm.
2. The 54-inch storm water outfall will be video taped before construction starts and after and copy of the tapes be given to Peter Owen.
3. The doors of the proposed building will be closed by 9:00 pm.
4. Inclusion of granite rather than bituminous curbing along the assembly building for 700 linear feet in locations requested by the City.
5. Decrease noise of the blower fans on the PO 2 building using a shroud with a noise-dampening cloth, decreasing the noise by 15-20 decibels.
6. The City's "Tree Planting Techniques" will be used for all proposed landscaping.
7. BIW will construct "bump-outs," as shown on the plan date stamped September 15, 2006, along Washington Street in front of the Assembly Building, and the applicant will contribute \$1,000.00 toward either "bump-out" for landscaping, hardscaping, or artwork. In addition, a four-inch caliper gingko tree with a fence will be placed in front of the building at the corner of Spring Street and Washington Street, also shown plan date stamped September 15, 2006.

8. The applicant would also give \$25,000.00 to the City for improvements in the Southend Waterfront Park.

Dr. Haynes asked if closing doors could be pushed back by one hour.

Mr. Favreau said that the doors would close earlier than 9:00 p.m. in the winter to conserve heat, and may only stay open that late in the summer to take advantage of daylight.

Mr. Harper opened the meeting to public comment.

Jim Finn, 20 Spring Street, stated that he is a 30-year employee of Bath Iron Works, and that he has been union-involved for most of that period. Mr. Finn said that he does not find the PO 2 building fans to be loud, and trusts Kevin Gildart's statement that the noise level will not be increased. He said that Bath Iron Works has a track record of effective neighborhood concern, and while the height of the proposed building may block the view somewhat, it may also act as a noise buffer.

Dick Hill, 71 South Street, said his home has been in his family for 150 years. With the construction of the Assembly Building, their river view was lost. He challenged Mr. Finn's claim that noise was not an issue, and said that even at his house noise can be heard year-round. He told the Board that other applicants have offered more to the City and that Bath Iron Works should give land to the City to allow for an extension of Commercial Street across the railroad tracks and to King or Washington Street.

Mike Keenan, 1271 High Street, President of Local S6, said the expansion is imperative to Bath Iron Works and if not done could put the shipyard at a disadvantage by not allowing them to stay competitive. He told the Board that more than \$25,000.00 should be contributed to the park.

Jean Sczezpanski, 24 Hinckley Street, said her neighbors have given her a lot of negative feedback since the last meeting. She thinks the landscape plan is good, and asked if there could be a deadline for implementing the plan. Ms. Sczezpanski asked if the center yellow line in Washington Street could be moved. Ms. Sczezpanski also asked if there were a designated bus parking area. She wanted to know who monitors overspray of paint, and said that there is overspray outside of her house, as well as grinding debris.

Mr. Harper said, regarding landscaping, that conditions have to be met before a Certificate of Occupancy is issued. He said that noise level is constantly being monitored, but he is unaware of who monitors debris.

Mr. Hopkinson suggested that Ms. Sczezpanski contact Bath Iron Works or the Codes Enforcement Officer.

Mr. Harper said that parking and narrowing or widening of the street would not be affected by this proposal. The Chief of Police is in charge of parking and that there is an existing bus queuing area.

Ms. Sczezpanski asked if there would be a height requirement for trees planted.

Tom Hoerth said the City will decide how large landscaping will be for the bump-outs; the proposed ginkgo tree would likely be 15 feet tall.

Mr. Upham addressed public concerns in general, saying that he would speak to Chief Field about traffic and bus queuing, and while Mr. Hill's proposal had merit, there were other factors involved that would make this impossible, primarily the State's desire to not have another railroad crossing.

Mr. Harper called for further public comments. Hearing none, the public comment portion was closed.

Mr. Upham said he felt the Discretionary Conditions proposed by the applicant would be adequate if the granite curbing would run the entire length of the Assembly Building (roughly 1,400 feet), and that this issue was more important to him than the \$25,000 contribution to the Southend Waterfront Park.

There was discussion about how much work could be done in the Southend Waterfront Park because of the cap and DEP concerns.

Dr. Haynes asked where the proposed granite curbing would start and stop.

Mr. Hopkinson said he agreed with Mr. Upham regarding granite curbing versus bituminous.

Mr. Omo said that he is in favor of running the 1400' of granite curbing as well as a \$25,000.00 donation, with no trade-off.

Mr. Favreau said that he feels the applicant contributed a significant amount of money and the additional granite curbing may cost \$15,000.00.

Mr. Omo asked if Tom Hoerth thinks that \$1,000.00 per bump-out is appropriate.

Mr. Hoerth said that for \$1,000.00 good-size plant material can be purchased, and the City can contribute items from their nursery.

Mr. Hopkinson asked whose decision the final design for the bump-outs would be.

Mr. Harper suggested the City Manager and his staff make all final decisions regarding design and use of funds.

Dr. Haynes asked who would maintain landscaping at the bump-outs.

Mr. Upham said the City should be responsible, because they would be in the City's right-of-way.

Mr. Favreau agreed that landscape maintenance could be a shared responsibility.

Dr. Haynes asked that the closing of doors be sunset to sunset. Mr. Hopkinson agreed that this sounded reasonable.

Mr. Harper asked if shortening the hours of the pile-driving schedule would be better, knowing that this would extend the project in general.

Dr. Haynes asked if the applicant would be willing to raise the contribution for bump-out material to \$1,250.00 rather than \$1,000.00.

Mr. Hopkinson said he is satisfied with accepting an offer of granite curbing for the entire length and not asking for more money toward bump-outs.

Mr. Oxtan asked if the applicant and the City were sure that the vegetation/artwork on the bump-outs would not be damaged by ice shedding.

Mr. Hoerth said the bump-outs are out far enough to not be hit by falling snow and ice.

Mr. Favreau appealed to the Board, saying that any concerns tonight be addressed and a unanimous vote is preferred, as City Council will be voting on the Contract Rezoning, and a united Planning Board vote would help.

**MR. HOPKINSON MOVED, SECONDED BY MR. OMO, TO APPROVE THE APPLICATION FOR SITE PLAN APPROVAL, CONTINGENT UPON THE CITY COUNCIL'S APPROVAL OF THE CONTRACT REZONING, AND TO RECOMMEND THE CONTRACT REZONING – 700 WASHINGTON STREET (MAP 27, LOT 142); BATH IRON WORKS, APPLICANT, AS AMENDED BY THE SEPTEMBER 15, 2006, SUBMITTAL AND WITH THE FOLLOWING REVISIONS OR CONDITIONS:**

- **THE DOOR CLOSING OF THE PO 2 BUILDING BE BY SUNSET;**
- **THE APPROVAL INCLUDES THE DISCRETIONARY CONDITIONS FOR CONTRACT REZONING CONTAINED IN THE SEPTEMBER 15, 2006, SUBMITTAL CONCERNING:**
  - **MUFFLING OF NOISE;**
  - **THE APPLICANT'S PROPOSED NEW SIDEWALK WITH GRANITE CURBING COMMENCING AT THE NORTHERLY END OF THE ALUMINUM SHOP, SOUTHERLY TO THE WEST GATE;**
  - **APPLICANT'S PROPOSAL BE SUPPLEMENTED WITH THE DISCRETIONARY CONDITION THAT GRANITE CURBING CONTINUE SOUTHERLY TO THE TERMINUS OF THE SOUTHERLY MOST PLANTING ISLAND LABELED "20-FOOT PLANTING ISLAND" OFF THE END OF HINCKLEY STREET;**
  - **THE DISCRETIONARY CONDITIONS INCLUDE A NEW 4-INCH CALIPER GINGKO TREE, WITH FENCE SURROUND, PLANTED ON THE SPRING STREET CORNER OF THE "TELEPHONE BUILDING" LOT;**

- THE DISCRETIONARY CONDITIONS INCLUDE THE APPLICANT TO CONSTRUCT THE 20-FOOT AND 40-FOOT PLANTING ISLANDS SHOWN IN THE APPLICANT'S SEPTEMBER 15, 2006, PROPOSAL, WITH THE SURFACE BEING GRASS;
- THE DISCRETIONARY CONDITIONS ALSO INCLUDE THAT THE APPLICANT DONATE \$1,000 PER ISLAND TO BE USED AS DETERMINED BY THE CITY MANAGER WITH ADVISE OF CITY STAFF. MAINTENANCE OF THE VEGETATION IN THE PLANTING ISLANDS BE SHARED BY THE CITY AND BIW AS APPROPRIATE; AND
- THAT THE APPLICANT DONATE \$25,000 FOR IMPROVEMENTS IN THE SOUTHEND WATERFRONT PARK.

### **UNANIMOUS APPROVAL**

The time being after 9:00pm, Mr. Harper pointed out that to continue the meeting past 9:00pm, there needed to be a unanimous vote by the Board.

**DR. HAYNES MOVED, SECONDED BY MR. OMO, TO PROCEED WITH THE MEETING.**

### **UNANIMOUS APPROVAL**

#### **New Business**

##### **Item 1**

**Request for Historic District Amendment** – 1065 Washington Street (Map 21, Lot 197); Al & Deborah Branca, applicants.

Al Branca introduced himself and said he would like to amend his original plan by removing some of his proposed windows and doors and adding a roof to the deck.

Dr. Haynes asked why the removal of doors and windows.

Mr. Branca said that after reviewing the plan, it was felt there was an overabundance of entrances and egresses, as well as too much glass to make placement of furniture indoors feasible.

Mr. Harper opened for public comment; hearing none, the public comment portion was closed.

**DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, TO APPROVE REQUEST FOR HISTORIC DISTRICT AMENDMENT - 1065 WASHINGTON STREET (MAP 21, LOT 197); AL & DEBORAH BRANCA, APPLICANTS; AS THIS IS A PRIVATE FACADE.**

### **UNANIMOUS APPROVAL**

**Item 2**

**Request for Historic District Amendment** – 199 Water Street (Map 27, Lot 99); Walter Briggs, applicant.

Mr. Briggs told the Board he would like to amend his plan to make improvements and repairs to the façade. He said he feels his best use of funds is to repair the south side, to remove asbestos and replace with clear cedar as well as to replace trim.

Mr. Harper opened for public comment; hearing none, the public comment portion was closed.

Dr. Haynes asked whether any trim or other elements will be removed and replaced.

Mr. Briggs said that if removed they would be replaced.

**DR. HAYNES MOVED, SECONDED BY MR. HOPKINSON, TO APPROVE THE REQUEST FOR HISTORIC DISTRICT AMENDMENT – 199 WATER STREET (MAP 27, LOT 99); WALTER BRIGGS, APPLICANT; WITH THE CONDITION THAT ALL DECORATIVE TRIM BE REPAIRED, MAINTAINED, OR REPLICATED.**

**UNANIMOUS APPROVAL**

**Other Business**

Mr. Upham told the Board of a forum about growth and sprawl to be held in the auditorium on October 4<sup>th</sup>.

There being no other business to come before the Board, **DR. HAYNES MOVED, SECONDED BY MR. OMO, TO ADJOURN.**

**UNANIMOUS APPROVAL**

Meeting adjourned 9:19 p.m.