

A regular meeting of the Bath Planning Board was called on 12-15-09 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxton, Chair
James Hopkinson, Vice Chair
Andy Omo
Amy Fitzpatrick
Paul Fraser
Robin Haynes
Drew Molbowski (non-voting student member)

MEMBERS ABSENT

Donald Rogers
Kean McDermott (non-voting student member)

STAFF PRESENT

Jim Upham, Planning Director

Mr. Oxton, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, December 15, 2009.

Minutes of the December 1, 2009, meeting

MR. HOPKINSON MOVED, SECONDED BY MS. FITZPATRICK, TO ACCEPT THE PLANNING BOARD MINUTES OF DECEMBER 1, 2009, AS PRESENTED.

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

Planning Board action on recommendation to City Council - Amendments to Land Use Code Articles 2, 7, 8, 9, and 11 and Zoning Map to implement the Comprehensive Plan pertaining to the creation of a Plant Home Zone. (Continued from the December 1, 2009, meeting).

Mr. Upham explained the changes that had been made to the ordinance amendments as a result of discussion at the December 1, 2009, meeting.

Mr. Oxton opened the floor to members of the public who wished to speak.

Ms. Julie Rice, 27 Washington Street, asked if a Place of Assembly would be reviewed by the Planning Board and whether abutters would be notified.

There being no further comment from the members of the public present, Mr. Oxton closed the public portion of this agenda item.

Mr. Upham explained that the changes proposed would require that any accessory use such as a Place of Assembly added to an Assisted Residential Facility would require Site Plan Approval from the Planning Board. He also indicated that a primary use Place of Assembly would require Site Plan Approval.

There being no further discussion **MR. HOPKINSON MOVED, SECONDED BY MR. FRASER, TO RECOMMEND THE AMENDMENTS TO THE LAND USE CODE ARTICLES 2, 7, 8, 9 AND 11 AND THE ZONING MAP, WHICH WERE PRESENTED TO THE PLANNING BOARD ON DECEMBER 15, 2009, TO THE CITY COUNCIL FOR ADOPTION.**

UNANIMOUS APPROVAL

Item 2

Request for Final Subdivision Approval - Wing Farm Business Park, West Bath phase (Map 29, Lot 11); Town of West Bath, applicant. (Continued from the November 17, 2009, meeting).

Mr. Upham explained that the applicant was not prepared to present additional information to the Planning Board at this time and that he recommended continuation of the review of this Final Subdivision Application to January 19th.

MR. HOPKINSON MOVED, SECONDED BY DR. HAYNES, TO CONTINUE THE REVIEW OF THIS FINAL SUBDIVISION PLAN TO THE JANUARY 19, 2010, MEETING OF THE PLANNING BOARD.

UNANIMOUS APPROVAL

Item 3

Planning Board discussion - of the establishment of the new Neighborhood Commercial Zone to implement the Comprehensive Plan (Continued from the December 1, 2009, meeting).

Mr. Upham told the Planning Board that he was still working with the City Arborist to develop buffering and landscaping standards for the new Neighborhood Commercial Zone. He asked that this item be continued to the first meeting in January.

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO CONTINUE PLANNING BOARD DISCUSSION OF THE ESTABLISHMENT OF THE NEW NEIGHBORHOOD COMMERCIAL ZONE TO IMPLEMENT THE COMPREHENSIVE PLAN, UNTIL THE JANUARY 5, 2010, PLANNING BOARD MEETING.

UNANIMOUS APPROVAL

Item 4

Planning Board discussion - of draft "Smart Growth" criteria and possible amendments to Land Use Code Article 11 (Continued from the December 1, 2009, meeting).

Mr. Upham requested that this agenda item be continued.

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO CONTINUE THE PLANNING BOARD DISCUSSION OF DRAFT "SMART GROWTH" CRITERIA AND POSSIBLE AMENDMENTS TO THE LAND USE CODE ARTICLE 11 UNTIL THE JANUARY 19, 2010, MEETING.

UNANIMOUS APPROVAL

New Business

Mr. Oxtan moved New Business Item 3 ahead of New Business Items 1 and 2.

Item 3

Request for Site Plan Approval and Historic District Amendment - 967 Middle Street (Map 26, Lot 127); Laura Heistand, applicant.

DR. HAYNES MOVED, SECONDED BY MS. FITZPATRICK, TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL

Mark Akeley, representing the applicant, told the Planning Board that there was parking enough on the lot for seven vehicles and that the applicant had no intention of subdividing the lot in the future.

Mr. Oxtan opened the floor to members of the public who wished to speak on this agenda item.

There being no public wishing to comment, Mr. Oxtan closed the public portion of this agenda item.

MR. HOPKINSON MOVED, SECONDED BY MR. OMO, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL, 967 MIDDLE STREET (MAP 26, LOT 127); LAURA HEISTAND, APPLICANT, WITH THE CONDITION THAT THE LOT NOT BE SUBDIVIDED IN THE FUTURE.

UNANIMOUS APPROVAL

MR. HOPKINSON THEN MOVED, SECONDED BY MR. FRASER, TO APPROVE THE REQUEST FOR HISTORIC DISTRICT AMENDMENT, 967 MIDDLE STREET (MAP 26, LOT 127); LAURA HEISTAND.

UNANIMOUS APPROVAL

Item 1

Public Hearing - Request for Site Plan Approval and Contract Zone Amendment - 700 Washington Street, Ultra Hall Building (Map 27, Lot 142); Bath Iron Works, applicant.

John Fitzgerald, Vice President and Corporate Council for Bath Iron Works, representing the applicant, introduced Jim Favreau and Dan Nadeau both of Bath Iron Works who would explain the importance of the expansion of the so-called Ultra Hall building.

Mr. Favreau explained that building larger ship modules indoors would make Bath Iron Works more efficient and more competitive.

Mr. Nadeau explained that they were requesting waivers of Land Use Code Section 12.08, L and N. He explained the location of the Ultra Hall Building, the ventilation and fan system, and the temporary fencing.

Mr. Oxtan explained to the Planning Board and to the applicant that he was an employee of Bath Iron Works but felt that he could act on this application in an unbiased manner.

A pole of the Planning Board and the applicant determined that there were no objections to Mr. Oxtan's participation on this agenda item.

The Planning Board discussed the venting and muffling of noise from the Ultra Hall expansion, closing the doors to the building at sunset, whether or not a ladder truck was equipped to fight a fire on a building this tall and DEP approval.

Mr. Oxtan opened the floor to members of the public who wished to speak on this agenda item.

Mr. Dan Gagnon, 408 Washington Street, said he was concerned about the noise from the building.

Ms. Millie Bernier, 25 Pine Street, asked where the cars would be parked that would be displaced by the building addition, if allowing the expansion this tall would set a precedent, and whether or not it was likely that the Trufant Marsh would end up being a building site in the future.

There being no further comment from the members of the public present, Mr. Oxtan closed the public portion of this agenda item.

Mr. Nadeau explained that the fans would be better muffled than those in the present Ultra Hall building and that they would exhaust to the east. He also explained that there would be a loss of about 25 car spaces but that they would be made up in other parking areas.

Mr. Upham explained that the Planning Board's action on this agenda item would not set a legal precedent.

The Board members commented that it was unlikely that the DEP would allow filling of the Trufant Marsh in the future.

Mr. Fitzgerald told the Board that this past summer he had been contacted by Scott Davis, Codes Enforcement Officer, regarding doors of the Ultra Hall being open after sunset on warm evenings. He said that employees had been instructed that the doors had to be closed. He also told the Board that the expansion of the Ultra Hall building would not require an increase in employees.

The Planning Board discussed the fan noise, possible conditions such as maintaining the white picket fence and evergreens between the BIW property and Washington Street and the DEP approval.

MR. HOPKINSON THEN MOVED, SECONDED BY DR. HAYNES TO GRANT SITE PLAN APPROVAL CONTINGENT ON THE CITY COUNCIL'S APPROVAL OF THE CONTRACT REZONING AND TO RECOMMEND THE CONTRACT REZONING TO THE CITY COUNCIL, FOR 700 WASHINGTON STREET, ULTRA HALL BUILDING (MAP 27, LOT 142); BATH IRON WORKS, APPLICANT, WITH THE FOLLOWING CONDITIONS:

- 1. THAT THE CONDITIONS CONTAINED IN THE APPROVAL OF THE ULTRA HALL IN 2006 AND THE CONDITIONS IN LAND USE CODE SECTION 16.16 APPLY.**
- 2. THAT THE EVERGREENS AND WHITE PICKET FENCE BETWEEN THE PROPERTY AND WASHINGTON STREET BE MAINTAINED,**
- 3. THAT THE PARKING LOT BEING TRANSFERRED TO THE CITY BE MAINTAINED BY BATH IRON WORKS DURING THE TIME WHEN IT IS LEASED BACK TO BIW,**
- 4. THAT A COPY OF THE DEP APPROVAL BE SUBMITTED TO THE PLANNING DIRECTOR.**

UNANIMOUS APPROVAL

Item 2

Request for Site Plan Approval - 700 Washington Street, Demolition and filling at A & B Ways (Map 27, Lot 142); Bath Iron Works, applicant.

MR. HOPKINSON MOVED, SECONDED BY MS. FITZPATRICK, FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL

Mr. Nadeau, representing the applicant, explained the application telling the Planning Board that the A, B and C ways were no longer needed and that Bath Iron Works proposed to dismantle and fill the area in order to use the area for storage of large ship units. He told the Board that trucks would be coming from Leeman Highway to the north end of the shipyard and that work would be done from 7:00 a.m. to 5:00 p.m. Monday through Saturday. He also said

that the number of truck trips would be approximately 20 round trips per day for a two month construction period.

Mr. Upham asked if Bath Iron Works would take a series of photographs of the existing ways and make the photos available to the Maine Maritime Museum and the History Room at the Patten Free Library.

Dr. Haynes suggested that the photos be keyed into Sheet C-100 of the plans submitted to the Planning Board. She also asked if the letter regarding the demolition of the ways had been received from the Maine Historic Preservation Commission.

Bath Iron Works indicated that they were very willing to take photos and give them the Maine Maritime Museum and to the Library and they said that the letter had not been received from the Maine Historic Preservation Commission.

Mr. Oxton opened the floor to members of the public who wished to speak.

There being no further comment from the members of the public present, Mr. Oxton closed the public portion of this agenda item.

Mr. Hopkinson asked Mr. Upham is the Public Works Director was satisfied with the stormwater management system.

Mr. Nadeau explained the stormwater management system proposed for both the Ultra Hall building and this project to fill the ways. He also explained that much of the ways would be crushed and used as fill, eliminating the need for some fill material.

MR. HOPKINSON THEN MOVED, SECONDED BY MR. FRASER, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL - 700 WASHINGTON STREET, DEMOLITION AND FILLING OF A, B, AND C WAYS (MAP 27, LOT 142); BATH IRON WORKS, APPLICANT, WITH THE FOLLOWING CONDITIONS;

- 1. THAT THE APPLICANT PHOTOGRAPHICALLY DOCUMENT THE EXISTING WAYS, KEYING THE PHOTOGRAPHS TO SHEET C-100 OF THE PLANS SUBMITTED AND MAKING THE PHOTOGRAPHS AND MAP KEY AVAILABLE TO THE MAINE MARITIME MUSEUM AND HISTORY ROOM AT THE PATTEN FREE LIBRARY;**
- 2. THAT THE PLANNING BOARD GRANT WAIVERS TO LAND USE CODE SECTION 12.08, L AND N;**
- 3. THAT THE APPROVAL IS CONTINGENT UPON DEP APPROVAL AND THAT A COPY OF THE DEP APPROVAL BE SUBMITTED TO THE PLANNING DIRECTOR,**
- 4. THAT A COPY OF THE LETTER FROM THE MAINE HISTORIC PRESERVATION COMMISSION BE SUBMITTED TO THE PLANNING DIRECTOR.**

UNANIMOUS APPROVAL

Bath Planning Board
December 15, 2009

Other Business

None.

Adjournment

ON A MOTION MADE AND SECONDED, THE BOARD VOTED TO ADJOURN THE MEETING AT 7:10 PM.

Minutes prepared by Jim Upham, Planning Director.