

A regular meeting of the Bath Planning Board was called on 9-7-10 for the purpose of conducting regular business.

**MEMBERS PRESENT**

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

**MEMBERS ABSENT****STAFF PRESENT**

Jim Upham, Planning Director  
Marsha Hinton, Recording Secretary  
Roger Therriault, City Solicitor

Mr. Oxtan, Chair, called the meeting to order in the third floor Council Chambers at 6:00 p.m. on Tuesday, September 7, 2010.

**Minutes of the August 3, 2010, meeting**

**MR. ROGERS MOVED, SECONDED BY MS. FITZPATRICK, TO ACCEPT THE PLANNING BOARD MINUTES OF AUGUST 3, 2010, AS WRITTEN.**

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

**Request for Site Plan Approval** – North Bath Road (Map 10, Lot 5); U.S. Cellular, applicant.  
(Continued from August 3, 2010, meeting)

Mr. Upham stated that the applicant has provided information on buffering, installation of a second gate, as well as reports provided to the Maine Historic Preservation Commission by Black Diamond. Mr. Upham informed the Planning Board of comments from City Staff and correspondence from abutters.

Mr. Omo stated that he is an abutter to this application and was going to recuse himself from consideration of this agenda item.

Mr. Jim Hebert, Black Diamond, representing U.S. Cellular, discussed the 190 foot cell tower, additional buffering, the second gate, and reports from various historic preservation bodies.

Mr. Oxtan opened the meeting to members of the public who wished to comment on this agenda item.

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

Dr. Haynes pointed out that while there may not be places in the area that meet the requirements for inclusion in the National Register that there are historically significant sites in the area. Dr. Haynes discussed the City Arborist's comments and recommended a landscape maintenance plan that clearly states there will be no hemlocks used as part of the landscaping plan.

The Planning Board discussed the recommendation to exclude hemlocks, buffering, the comments from the abutter regarding stormwater runoff, location of abutter's driveways, standards for radiation levels from the tower, and generator sound levels.

Mr. Upham stated that he talked with the Code Enforcement Officer and should U.S. Cellular decide to install a generator in the future they would have to come back to the City before it could be installed to amend any site plan that may be approved.

**MR. HOPKINSON MOVED, SECONDED BY MR. ROGERS, TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL AT NORTH BATH ROAD (MAP 10, LOT 5) FOR U.S. CELLULAR, APPLICANT, AND TO APPROVE THE NOTICE OF DECISION AND TO AUTHORIZE THE PLANNING DIRECTOR TO SIGN IT, WITH THE REVISIONS AS SUBMITTED AND GRANTING THE FOLLOWING WAIVERS FOR THE REASONS STATED IN THE NOTICE OF DECISION:**

**SECTION 10.03, E AND SECTION 10.06, B, 6 FOR THE ACCESS DRIVEWAY AND SECTION 10.29 THE REQUIREMENT FOR A PROFESSIONAL LANDSCAPE ARCHITECT;**

**AND THAT AN ADDITIONAL CONDITION BE INCLUDED STATING THAT A LANDSCAPE MAINTENANCE PLAN BE PREPARED AND SUBMITTED TO AND APPROVED BY THE PLANNING DIRECTOR PRIOR TO FINAL ISSUANCE OF ANY PERMITS.**

**ONE OPPOSED (MR. OXTON)**

**ONE RECUSED (MR. OMO)**

**FIVE IN FAVOR (MR. HOPKINSON, MS. FITZPATRICK, MR. FRASER, MR. ROGERS, AND DR. HAYNES)**

## **New Business**

### **Item 1**

**Public Hearing – Land Use Code Map Amendment –** Amendment Mobile Home Park Overlay District to implement the 2009 Comprehensive Plan.

Mr. Upham informed the Planning Board that the law does not allow establishment of a mobile home park in area that is protected by a land trust. Mr. Upham stated that due to transfer of private property to the Kennebec Estuary Land Trust that the area designated for the establishment of mobile home parks must be amended.

The Planning Board discussed the boundaries of the amended zone.

Mr. Oxton opened the floor to members of the public who wished to comment on this agenda item.

None being seen, Mr. Oxton closed the public portion of the meeting.

**MR. OMO MOVED, SECONDED BY MS. FITZPATRICK TO RECOMMEND THE LAND USE CODE MAP AMENDMENT TO THE BATH CITY COUNCIL FOR APPROVAL.**

**UNANIMOUS APPROVAL**

**Item 2**

**Planning Board review and consideration of an amended Notice of Decision for the West Bath Wing Farm subdivision; Remanded to the Planning Board by the Sagadahoc County Superior Court.**

Mr. Upham stated that on page 13 of the Order of Remand issued by Justice A. M. Horton it states, "The purpose of the remand is for the Bath Planning Board to re-examine the entire existing record, consider the issues that it did not address, and make the findings that it omitted, as set forth above. This is not an opportunity to re-open the record for new evidence. Nor should the Board revisit areas outside those identified in this Order as requiring further action. However, the Board can permit the applicant, the Plaintiffs, and others to comment on what actions the Board should take to respond to the remand."

The Planning Board discussed whether to allow comment from the public. Mr. Rogers recommended that the Board be polled.

Three opposed to opening the meeting for public comment (Mr. Fraser, Ms. Fitzpatrick, and Mr. Hopkinson)

Four in favor of opening the meeting for public comment (Mr. Omo, Mr. Rogers, Dr. Haynes, and Mr. Oxton)

Dr. Haynes stated that it should be made clear to the members of the public that they are restricted to making comments regarding actions the Board should take in response to the remand.

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

Ms. Jenny Burch, representing the Plaintiff's, asked who drafted the Notice of Decision and which Planning Board members had read the documents in question. Ms. Burch also questioned who people would go to with complaints regarding the construction activities.

Mr. Hopkinson reminded Ms. Burch that the Board was only allowed to hear comments with regard to the actions the Board should take in response to the remand order.

Ms. Burch stated that she objected to the Notice of Decision.

Ms. Johansen stated that there were a great many comments she would make regarding this document and expressed her displeasure at not being allowed to update the Planning Board on what has happened.

There being no further comments, Mr. Oxtan closed the public portion of the meeting.

The Planning Board discussed the reasons for the remand order, the type of amendments, and what was expected of them as a Board with regard to the Amended Notice of Planning Board Decision.

The Planning Board's consideration of the draft Amended Notice of Planning Board Decision.

### **FINDINGS OF FACT**

1. The owner of the property being subdivided and applicant is the Town of West Bath.

#### **No amendments proposed to Findings of Fact item 1.**

2. The applicant proposes to create nine lots for industrial and commercial use. All of the lots are in West Bath. The easterly portion of the access road over the Kings Highway is located in Bath.

#### **The Planning Board reviewed the proposed amendments to Findings of Fact item 2 and approved the amendment.**

3. The lots will be accessed by Centre Street and the intersection of Congress Avenue and Centre Street in Bath and over the existing Kings Highway.

#### **The Planning Board reviewed the proposed amendments to Findings of Fact item 3 and approved the amendment.**

4. The Application before the Board involves an access road to subdivision lots that are entirely within the Town of West Bath. The City of Bath Planning Board and the West Bath Planning Board have waived any requirement for joint meetings regarding the subdivision, which is located in both communities, pursuant to 30-A M.R.S.A. Section 4403.

#### **The Planning Board reviewed the proposed amendments to Findings of Fact item 4 and approved the amendment.**

5. Public water and public sewerage service will be provided by the Bath Water District and the City of Bath Waste Water Division, respectively.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 2 and approved the amendment.**

6. The nine lots combined with the 6 lots in the second phase of the Wing Farm subdivision in Bath require a Traffic Movement Permit from the Maine Department of Transportation.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 6 and approved the amendment.**

7. The application for Subdivision Sketch Plan Review was received on August 14, 2009. The application for Final Subdivision Approval was received on October 20, 2009.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 7 and approved the amendment.**

8. A letter outlining the "Availability to Serve" was received from Trevor Hunt, Bath Water District, on August 20, 2010.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 8 and approved the amendment.**

9. Comments and concerns were received from City Staff as follows:
  - Scott Davis, Codes Enforcement Officer; August 17, 2009
  - Trevor Hunt, Superintendent Bath Water District; August 20, 2009
  - Michael Field, Police Chief; August 19, 2009
  - Peter Owen, Public Works Director; September 2, 2009
  - Steve Hinds, Fire Chief; September 2, 2009

**No amendments proposed to Findings of Fact item 9.**

10. The Planning Board met to review the Sketch Plan Application on September 15, 2009. The Board met to review the Final Subdivision Application on November 17, 2009. This item was continued, with mutual agreement, in order to allow the applicant to provide additional information or clarification as follows; December 15, 2009; January 19, 2010 (meeting cancelled); February 16, 2010; March 2, 2010; March 16, 2010; and April 6, 2010.

**No amendments proposed to Findings of Fact item 10.**

11. At the November 17, 2009, meeting, the Planning Board reviewed the application for Final Subdivision Approval and found it complete with waivers of Bath Land Use Code Sections 13.11, E, 26, 27, 32, and 33 with the understanding that the planning board may review these criteria in the future.

**No amendments proposed to Findings of Fact item 11.**

12. Waivers were requested in writing for certain geometric road standards in Section 13.14, B, 2, (e) as follows:
  - A. A waiver was requested from the minimum traveled way width. Thirty Feet (30') is required under the Ordinance. The request is to reduce the width to Twenty-Four Feet (24'). The road will be connecting to another road (Wing Farm Parkway) also Twenty-Four Feet (24') in width. By reducing the width of the traveled way, the overall width of the right-of-way will be reduced which will lessen the impact on the abutting wetlands.
  - B. A waiver for the maximum grade was requested. A maximum grade of Five Percent (5%) is required under the Ordinance. The request is to increase the grade to Eight Percent (8%). This request is only for the westerly portion of the roadway. All other portions of the roadway including the intersection with Wing Farm Parkway (within Fifty Feet (50')) meet required grades. Decreasing the road grade to Ordinance standards would require a wider wetlands crossing and greater impact.
  - C. A waiver for the minimum centerline radius without superelevation was requested. The Ordinance requires Four Hundred Feet (400'). A waiver is requested to establish the radius at Two Hundred Feet (200'). The proposed radius allows the best geometrical fit between the historic location of Kings Highway, the existing Pump Station Drive, as well as allowing the proposed centerline intersection to be perpendicular (Ninety Degrees (90°)) to the existing Wing Farm Parkway. A radius of Two Hundred Feet (200') is adequate for a roadway with a Twenty-Five (25) mile per hour speed limit as proposed.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 12 A, B, and C, and approved the amendments.**

13. The proposed roadway does not generate or discharge wastewater to a water body.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 13 and approved the amendment.**

14. Storm water generated as part of the roadway is collected and distributed in accordance with surface drainage plans submitted as part of the application. Surface drainage from the street is designed to be collected via a curbed closed system that includes catch basins with a minimum Two-Foot sump. These will collect grit, debris, and solids prior to the storm water being discharged via a stone plunge pool. The plunge pool will dissipate scouring energy into the wetlands area. No storm water from the road will enter the wetlands without passing through this system.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 14 and approved the amendment.**

15. There are no air pollution issues relating to the road.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 15 and approved the amendment.**

16. There are no changes or improvements to Centre Street Extension or Wing Farm Parkway associated with this project, and traffic volumes do not appear to warrant any changes or improvements to these roadways.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 16 and approved the amendment.**

17. There is concern over the Congress Avenue/Centre Street Extension intersection. This has been addressed in a Traffic Study and Traffic Movement Permit Application as well as a Traffic Management Permit by the Maine Department of Transportation.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 17 and approved the amendment.**

18. The Traffic Management Study observes that the intersection operates acceptably under current conditions and will continue to operate adequately up to Fifty Percent (50%) occupancy of Phase II and Phase III. The Traffic Study suggests that a warrant for signalization may be met under full occupancy and recommends monitoring of the intersection beginning at a Fifty Percent (50%) level of occupancy. The Maine Department of Transportation Traffic Movement Permit mandates traffic movement counts at Fifty Percent (50%), Seventy-Five Percent (75%) and One Hundred Percent (100%) of the ITE Trip Generation. This is in order to perform a signal warrant analysis to determine whether signalization of the Congress Avenue/Centre Street Extension intersection will be required.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 18 and approved the amendment.**

19. Regarding the preservation of Natural Beauty and Aesthetics, it is noted that there are no clearing of trees relating to the roadway activity and there are no significant trees or vegetation to be preserved and protected. As well, the property is not in an R3 or GC Zone and is not a subdivision that requires planting of street trees.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 19 and approved the amendment.**

20. Regarding the protection of significant wildlife habitat, the property is not within Two Hundred and Fifty Feet (250') of an area identified in maps either by the Department of Inland Fisheries and Wildlife or the Bath Comprehensive Plan. This property is not within

Thirteen Hundred and Twenty Feet (1,320') of a deer wintering area or travel corridor and does not include important habitat areas identified in the Comprehensive Plan.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 20 and approved the amendment.**

21. The project before the City does not involve any lots and, therefore, the space and bulk regulations of the Land Use Code do not apply.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 21 and approved the amendment.**

22. The City of Bath will not require site plan approval for the development of lots in West Bath.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 22 and approved the amendment.**

23. The proposed reconstructed access road is in the same location as the present Kings Highway right-of-way. It is a strip of land Sixty-Six Feet (66') in width.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 23 and approved the amendment.**

24. The access road is within Two Hundred and Fifty Feet (250') of the wetland on either side of the access road. This is not the upland edge of the wetland or the shoreline of a body of water.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 24 and approved the amendment.**

25. There is no cleared opening or canopy associated with the road construction.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 25 and approved the amendment.**

26. There is no cutting of trees or other vegetation as a result of road construction.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 26 and approved the amendment.**

27. There is no removal of vegetation along a water body associated with the road construction, therefore, there will be no increase in water temperature or shoreline erosion or sedimentation.



**The Planning Board reviewed the proposed amendments to Findings of Fact item 27 and approved the amendment.**

28. The water quality of the Kennebec River or Merrymeeting Bay will not be affected by the road construction.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 28 and approved the amendment.**

29. The provisions of Section 13.13, K are not intended to apply to a road traversing a wetland. They are intended to apply to upland areas that abut a wetland.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 29 and approved the amendment.**

30. The Plans for the layout of access to Phase III of the Wing Farm Development do not provide for direct connectivity and do not provide an alternate means of ingress and egress for the West Bath lots.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 30 and approved the amendment.**

31. Anchor Road as approved in Phase II of the Wing Farm Development provides limited connectivity for traffic exiting the Phase III subdivision once it reaches Wing Farm Parkway.

**The Planning Board discussed the access point to West Bath for emergency vehicles, reviewed the proposed amendments to Findings of Fact item 31 and approved the amendment.**

32. The subdivision lots in West Bath do not connect to any existing roadways and access off the divided highway at U.S. Route 1 will not be granted by the State of Maine. Although the right-of-way to Kings Highway continues westward, none of that land is controlled by the Developer and connectivity from the lots is not possible. Due to topography limitations, there is no further opportunity for connectivity in another location either to Wing Farm Parkway or to Congress Avenue.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 32 and approved the amendment.**

33. The street grade, except for a short portion of the access road leading into West Bath, will be less than Five Percent (5%) Any reduction of the Eight Percent (8%) grade allowed by waiver will adversely impact the wetlands.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 33 and approved the amendment.**

34. Sprinkler systems for buildings in the subdivision are feasible.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 34 and approved the amendment.**

35. Two travel lanes with a median strip is not feasible since this, again, will require a wider strip and more impact on the wetlands.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 35 and approved the amendment.**

36. No parking on the access road is feasible.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 36 and approved the amendment.**

37. Based on information from the Bath Water District, adequate water supply will be provided without looping.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 37 and approved the amendment.**

38. The proposed subdivision does not abut an existing subdivision road. The access road already connects with existing Wing Farm Parkway.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 38 and approved the amendment.**

39. Dead end street systems meet Ordinance size requirements for both the West Bath and Bath Ordinances.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 39 and approved the amendment.**

40. An Infrastructure Construction Plan is presented as Paragraph 33 of the Application addressing generally trucking routes, construction and blasting.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 40 and approved the amendment.**

41. As noted in Finding #4, the Planning Board waived the requirement that the Board hold joint meetings with the West Bath Planning Board at its meeting on November 17, 2009.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 41 and approved the amendment.**

42. The construction and use of the access road will not have any affect on the quality or quantity of groundwater in the area.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 42 and approved the amendment.**

43. The reconstruction of Kings Highway raises its level above the One Hundred (100) year flood.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 43 and approved the amendment.**

44. The culvert that conveys the flow of water from one side of the wetland to the other is being replaced with a culvert Two and One-Half (2 ½) times its size and will be a sufficient size to convey the volumes of water including the One Hundred (100) year flood levels.

**The Planning Board reviewed the proposed amendments to Findings of Fact item 44 and approved the amendment.**

## **CONCLUSIONS**

### **Land Use Code Article 13 Section 13.13 – Performance Standards**

#### **B. Pollution**

This requires that the Board find that the proposed subdivision will not result in undo water or air pollution.

The Board concludes that based on Findings #13, #14, and #15, the proposed subdivision will not result in undue water or air pollution.

**The Planning Board reviewed the proposed amendments to Conclusions item B and approved the amendment.**

#### **C. Sufficient Water**

This requires that the Board find that the proposed subdivision has sufficient water available for the reasonable foreseeable needs of the subdivision.

The Board concludes that this requirement is met subject to the requirements of correspondence from Trevor Hunt, Bath Water District Superintendent. See Findings #8 and #37.

**The Planning Board reviewed the proposed amendments to Conclusions item C and approved the amendment.**

#### **D. Soil Erosion**

This requires that the Board find that the applicant demonstrate that the subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

Based upon the plans presented the Board concludes that this requirement has been met.

**The Planning Board reviewed the proposed amendments to Conclusions item D and approved the amendment.**

#### **E. Traffic Conditions**

This requires that the Board find that the proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

The Board concludes, based on Findings #16, #17, and #18 and with the conditions listed below, this requirement will be met.

**The Planning Board reviewed the proposed amendments to Conclusions item E and approved the amendment.**

#### **F. Sewage Disposal**

This requires that the Board find that the proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on the City's sewage collection or treatment services.

The Board concludes that based on correspondence from Peter Owen, Public Works Director, this requirement will be met.

**The Planning Board reviewed the proposed amendments to Conclusions item F and approved the amendment.**

#### **G. Solid Waste**

This requires that the Board find that the proposed subdivision will not cause an unreasonable burden on the City's ability to dispose of solid waste.

The Board concludes that the road and road access construction will not generate solid waste.

**The Planning Board reviewed the proposed amendments to Conclusions item G and approved the amendment.**

**H. Impact on Natural Beauty, Esthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Access to the Shoreline**

This requires that the Board find that the proposed subdivision will not have an adverse effect on the scenic or natural beauty of the area, esthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the City, rare or irreplaceable natural areas, or any rights for access to the shoreline.

Based on Findings #19 and #20, the Board concludes that the requirements of this section are met.

**The Planning Board reviewed the proposed amendments to Conclusions item H and approved the amendment.**

**I. Conformance with Ordinances and Plans**

This requires that the Board find that the proposed subdivision will conform to this ordinance, the Comprehensive Plan, and the Land Use Code. Compliance with ordinances based on the Comprehensive Plan constitutes a presumption that the provisions of the Comprehensive Plan have been met.

Based on Findings #20, #21, and #22, the Board concludes that this requirement has been met.

**The Planning Board reviewed the proposed amendments to Conclusions item I and approved the amendment.**

**J. Financial and Technical Capacity**

This requires that the Board find that the applicant has adequate financial and technical capacity to meet the provisions of 30-A, M.R.S.A., Section 4404, and the standards of the Bath Land Use Code.

The Board concludes that this requirement has been met.

**The Planning Board reviewed the proposed amendments to Conclusions item J and approved the amendment.**

**K. Impact on Water Quality and Shoreline**

Whenever a development is entirely or partially within Two Hundred and Fifty Feet (250') of any wetland, it must not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

Based on Findings #24, #25, #26, #27, #28, and #29, the Board concludes that this requirement has been met.

**The Planning Board reviewed the proposed amendments to Conclusions item K and approved the amendment.**

#### **L. Impact on Ground Water Quality and Quantity**

This requires that the Board find that the proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

The Board concludes in accordance with Finding #42 that there is no adverse affect on quality or quantity of groundwater.

**The Planning Board reviewed the proposed amendments to Conclusions item L and approved the amendment.**

#### **M. Floodplain Management**

This requires that the Board find that if the proposed subdivision is in an area of special flood hazard as defined by Article 15, Section 15.14, certain development and construction standards will be met including elevating the first floor of the structure one foot above base flood elevation. The proposed subdivision is not in an area of special flood hazard.

This requirement applies to structures within the Floodplain Zone. There will be no structures within the boundaries of the access road. To the extent that any provisions of this standard are applicable, they have been met in accordance with Findings #43 and #44.

**The Planning Board reviewed the proposed amendments to Conclusions item M and approved the amendment.**

#### **N. Identification of Fresh Water Wetlands**

This requires that any subdivision plan include the identification of any fresh water wetlands.

The Board concludes that this requirement has been met.

**The Planning Board reviewed the proposed amendments to Conclusions item N and approved the amendment.**

#### **O. Storm Water Management**

This requires that the Board find that the proposed subdivision will provide for adequate stormwater management.

The Board concludes that this requirement has been met in accordance with Findings #13, #14, #43, and #44.

**The Planning Board reviewed the proposed amendments to Conclusions item O and approved the amendment.**

**P. Spaghetti-Lots Prohibited**

This pertains to subdivisions that have shore frontage on a river, stream, brook, great pond, or coastal wetland. This proposed subdivision does not have frontage on any of these.

The Board concludes that this is not applicable.

**The Planning Board reviewed the proposed amendments to Conclusions item P and approved the amendment.**

**Q. Impact on Adjoining Municipalities**

This pertains to proposed subdivisions that cross municipal boundaries.

The Board concludes that the impact will be to Congress Avenue and the Congress Avenue-Centre Street intersection and that these impacts will be mitigated in accordance with Conclusion E above.

**The Planning Board reviewed the proposed amendments to Conclusions item Q and approved the amendment.**

**DECISION**

Based on the above facts and conclusions, on September 7, 2010, the Planning Board voted to approve your application for Final Subdivision Approval and sign the Mylar, with the following waivers and conditions:

- **THAT THE DEPARTMENT OF TRANSPORTATION'S IMPROVEMENT IMPACT FEES FOR THE CHANDLER DRIVE/CONGRESS AVENUE INTERSECTION AND THE ROUTE 1 ENTRANCE RAMP/CONGRESS AVENUE INTERSECTION BE PAID PRIOR TO CONVEYANCE OF LOTS;**

**No amendments proposed to this Decision item.**

- **THAT THE ARMY CORPS OF ENGINEER'S PERMIT BE OBTAINED AND SUBMITTED TO THE CITY OF BATH PLANNING DIRECTOR;**

**No amendments proposed to this Decision item.**

- **THAT THE DEPARTMENT OF ENVIRONMENTAL PROTECTION'S PERMIT BE OBTAINED AND SATISFACTORY PROOF BE SUBMITTED TO THE CITY OF BATH PLANNING DIRECTOR;**

**No amendments proposed to this Decision item.**

- **THAT THE TRAFFIC MOVEMENT PERMIT BE FINALIZED AND PROOF SUBMITTED TO THE CITY OF BATH PLANNING DIRECTOR;**

**No amendments proposed to this Decision item.**

- **THAT WAIVERS BE GRANTED FOR CERTAIN GEOMETRIC STANDARDS AS FOLLOWS: THE MAXIMUM GRADE FOR A MAJOR ROADWAY ON THE WESTERLY PORTION OF THE ROAD BE INCREASED TO EIGHT (8) PERCENT, THAT THE MINIMUM TRAVELED WAY WIDTH BE REDUCED TO TWENTY-FOUR (24) FEET; AND THAT THE MINIMUM CENTERLINE RADIUS WITHOUT SUPERELEVATIONS IS REDUCED TO TWO HUNDRED (200) FEET. THESE WAIVERS ARE GRANTED UNDER THE CONDITION THAT THESE WILL ALLOW THE ROADWAY TO BE CONSISTENT WITH OTHER ROADWAYS IN THE DEVELOPMENT AND WILL DECREASE THE IMPACT OF ROAD DEVELOPMENT ON ADJACENT WETLANDS AND AS DETERMINED IN FINDINGS #12 AND #14.**

**The Planning Board reviewed the proposed amendments to this Decision item and approved the amendment.**

- **THAT THE PROPOSED CONDITIONS CONCERNING TRAFFIC IMPACT BE RECORDED ON THE APPROVED MYLAR PLAN. This condition being: "This project is subject to the requirements of a MaineDOT Traffic Movement Permit (TMP), which included improvements to the Congress Avenue-Centre Street intersection and the cost of traffic monitoring analyses. These costs are estimated to be \$127,960 in 2015. At the time each lot is transferred to a buyer, except for transfers to the Bath Development Corporation or the town of West Bath's local development corporation, a fee equal to one fifteenth of this cost must be paid to the City of Bath to be held in escrow to be used to fund the intersection improvements and to pay for the traffic analyses associated with the TMP."**

**No amendments proposed to this Decision item.**

- **THAT TURNING MOVEMENT COUNTS (MINIMUM 12 HOURS) SHALL BE PERFORMED AT THE INTERSECTION FOR A TYPICAL WEEKDAY IN LATE JULY/EARLY AUGUST ONCE 50%, 75% AND 100% OF THE ITE TRIP GENERATION HAS BEEN REACHED FOR THE PROJECT. THESE COUNTS SHALL BE USED BY THE APPLICANTS OR THEIR AGENT (ADJUSTED ACCORDINGLY) TO PERFORM A SIGNAL WARRANT ANALYSIS FOR THE INTERSECTION PER MUTCD GUIDELINES. IF THE VOLUMES SATISFY AT LEAST**



**ONE WARRANT, THAN MAINE DOT SHALL REVIEW THE RESULTS OF THE ANALYSIS AND DETERMINE IF A SIGNAL SHOULD BE INSTALLED. IF IT IS DETERMINED THAT A SIGNAL IS APPROPRIATE AFTER REVIEWING ANY OF THE 50%, 75% AND 100% COUNTS, AND NO SIGNALIZATION IS SCHEDULED OR IMMINENT BY OTHERS AS DETERMINED BY MAINE DOT, THE RESPONSIBILITY FOR COSTS OF ENGINEERING/DESIGN OF A FULLY ACUATED TRAFFIC SIGNAL WITH ASSOCIATED PEDESTRIAN SIGNAL HEADS SHALL BE THAT OF THE CO-APPLICANTS (FOR THE MDOT TRAFFIC MOVEMENT PERMIT). A CAPACITY ANALYSIS SHALL ALSO BE PERFORMED FOR THE PEAK 30<sup>TH</sup> AM AND PM WEEKDAY PEAK HOURS SIMULTANEOUSLY WITH THE TURNING MOVEMENT COUNTS AND IF ANY ADDITIONAL LANES ARE REQUIRED FOR ANY INTERSECTION MOVEMENT TO OPERATE AT A LEVEL OF SERVICE "D" OR ABOVE OR THE VOLUME WARRANTS ARE MET FOR LEFT OR RIGHT TURN LANES, THE CO-APPLICANTS SHALL EVALUATE AND MEET WITH THE DEPARTMENT TO DETERMINE IF THEY SHOULD BE INSTALLED. IF DEEMED TO BE NECESSARY, THE RESPONSIBILITY FOR COSTS OF ENGINEERING AND INSTALLATION OF THESE LANES SHALL BE THAT OF THE CO-APPLICANTS.**

**The Planning Board reviewed the proposed amendments to this Decision item and approved the amendment.**

- **OTHER ADDITIONAL CONDITIONS: IN LIEU OF PROVIDING CONNECTIVITY FOR TRAFFIC ENTERING AND EXITING THE DEVELOPMENT, THE DEVELOPER SHALL PROVIDE THE FOLLOWING:**
  - **ALL NEW BUILDINGS IN THE SUBDIVISION MUST HAVE SPRINKLER SYSTEMS APPROVED BY THE BATH FIRE CHIEF AND THE BATH CODES ENFORCEMENT OFFICER.**
  - **PARKING WILL BE PROHIBITED ON THE ACCESS ROAD.**
  - **SPEED LIMIT ON THE ACCESS ROAD SHALL BE TWENTY-FIVE (25) MILES PER HOUR.**

**The Planning Board reviewed the proposed amendments to this Decision item and approved the amendment.**

- **THE CATCHBASINS ALONG THE ACCESS ROAD SHALL BE PROPERLY MAINTAINED BY THE DEVELOPER AND THE GRIT, DEBRIS AND SOLIDS REMOVED ON AT LEAST A YEARLY BASIS TO MAINTAIN THE PROPER FUNCTIONING OF THE CATCHBASINS.**

**The Planning Board reviewed the proposed amendments to this Decision item and approved the amendment.**

- **ANY BLASTING SHALL REQUIRE A BLASTING PERMIT FROM THE CITY OF BATH CODES ENFORCEMENT OFFICER AND SHALL BE IN ACCORDANCE WITH ALL ORDINANCE REQUIREMENTS.**

**The Planning Board reviewed the proposed amendments to this Decision item and approved the amendment.**

**MR. ROGERS MOVED, SECONDED BY MR. HOPKINSON TO APPROVE THE AMENDMENTS TO THE NOTICE OF DECISION AS DISCUSSED AND RETURN THEM TO THE PLANNING DIRECTOR FOR ACTION.**

**UNANIMOUS APPROVAL**

#### **Other Business**

#### **Election of Officers**

Mr. Upham opened the floor for nominations.

**DR. HAYNES MOVED, SECONDED BY MR. ROGERS THE ELECT THE CURRENT SLATE OF OFFICERS AS OFFICERS FOR THE UPCOMING YEAR.**

**UNANIMOUS APPROVAL**

Mr. Upham informed the Planning Board of the upcoming Maine Historic Preservation Training workshop and asked that any Board member wishing to attend contact the Planning Office.

There being no further business before the Board, **MR. FRASER MOVED SECONDED BY MR. HOPKINSON TO ADJOURN THE MEETING AT 7:15 PM.**

**UNANIMOUS APPROVAL**

Minutes prepared by Marsha Hinton, Recording Secretary