

A regular meeting of the Bath Planning Board was called on April 30, 2019 for the purpose of conducting regular business.

MEMBERS PRESENT

James Hopkinson, Vice Chair
Greg Johnson
Russell Martin
John Sunderland

MEMBERS ABSENT

Bob Oxtan, Chair
Andy Omo
Cal Stilphen

STAFF PRESENT

Ben Averill, City Planner
Karly Perry, Recording Secretary

Mr. Sunderland, Vice Chair, called the meeting to order in the third-floor Council Chambers at 6:00 p.m. on Tuesday, April 30, 2019.

Minutes April 2, 2019, meeting minutes

Mr. Martin noted that the minutes should reflect that he was not present at the April 2 meeting.

Mr. Hopkinson noted that on page 3 under Item 2, the word “town” should be replaced with the word “city”.

MR. SUNDERLAND MOVED, SECONDED BY MR. JOHNSON, TO ACCEPT THE MINUTES OF APRIL 2, 2019 AS AMENDED.

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

Public Hearing – Land Use Code Amendment – Article 18 and Article 11; Performance Standards, specific activities and land uses as related to establishing marijuana legislation. (Continued from the April 2, 2019 meeting)

Mr. Averill announced that copies of the proposed ordinance were available to the public, then continued to say that the board had been in workshop to establish guidelines, including uses, definitions, and performance standards for both recreational and medicinal marijuana. Performance standards include the 500’ buffer surrounding schools, daycare facilities, halfway houses and other treatment centers, as well as buffer zones between establishments. Other compliance standards include odor controls. Zones are dependent upon specific uses such as retail sales and production.

Mr. Hopkinson asked if the board had any comments before opening the hearing up to the public.

Mr. Hopkinson noted that there are still many typos in the ordinance, but more importantly he suggested, the definition of “person” should be expanded to include corporations.

Mr. Hopkinson noted that the board will be voting on whether to recommend the ordinance to council, reiterating that all land use amendments are reviewed and voted on by the City Council.

Mr. Hopkinson opened the item to public comment.

Andrew Bond, Vice President of Human Resources at BIW, introduced himself and the Director of Security with him. Mr. Bond stated that he had submitted a letter to the planning office and urged residents in the C2 zone to attend the hearing in opposition of the proposed amendments. Mr. Bond then stated that the position of Bath Iron Works is in strong opposition to retail marijuana establishments in Bath, noting the safety issues in an industrial environment including the difficulty in detection of marijuana impairment, challenges in testing as well as the ability for marijuana to be hidden in edibles as opposed to alcohol or other substances. Mr. Bond continued on to review BIW's zero tolerance policy on drug abuse, as well as the current hiring needs of the company and the substantial investment to training new employees. He pointed out the conflict between Federal and State laws, as well as the current drug problem within the State of Maine. Beyond the scope of BIW and the 200 vehicles that pass through the gates, Mr. Bond highlighted the traffic on Washington Street including traffic to Phippsburg and Popham Beach, concluding that the additional traffic an establishment may bring would be a hazard unnecessary by including Zone C2 specifically. In closing, Mr. Bond stressed that BIW wants to be a good neighbor to the City of Bath and a good employer for the residents of the City of Bath.

With no further comments, Mr. Hopkinson closed the item to public comment.

Mr. Sunderland noted that because the ordinance still needs to be corrected of the many typos, he was reluctant to recommend without proofreading and would prefer another look prior to submitting to City Council.

Mr. Averill stated that the board had the option of tabling the ordinance to another hearing, motion with changes, or the board could recommend as is and allow staff to fix clerical errors.

Mr. Hopkinson noted that he too would like corporations to be added, but that he was comfortable allowing staff to make corrections, stressing that he would like to move the ordinance forward to allow the public the opportunity to make recommendations to the people who will be the final decision makers for the ordinance.

Mr. Sunderland clarified that the board is not making a decision on legislation, but rather recommending an outline for the mechanics of a proposed ordinance. He further stated that his personal position is not to pass the ordinance.

MR. SUNDERLAND MOVED, SECONDED TO MR. MARTIN, TO RECOMMEND THE LAND USE CODE AMEDEMMENT AS PRESENTED WITH THE ADDITION OF CORPORATION TO PERSON ON PAGE 2.

UNANIMOUS APPROVAL

Item 2

Request for Final Subdivision Approval – Prospect Street (Map 20, Lot 121); MECAP, LLC, applicant. (Continued from April 2, 2019 meeting)

Mr. Averill introduced the item as continued from several meetings. The applicant is proposing to redo a six-lot subdivision originally deeded in 1917. Mr. Averill reviewed discussion from the most recent meeting on April 2, 2019 where the applicant left with a tic sheet from the board. Mr. Averill then reviewed information presented to the board from the applicant as well as the Public Works Director stating his satisfaction with the project. The applicant is currently working with staff to finalize the impact fee. The applicant has finalized all other components, including the sidewalk plan and erosion control plan. Mr. Averill also noted that a public hearing is not required.

Mr. Sunderland confirmed that the soil surveys are not necessary and that the ordinance does allow for boundary markers other than the granite monuments previously discussed.

Greg Carey of Carey Land Surveys introduced himself and stated his belief that he had addressed all concerns of the board included the soil/erosion plan as well as impact fees. Mr. Carey also noted that Public Works Director Lee Leiner will use available funding to address local drainage issues. The applicant also recommended that the Land Use Ordinance be amended to no longer recommend stone monuments for land markers as they are in direct conflict with current day surveying practice.

Mr. Sunderland confirmed that the applicant will no longer be asking buyers to pay the impact fee, which they will not.

Mr. Hopkinson noted that the impact fee payment is covered in the ordinance; however the applicant has the flexibility to pay in installations from lot to lot or sale to sale. Mr. Hopkinson also confirmed that language regarding payment and erosion control has been removed from the plans.

Mr. Martin confirmed that houses will be built gradually not simultaneously, reducing the impact on City sewer, and also confirmed that erosion control will be handled by the contractor and not left to the buyer.

Mr. Hopkinson opened the floor to the public. Seeing no comments, Mr. Hopkinson closed the public comment session.

Mr. Johnson noted that in a memo from the City Engineer in January, City sewer is at capacity. Mr. Johnson then noted that the ordinance does not allow for new construction in such circumstance.

Mr. Averill stated that the Public Works Director is aware of the ordinance and his goal is to mitigate the issues, although he cannot speak to budgeting or the director's timeline.

Mr. Sunderland stated his belief that the impact fee is the resolution because the applicant is not able to personally attend to sewer issues. Instead, the fee is used to mitigate the impact of the building.

Mr. Martin asked for clarification on whether the sewer issue was a matter of pipes at capacity or the waste station being at capacity.

Mr. Averill clarified that the issue is that the pump station is at capacity. Discussion followed on local sewage and stormwater issues.

Mr. Hopkinson noted that historically projects have been approved with an impact fee, but clarified that the actual fee will be determined at the City Staff level.

MR. SUNDERLAND, SECONDED BY MR. MARTIN, MOVED TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL

MR. SUNDERLAND, SECONDED BY MR. MARTIN, MOVED TO APPROVE THE APPLICATION AS PROPOSED WITH TWO REQUESTED WAIVERS: THAT THE SOIL SURVEY BE WAIVED AND THAT THE SURVEYOR MARKINGS BE SUBSTITUTED WITH REBAR AND WITH SURVEYOR'S LICENSE CAP.

UNANIMOUS APPROVAL

New Business

Item 1

Request for Historic District Approval – 47 Commercial Street (Map 27, Lot 131); Howie Kirkpatrick, applicant.

Mr. Averill reviewed the request to modify the second story of the structure, noting that the building was built in the 1910's with the second story addition built in the 1970's. The applicant is looking to modify the structure to convert to residential uses. Mr. Averill reviewed sketches supplied to the board with both the existing structure and the proposed modifications which include a French door along with updated windows.

Howie Kirkpatrick, owner, introduced himself to the board and reviewed his plan to renovate the upstairs to create an apartment for he and his wife to live. Mr. Kirkpatrick explained that repairs to the overall building have been delayed due to the concrete building material. The applicant is planning to fully restore the building after modifications have been made, noting current disrepairs. Mr. Kirkpatrick also reviewed the large French door which allows access to the building for larger materials, which would be permanently locked to one side and barred on the other for safety. The applicant also reviewed the window replacement and conversations with both the Codes Enforcement Officer and Planning Office. Mr. Kirkpatrick noted that the addition will be re-sided much like the existing style at the Woolwich Post Office. The remaining façade will be restored in the current concrete style.

Mr. Hopkinson opened the floor to the public. Seeing no comments, Mr. Hopkinson closed the public comment session.

Mr. Martin confirmed that the building is in the historic district.

Mr. Averill noted discussions with the Codes Officer confirming that there is no change to the current use and doors have been deemed acceptable.

MR. SUNDERLAND MOVED, SECONDED BY MR. JOHNSON TO APPROVE THE APPLICATION AS PRESENTED.

UNANIMOUS APPROVAL

Item 2

Request for Historic District Approval and Site Plan Amendment – Commercial Street (Map 27, Lot 133); Maine's First Ship, applicant.

Mr. Averill reviewed the request, which abuts the previous item, for which the applicant is requesting an addition of a 550 sf deck. Mr. Averill noted that the site plan was previously reviewed when the building was constructed, which is now being amended.

Dan Sortwell, board member for Maine's First Ship, stated that the building is a valuable community building. He then reviewed the plans to build a deck which would allow for public viewing of the Kennebec River and a picnic area to attract visitors. The deck will be composite and wood fiber for durability, with gauge steel wire panels below the railing for safety.

Mr. Martin noted that the site had previously hosted the Annual Chili and Chowder Fest during Heritage Days.

Mr. Hopkins opened the floor to the public.

John Bliss of Oak Street expressed his opinion that the coal freight shed does not deserve historic approval as the coal and rail freight industry were responsible for the demise of Bath's glory days, comparing it to the confederate monuments in the south. Mr. Bliss suggested that alternatives to the freight shed be considered as outlined at <https://downtown-dreamland.com> as well as in downtown Bath.

Mr. Sunderland clarified that the board is not tasked with determining whether the current structure is a historic building; rather the focus is on the proposed amendment only.

Mr. Hopkinson closed the public comment session and thanked Mr. Bliss for his insight.

MR. JOHNSON MOVED, SECONDED BY MR. MARTIN, TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL

Mr. Sunderland noted that the applicant has not addressed the individual elements of the historic district approval, leaving the interpretation of these qualifications to the board. Mr. Sunderland also observed that this application is atypical of requests usually presented for approval.

MR. SUNDERLAND MOVED, SECONDED BY MR. JOHNSON, TO APPROVE THE SITE PLAN AMENDMENT AS PRESENTED.

UNANIMOUS APPROVAL

MR. SUNDERLAND MOVED, SECONDED BY MR. MARTIN, TO APPROVE THE REQUEST FOR HISTORIC DISTRICT APPROVAL AS SUBMITTED.

UNANIMOUS APPROVAL

Item 3

Request for Site Plan Amendment – 2 Chandler Drive (Map 8, Lot 50); McDonalds USA, LLC, applicant.

Mr. Averill reviewed the request to modify and improve the current structure with drive through, noting that the previous application (in 2018) has been withdrawn. The current request is amendment to the original site plan from 1994.

Brandon Barry, of Bohler Engineering, noted that the previous request from 2018 has been downsized to a remodel. The applicant continued on to review the site with utilities and the plan to refresh the outside of the current structure including an ADA compliant sidewalk and entrance, a new digital order screen, and changes to the exterior façade similar to the Pleasant Street, Brunswick location. Mr. Barry noted that he believes comments by the police and fire departments had been addressed to their satisfaction.

Mr. Averill confirmed that he had reviewed with police, fire, and Public Works that all departments are without issue.

Mr. Martin confirmed that the property does not have any ownership in Chandler Drive, which he noted is in need of improvements.

Mr. Johnson voiced concern with the placement of handicap spaces near the drive-through.

Mr. Barry noted that the previous handicap parking spaces were not currently ADA compliant and would require significant grading, noting Police Department review of the design as well as planned safety provisions.

The applicant also confirmed that the playhouse will remain in the building, however indoor and outdoor facades will be refreshed and improved. Mr. Barry then went on to review traffic flow, acknowledging the unique layout of the restaurant.

Mr. Hopkinson asked if the improvements would reduce the length of the queue.

Mr. Barry stated that while volume would not be impacted by the remodel, there are design features to improve traffic flow including two designated parking spaces for drive-through orders, a second menu screen to allow customers to plan meals ahead of time.

Mr. Hopkinson opened the floor to the public. Seeing no comments, Mr. Hopkinson closed the public comment session.

MR. SUNDERLAND MOVED, SECONDED BY MR. MARTIN, TO FIND THE APPLICATION COMPLETE.

UNANIMOUS APPROVAL

MR. SUNDERLAND MOVED, SECONDED BY MR. JOHNSON, TO APPROVE THE APPLICATION AS PRESENTED.

UNANIMOUS APPROVAL

Other Business: None

MR. SUNDERLAND MOVED TO ADJOURN, SECONDED BY MR. MARTIN.

UNANIMOUS APPROVAL

MEETING ADJOURNED AT 7:33 PM.

Minutes prepared by Karly Perry, Recording Secretary.