

A regular meeting of the Bath Planning Board was called on May 4, 2021, for the purpose of conducting regular business.

**MEMBERS PRESENT**

Bob Oxton, Chair  
James Hopkinson, Vice Chair  
Greg Johnson  
Andy Omo  
Haley Blanco  
Cal Stilphen

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

Ben Averill, City Planner  
Karly Perry, Recording Secretary

Planning Board Chair, Bob Oxton, called the meeting to order using Zoom conferencing at 6:00 pm on Tuesday, May 4, 2021. Mr. Averill then reviewed procedure for the meeting.

Planning Director Ben Averill announced that Planning Board Member Russell Martin passed away unexpectedly on April 25, 2021. He was a member of the Bath Planning Board for six years and a tribute is available on the Knowlton & Hewins Roberts Funeral Home website. Family asks that in lieu of flowers, donations be made to the Maine Society of Professional Engineers (MSPE) Scholarship Program.

**Minutes: April 6, 2021, 2021, meeting**

**MR HOPKINSON, SECONDED BY MR. STILPHEN, MOVED TO ACCEPT THE MINUTES OF APRIL 6, 2021 AS PRESENTED.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**Old Business:****Item 1**

**Public Hearing – Request for Contract Rezoning – 55 Congress Avenue (Map 29, Lot 5); First Federal Savings and Loan, applicant. (Continued from the April 6, 2021, meeting)**

**Item 2**

**Request for Site Plan Approval – 55 Congress Avenue (Map 29, Lot 5); First Federal Savings and Loan, applicant. (Continued from the April 6, 2021, meeting)**

Mr. Averill reviewed these items previously heard at the March 2 Planning Board meeting and continued at the April 6 Planning Board meeting. The applicant is proposing an addition to the front of the building for a new entranceway, to which the Board had asked for more detail on both landscaping and lighting which was submitted recently having received limited staff review at this time.

Eric Dube of Trillium Engineering reviewed the project to add an 11' by 17' addition which will allow for more space including a conference room. Site improvements to building

access and parking were necessary, including a retaining wall for stormwater. The applicant has worked with a landscape architect as well as the City Arborist on landscaping. Mr. Dube continued to review entrance lighting in more detail noting that there are no changes to the existing parking lot lighting. No other changes have been made since the previous meeting.

Mr. Hopkinson asked for clarification on which is the final landscaping plan.

Mr. Oxtan reviewed emails from the City Arborist, to which Mr. Averill clarified that he has not received confirmation that the current plan is acceptable, suggesting that this be made a condition of approval.

Mr. Johnson asked if the applicant will be installing an irrigation system for landscaping, which they are not.

Mr. Omo agreed that it would be beneficial to receive confirmation from the City Arborist that the plan is acceptable.

Ms. Blanco asked for clarification on the whether the birch trees previously planned for the area would be planted or if they would be replaced with shrubbery.

Mr. Dube reviewed previous emails from the City Arborist listing requirements for the property, which is currently out of compliance, including existing trees at the property line and landscaping along the median which will include a mix of bushes and trees.

Mr. Averill presented the March landscaping plan to the Board.

Mr. Omo described the trees presented (bituminous) as being similar to American elm trees.

Mr. Averill then presented the April landscaping plan for review, to which the applicant further detailed trees and shrubs to be used, noting that the applicant is not the property owner and therefor limited to what improvements can be made. Mr. Dube assured the Board that the applicant is amenable to the recommendations of the City Arborist.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtan closed the public comment session.

## **MR. HOPKINSON MOVED TO FIND THE APPLICATION COMPLETE**

### **ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. STILPHEN, MOVED TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL WITH THE CONDITION THAT A FINAL LIST OF PLANTINGS AND PLANTING DEPTH BE SUBMITTED ALONG WITH A LANDSCAPING MAINTENANCE PLAN AND APPROVED BY THE CITY ARBORIST.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO RECOMMEND APPROVAL OF CONTRACT REZONING TO THE CITY COUNCIL.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

### **Item 3**

**Public Hearing – Request for Land Use Code Map Amendment – 2 Davenport Circle, 9 Park Street, and 73 Winship Street (Map 14, Lots 96, 96-2, & 93); Sitelines, PA, agent for applicants. (Continued from the April 6, 2021 meeting)**

Mr. Averill reviewed the request as continued from the April meeting, at which the Planning Board asked for more information regarding the future plans for applicants and requested that a workshop be held to further review the request. The workshop was scheduled to be held prior to tonight's meeting; however the applicant thought that a workshop would be redundant to what would be discussed during the meeting. Mr. Averill further noted that the applicant has created a slide deck in order to review properties, also noting that to move forward with this application a Public Hearing to receive public comment is required.

Kevin Clark of Sitelines expressed his sympathy to the Board on the passing of Mr. Martin, whom he had worked with closely over the years. He then went on to review the requested rezoning from R2 to R1 in order to increase the density per dwelling unit from 9,000 to 6,000 square feet per unit. Mr. Clark went on to review the property map wherein all properties are on the border of both zones. Mr. Clark explained that the zoning change would allow the option to expand housing with low impact on current neighborhood conditions, further highlighting the benefits of rezoning as they apply to the Comprehensive Plan. Mr. Clark reviewed property maps and current uses of buildings, including the intended expansion of 2 Davenport Circle (no other properties currently have plans to expand).

Mr. Hopkinson noted that members of the Board were previously uncomfortable with the change in zoning to 73 Winship Street, as well as the possible addition of buildings to the

other properties. He then proposed that changes may be more appropriate as contract rezoning to specifically address 2 Davenport Circle.

Ms. Blanco agreed with Mr. Hopkinson, noting that increasing the density to the area would be an asset to the City.

Mr. Johnson agreed that he felt more comfortable revising the contract rezoning.

Mr. Averill confirmed that after staff review, contract rezoning does not allow for increases in density, to which discussion followed on conditional recommendations which could be made to City Council.

Mr. Stilphen asked the Board what their opinion of the Winship Street property is.

Mr. Hopkinson noted that while he is amenable to the zoning change, it would create an island, to which Mr. Stilphen stated he considered it to be spot zoning.

Mr. Omo clarified that properties can be considered separately or as a group.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtan closed the public comment session.

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO RECOMMEND TO CITY COUNCIL THAT THE APPLICATION FOR LAND USE CODE MAP AMENDMENT FOR 73 WINSHIP STREET NOT BE APPROVED.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO RECOMMEND TO CITY COUNCIL THAT THE APPLICATION FOR 2 DAVENPORT CIRCLE FOR LAND USE CODE MAP AMENDMENT BE APPROVED SUBJECT TO THE CONDITION THAT THE INCREASED DENSITY OCCUR WITHIN THE EXISTING BUILDING.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO RECOMMEND TO CITY COUNCIL THAT THE APPLICATION FOR 9 PARK STREET FOR LAND USE**

**CODE MAP AMENDMENT BE APPROVED SUBJECT TO THE CONDITION THAT THE INCREASED DENSITY OCCUR WITHIN THE EXISTING BUILDING.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

## **New Business**

### **Item 1**

**Public Hearing – Land Use Code Text Amendment – Article 8, District Regulations; as related to alternate energy devises within the Historic Overlay District**

Mr. Averill reviewed the request for Land Use Code Text Amendment as previously discussed by the Board in workshop. A previous amendment was recommended to City Council, who returned the amendment to the Board for further edits. The proposal allows solar panels and other alternative energy devices within the Historic Overlay District. Mr. Averill went on to share the language on his screen for public review.

Mr. Oxtan stated that while he is comfortable with the language, he is concerned that the language for heat pumps should be more specific to require they be ground mounted.

Mr. Johnson expressed his satisfaction with the language surrounding heat pumps.

Mr. Omo agreed that language for heat pumps is sufficient, to which discussion followed on heat pump installation.

Mr. Hopkinson suggested editing language to read “utilized on or connected to buildings”

Mr. Oxtan stated that the edition would be sufficient.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform.

Sam Saltonstall of Harding Road, Brunswick and member of the Neighborhood Church of Christ thanked the Board for their assistance and complimented the language with a minor edit to punctuation in section 2, suggesting that the semicolons be changed to commas. Mr. Saltonstall also reviewed his experience with heat pumps, wherein a wall mounted unit was moved to the ground to eliminate vibrations, however in a commercial setting it was recommended that pumps be installed at a higher level for added security.

Seeing no further comments, Mr. Oxtan closed the public comment session.

Mr. Hopkinson agreed that the changes in punctuation by Mr. Saltonstall are appropriate.

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO RECOMMEND TO CITY COUNCIL THE APPROVAL OF LAND USE CODE TEXT AMENDMENT FOR**

**ARTICLE 8, DISTRICT REGULATIONS; AS RELATED TO ALTERNATE ENERGY DEVICES WITHIN THE HISTORIC OVERLAY DISTRICT WITH THE FOLLOWING AMMENDMENTS:**

- THAT IN PARAGRAPH 1, INSERTED AFTER INCORPORATED ON “OR ATTACHED TO” BEFORE THE WORD BUILDINGS
- THAT IN PARAGRAPH 2, AFTER THE WORD SOLAR ARRAYS THE SEMICOLON BE CHANGED TO A COMMA AND AFTER THE WORD THERMAL ON THE SECOND LINE THE SEMICOLON BE CHANGED TO A COMMA AS WELL.

**MR. OMO, SECONDED BY MR. HOPKINSON, AMENDED THE MOTION TO INCLUDE ALL SEMICOLONS IN THE FIRST PARAGRAPH BE CHANGED TO COMMAS AS WELL.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**Item 2**

**Request for Site Plan Approval – 520 Washington Street (Map 32, Lot 23); Bath Iron Works, applicant.**

Mr. Averill reviewed the request by Bath Iron Works which will allow the relocation of emergency services to 520 Washington Street. The application has been reviewed by City staff with an update to the site plan in response to this review, noting that the applicant will be requesting a waiver to the parking and loading requirement.

Chris Main of General Dynamics expressed his sympathy to the Board on the loss of Mr. Martin, then went on to review the intent of the request to move the fire department to a building better suited to the needs of first responders. The site plan has been adjusted in response to a pavement moratorium on Spring Street which will reduce the previous plans for repaving.

Mr. Hopkinson asked for clarification on waivers.

Ms. Blanco asked where the building is currently located as well as future plans for the building.

Mr. Main noted that the fire department is currently located to the north of the shipyard. The building will be repurposed to manufacturing (that project will come before the Board at a later date).

Mr. Averill confirmed that the waiver is for Article 10.02 L as the access drive is closer to the intersection than allowed by code. The applicant confirmed that the entrance will allow full mobility of emergency vehicles to the shipyard.

Mr. Hopkinson confirmed that there are not outstanding staff comments.

Mr. Averill noted that both Public Works and the Police Department are satisfied with the application, whoever there has been no comment from the Fire Department.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtan closed the public comment session.

Mr. Oxtan reviewed landscaping, to which the applicant will be replacing the existing tree as relocating the tree would ultimately not be successful.

The applicant went on to review lighting improvements to entrances.

Ms. Blanco expressed appreciation that the tree will be replaced and not removed entirely.

Mr. Oxtan suggested additional protection around the tree to deter foot traffic, to which discussion followed on fencing with the Board agreeing that the fencing should be practical and not for aesthetic purposes.

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

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO APPROVE THE APPLICATION WITH WAIVER FOR ARTICLE 10.02 L AND 10.02 C, SUBJECT TO THE CONDITION THAT THE APPLICANT SUBMIT TO THE CITY ARBORIST FOR APPROVAL A MAINTENANCE PLAN INCLUDING PROTECTION FROM PUBLIC USE OF THE AREA**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

### **Item 3**

**Request for Historic District Approval – 11 Centre Street (Map 27, Lot 112) D.O.C. Amalgamated, LLC, applicant.**

Mr. Averill reviewed the request to install a new storefront system to the existing building located at 11 Centre Street.

David Matero, Architect, reviewed the current storefront and noted that the applicant has received a grant from the City to improve the storefront, which currently leaks. The storefront will be upgraded from the current aluminum to a dark bronze façade (which will better match upper story windows) with a one foot panel at the bottom so glass does not continue to the ground. Otherwise, the storefront will remain similar to the existing design.

Mr. Omo confirmed that the bottom panel will also be dark bronze.

Ms. Blanco asked if there is a sample.

Mr. Matero did not have a sample, but noted that the color is a standard dark bronze.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtan closed the public comment session.

Mr. Matero noted that the rear door will be replaced in the dark bronze as well.

Mr. Omo asked if windows upstairs are aluminum (windows are a faded bronze, but will eventually be replaced in the matching dark bronze at a later date).

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO APPROVE THE APPLICATION FOR HISTORICT DISTRICT APPROVAL AS SUBMITTED.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

#### **Item 4**

**Request for Site Plan Approval – 735 Middle Street (Map 27, Lot 176); Bath Cannabis Co., applicant.**

Mr. Averill reviewed the request to renovate the existing structure at 735 Middle Street to establish a retail marijuana storefront. The parcel has an existing surface parking lot that is leased out as non-accessory parking which has gained approval outside of the scope of tonight's application. Mr. Averill noted that, if approved, the Board will need to review the application for the requirements of Article 18 as well as Articles 10 and 12, confirming that the property is zoned for retail marijuana sales. The applicant has amended the site plan and will review changes for the Board. Mr. Averill also confirmed that City staff has reviewed the application and he believes that all concerns have been addressed. In closing Mr. Averill noted that the application will require a waiver to Section 10.02 L for the setback of the access driveway.

Mr. Matero also noted that a lighting waiver will also be required, and then continued to review the current building façade which will receive minor improvements of paint and signage. The applicant is also proposing a reduction to the curb cut for better maneuverability, plantings and improved stormwater management which has been encouraged by Public Works. Mr. Matero went on to further review the adjacent parking lot which currently has 2 available spots leased with an agreement for signage installation as well. Mr. Matero reviewed the LED lighting for the sign and entrance, noting that light levels slightly exceed limitations, which Mr. Matero suggested is appropriate for the area.

Mr. Matero then went on to review landscape improvements as a significant benefit to the area.

Mr. Oxtan stated that he found the lighting waiver to be acceptable in consideration of the location.

Mr. Averill complimented Mr. Matero on his response to staff comments, then asked that Mr. Matero review the refuse management plan.

Mr. Matero described the interior storage room which allows all refuse to be stored indoors in a divided and locked area.

Alex Greenlaw and Patrick Wiley of Bath Cannabis Company further reviewed the security of the refuse area which separates locked marijuana waste storage from general refuse.

Mr. Matero addressed Board concerns regarding snow removal, which is covered under the lease agreement as a paid service of the applicant. Significant snow will be removed from the site following large storms to ensure parking.

Mr. Oxtan confirmed that the Middle Street entrance will not be utilized and suggested removing some pavement along Middle Street, to which the applicants agreed was acceptable.

Mr. Oxtan opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtan closed the public comment session.

**MR. HOPKINSON MOVED TO FIND THE APPLICATION COMPLETE.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**MR. HOPKINSON, SECONDED BY MR. OMO, MOVED TO APPROVE THE REQUEST FOR SITE PLAN APPROVAL INCLUDING WAIVERS TO SECTIONS 10.02 L AND 10.07 WITH THE FOLLOWING CONDITIONS:**

- **THAT THE APPLICANTS COORDINATE WITH CITY PLANNER AND CITY ARBORIST ON ESTABLISHING GREEN SPACE ALONG THE MIDDLE STREET SIDE OF BUILDING.**
- **THAT THE CITY PLANNER RECEIVE FROM CITY STAFF WRITTEN CONFIRMATION THAT ALL OUTSTANDING UNRESOLVED ISSUES HAVE BEEN SATISFIED.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**Item 5**

**Request for Site Plan and Subdivision Amendment – 26 Summer Street (Map 26, Lot 218); the Szanton Monks Properties, LLC, applicant.**

Mr. Averill reviewed the request for subdivision amendment, noting that the application was previously approved in July 2020. The applicant is amending the plan to meet financing requirements.

Vice President Amy Cullen introduced herself and noted that the project is being funded utilizing a grant from the Maine Housing Authority. Ms. Cullen introduced Carl Szanton and Michael Tadema-Wielandt, then went on to review the original site plan alongside the revised plan for comparison. Ms. Cullen explained that after review, the National Park Service is requesting that the front entrance be parallel with the sidewalk, also requesting that the stairwell be relocated in order to allow a greater distance between buildings. Refuse facilities have also been relocated to improve snow removal as well as a 6” expansion to the footprint of the building.

Mr. Tadema-Wielandt noted that other than the changes Ms. Cullen outlined, no other changes to the site will change, including access entries and parking, although parking will have improved maneuverability with the removal of the dumpster.

Mr. Hopkinson confirmed that staff comments have been satisfied by the applicant.

Mr. Averill noted that the applicant has provided responses to all staff comments and, except for the Fire Department, all other City staff are satisfied with the application. Mr. Averill recommended that should the Board approve the application, a condition be added that the applicant pay the impact fee prior to permitting.

Mr. Oxtton asked if the concerns of the Fire Department regarding the ladder truck have been satisfied, to which Mr. Averill noted that final comment by the Fire Department had not been received.

Mr. Oxtton opened the floor to public comment, at which point Mr. Averill reviewed the procedure for public comment under the Zoom platform. Seeing no comments, Mr. Oxtton closed the public comment session.

**MR. HOPKINSON, SECONDED BY MR. JOHNSON, MOVED TO FIND THE APPLICATION COMPLETE AND APPROVE AS SUBMITTED SUBJECT TO THE CONDITIONS THAT THE PLANNING DEPARTMENT RECEIVE CONFIRMATION FROM THE FIRE DEPARTMENT THAT PRIOR COMMENTS ARE RESOLVED AND THAT IMPACT FEES BE PAID PRIOR TO PERMITTING.**

**ROLE CALL VOTE:**

**YEAS: MR. OMO, MR. STILPHEN, MR. JOHNSON, MS. BLANCO, MR. HOPKINSON, MR. OXTON**

**NAYS: NONE**

**MOTION PASSED UNANIMOUSLY, 6-0.**

**Other Business**

None

**MR. HOPKINSON MOVED TO ADJOURN, SECONDED BY MR. JOHNSON.  
MOTION PASSED UNANIMOUSLY, 6-0**

**MEETING ADJOURNED AT 8:30 PM.**

Minutes prepared by Karly Perry, Recording Secretary.