

A regular meeting of the Bath Planning Board was called on April 7, 2020 for the purpose of conducting regular business.

MEMBERS PRESENT

Bob Oxtan, Chair
James Hopkinson, Vice Chair
Greg Johnson
Russell Martin
Andy Omo
Cal Stilphen
John Sunderland

MEMBERS ABSENT

None

STAFF PRESENT

Ben Averill, City Planner
Karly Perry, Recording Secretary

Mr. Oxtan, Chair, called the meeting to order using Zoom conferencing at 6:00 p.m. on Tuesday, May 5, 2020.

Mr. Averill reviewed procedure for Zoom conferencing and public comment during the meeting.

Minutes April 7, 2020, meeting minutes

MR HOPKINSON MOVED, SECONDED BY MR. OMO, TO ACCEPT THE MINUTES OF APRIL 7, 2020 AS PRESENTED

UNANIMOUS APPROVAL**Old Business**

None

New Business**Item 1**

Final Developmental Subdivision Approval – Finding of Facts – 756 Middle Street (Map 27, Lot 31); Green on the Hill Properties, applicant

Mr. Averill reviewed previous activity, noting that the project was last seen at the meeting on April 7th where it was approved conditionally. The Findings of Fact is the final step for subdivision approval. Once approved, the board will meet individually to sign the subdivision plat.

Mr. Oxtan began reviewing the findings of fact.

Mr. Sunderland confirmed that the Findings of Fact had been made available to the public for review prior to the meeting.

MR. SUNDERLAND MOVED, SECONDED BY MR. OMO, TO FOREGO THE READING OF THE FINDINGS OF FACT AND APPROVE FINDINGS OF FACT AS PRESENTED.

ROLL CALL VOTE:

**YEAS: MR. HOPKINSON, MR. JOHNSON, MR. MARTIN, MR. OMO,
MR. SUNDERLAND, MR. OXTON**

NAYS: None

MOTION PASSED UNANIMOUSLY, 6-0

Mr. Hopkinson stated that he had questions regarding the final plan submission.

Mr. Averill suggested that questions that would normally fall under Other Business be moved ahead of Item 2 in order to allow the applicant for Item 1 to leave the meeting afterwards.

Other Business:

Mr. Hopkinson expressed concerns regarding the plan submitted by the applicant, referring to the Subdivision Ordinance requirement that a survey be included with the plan as well as the seal of the surveyor. Mr. Hopkinson also noted that the current plan does not indicate boundaries or the total units or how they are approved, comparing the subdivision style to that of a condominium.

Mr. Averill agreed to work with the applicant to correct the oversight.

Nate Green, Applicant, confirmed the details to be included and agreed to amend the plans.

Item 2

Pre-Application Workshop for Site Plan Approval – 243 Washington Street (Map 38, Lots 9, 10, 11, 16); Maine Maritime Museum, applicant.

Mr. Averill reviewed the request for pre-application workshop for the Maine Maritime Museum for the addition of new principal use on the parcels referenced including hosting events. Mr. Averill went on to review communications from the City Solicitor as well as from residents both in support of as well as with concerns regarding these events. Mr. Averill noted that the City is working with the museum to clarify usage, but generally it would be special events in conjunction with a new use as a function center. Mr. Averill continued on to review the pre-application process as a way to address concerns, especially those surrounding noise, prior to submitting an application to the Planning Board.

Amy Lent, Executive Director for the Maine Maritime Museum began by stating that the museum has been hosting events continuously throughout the years noting that issues

have only arisen recently due to an issue with temporary lighting during construction, which she stated has since been resolved. Ms. Lent noted that in 2008 when the museum's zoning was changed City Planner Jim Upham stated that it was the intent of the City for the museum to be able to function in the same manner it had prior to the zoning change.

Ms. Lent went on to review the economic benefits to the City of the museum events, which bring additional tourism to the City which in turn benefit local hotels, restaurants and retail establishment.

Ms. Lent continued on to review the landscaping for event areas was designed to buffer events from the neighborhood. Noting that there is no noise ordinance in the City, Ms. Lent noted her concern that there is no standard by which to compare to. Maine Maritime Museum has begun working with an Industrial Hygienist who suggests that in the current circumstances, it is impossible to establish what the decibel level of these events would be.

Ms. Lent concluded that the museum is looking for a full waiver of any noise requirements. If the Board does not support this waiver, Ms. Lent is alternatively asking that the Board allow a temporary waiver until which time when current decibel levels can be determined.

Mr. Sunderland asked for clarification as to whether the applicant believes the events to be a principal use or an accessory use.

Ms. Lent stated that the events referenced are an accessory use as they are events hosted by members of the museum and not museum events.

Mr. Sunderland further clarified that the applicant believes that Mr. Upham's email does not require the museum to seek site plan approval.

Ms. Lent stated that the events have been a longstanding tradition prior to zoning changes.

Mr. Sunderland expressed concern that without regulations, the applicant could host rock concerts with no recourse by the City.

Ms. Lent argued that under current standards, Maine Maritime Museum is able to host concerts that they determine correlate to the museum's mission and that the same should extend to members.

Mr. Oxtan noted that he sat on the Planning Board when Mr. Upham was employed as City Planner and that what was approved for usage at the time was a building for functions, noting that outdoor tented events did not appear until later. Mr. Oxtan continued to testify personally as to his experience living in the area during outdoor events and his impression of the decibel level during them.

Mr. Averill stated that conversations with Mr. Upham were regarding potential uses, however uses must be reviewed by Planning Board and approved. Mr. Averill noted that it was an oversight of the City that the hosting of outdoor events were never reviewed by the Planning Board.

Mr. Sunderland asked for clarification from the applicant as to whether the museum is requesting a temporary or permanent waiver to noise requirements.

Ms. Lent stated that the museum is requesting both. Ideally, a permanent waiver to noise requirements, however if the Board will not allow a permanent waiver, the museum asks for a temporary waiver in order to host events to which decibel levels can then be determined.

Mr. Averill asked the applicant to review the locations of tents for the Board.

Ms. Lent referred to a site plan submitted with marked locations, the first of which is the site of current outdoor events, in the space between two shipyard buildings. The second location created more recently to the south near the redesigned parking lot will be a more traditional spot where future events will take place. Ms. Lent stated that both sites have limited visibility from the street and went on to detail design features of the southern space created to reduce noise.

Mr. Oxton suggested that the original event location appears to be better suited to hosting events.

Mr. Oxton opened the floor to public comment.

Phyllis Bailey, City Councilor for Ward 1 recognized Maine Maritime Museum as the asset to the City, and then continued on to note that the events over the past summer appeared much larger than in year's past, and that she was surprised by the noise herself. In addition, Councilor Bailey has received feedback from constituents upset with the increased noise. She went on to express her opinion that a full waiver for noise would not be useful and suggested that perhaps the Board limit music to inside buildings as originally intended, or that noise not be amplified. Councilor Bailey also noted that there is also considerable noise after events when visitors are leaving the museum and suggested that an event curfew may also be helpful.

Kristin Fletcher, Chair of the Board of Trustees for Maine Maritime Museum, gave her support for the museum and stressed the positive economic impact that the events have on the community. Ms. Fletcher highlighted the concept of working with an acoustics expert as a rational way to approach a resolution.

John Healy, an attorney representing one of the abutting neighbors on Washington Street, acknowledged the economic impact of Maine Maritime Museum. Atty. Healy then went on to raise concerns regarding the local neighborhood impact, noting that the

museum had not disclosed the frequency with which proposed events would occur. He then continued to suggest restricting the museum to a partial waiver on tented events, supporting Councilor Bailey's suggestion that would restrict music to inside buildings as well as noise curfews.

Charles Hodgkins, Museum Trustee, clarified that the Board has taken the position that the museum had not applied for the use of private events, or if it was caused by the re-districting of the museum. (Mr. Oxtan stated that the museum had not applied for the event use and that outdoor events increased gradually over time). Mr. Hodgkins noted that the larger tented events are fundraising opportunities for the museum, not private events. Limiting the ability to fundraise would impact the museum greatly in their ability to support their mission.

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

Mr. Hopkinson reviewed that no action will be taken at this time other than reactions, also stating that the board does not take issue with application and that recreating the site plan is not fully necessary, however the applicant should be more specific in outlining the outdoor event areas. Mr. Hopkinson went on to express his opinion that the noise ordinance is in line with both state and neighboring town ordinances, noting that other locations also require that music be moved indoors during evening hours.

Mr. Martin suggested allowing a noise study for the area.

Mr. Sunderland agreed with Mr. Hopkinson and suggested comparing decibel levels with other facilities and the requirements of venues such as those that the City parks have employed as a point of reference.

Ms. Lent stated that without events due to the current pandemic, there is no way to know what the decibel levels of such events would be. She agreed that comparison to events at City parks would be ideal.

Mr. Hopkinson suggested that the application could possibly be approved at the required decibel limits and the applicant would need to adjust the volume at events to comply until which time levels could be established. The applicant would have an opportunity to come back before the Board and request that limitations be adjusted Mr. Hopkinson also stated concern with the undetermined number of events.

Mr. Stilphen noted that sound analysis is done using an average. He also asked for clarification that the request for site plan approval would be for accessory use.

Ms. Lent clarified that the museum has already been approved to host their own events; the new request would be for the accessory use of events hosted by museum members.

Mr. Johnson testified that he used to live at the site that is now the newly developed parking lot and confirmed that noise restrictions are necessary. He then suggested that

using neighboring town events for collecting data would be most useful to the Board. He also noted that the issue with parking lot noise continues past events and must also be addressed.

Item 3

Request for Site Plan Review and Pre-Application Workshop for Site Plan and Historic District Approval – 26 Summer Street (Map 26, Lot 218); The Szanton Monks Properties, LLC, applicant.

Mr. Averill reviewed the request, which is proposed as a 60-unit development at 26 Summer Street, noting that much like Item 2 there will be no action taken on at this time. Mr. Averill also stated that City Staff is working with the applicant on project details including historic review and also a review of an accessory parking lot.

Amy Cullen, Project Manager, began the slide show presentation by orienting the Board with an aerial shot of the project location which is the previous site of the Bath YMCA and also includes the Moses block and the northern end of the downtown area.

Nathan Szanton, President of the Szanton Company, a small development group based in Portland specializing in mixed-income housing. He went on to introduce his team: Amy Cullen, Project Manager; Carl Szanton, Development Associate; David Lloyd and Sam Berry of Archetype Architects; Michael Tadema-Wielandt and Craig Sweet of Terradyn Consultants. Nathan Szanton continued on to provide information on previous developments, all of which the company continues to personally manage (a feature the company prides themselves on). Most notably, the Szanton Company renovated and developed the Huse School apartments in Bath, a 59 unit mixed-income apartment complex.

Ms. Cullen reviewed the proposed project, which would 46 units to be developed in the new building, as well as the renovation of 10 existing units current in the Moses Block, as well as 4 new units in the Columbia Block. The project will also include an offsite parking lot accommodating 35 spaces (9 handicapped accessible) for residents. She then went on to review the current housing needs in Bath, with a focus on the aging population looking to downsize to smaller units. Ms. Cullen then reviewed range of monthly rent commensurate with income.

David Lloyd, Architect, reviewed the current site of the project including the Moses Block and the adjacent, undeveloped lot. He then went on to detail the units including entrances at Summer Street and Elm Street. Mr. Lloyd described updates to the façade which would be under review by the National Parks Service in addition to local historic review. Repairs will include important updates to repair cornices and the ultimate removal of protective netting. Mr. Lloyd also noted the architectural façade is not presented as it is still under revision; however he noted the use of traditional materials to compliment the historical nature of the building, expressing excitement at the opportunity to work in Bath's historic district.

Mr. Tadema-Wielandt, Civil Engineer for Terradyn Consultants reviewed the sketch of the site plan, noting that he is current working with staff to address engineering issues, highlighting the curb cut on Summer Street as well as metal fencing. Mr. Tadema-Wielandt expressed desire for the project to add green spaces in these areas, as well as a 20 foot driveway at Elm Street in order to access the parking area. The Bath Police Department, Fire Department and Public Works are all reviewing details to be presented with the final plan, which will include internal waste removal, public water, natural gas, septic and a sprinkler system for all units.

Nathan Szanton noted that the intent of the proposed development was presented to the City at the time of the sale of the property, which was previously owned by the City of Bath.

Mr. Hopkinson extended his appreciation of the project review and acknowledged the previous work by the Szanton Company with the City for the Huse School property, stating that he looks forward to reviewing the final project.

Mr. Johnson stated in his opinion that it is an excellent project, noting concern with the driveway entrance and suggested that there should be a sidewalk for pedestrian traffic.

Mr. Oxton expressed his appreciation for the additional parking and his thoughts that the building style will enhance the area. Mr. Oxton also stated that he is anxious to see the exterior lighting.

Nathan Szanton interjected that the building image from the packet is not fully representative of the finished project. The company is looking for a complimentary yet modern design that will enhance the historic building.

Mr. Hopkinson noted that previous suggestions for the lot which included a more modern design were well received by the public, and that it is not necessary for the building to be made to look old.

Mr. Sunderland asked what the target population vehicle usage would be.

Mr. Omo asked a follow up as to whether there were parking issues at the Huse School project.

Ms. Cullen stated that parking at the Huse project is currently more than sufficient, noting that with most residents staying home during the current pandemic the company the development actually has additional spaces available. Ms. Cullen went on to review that the new development offered parking for 75% of the units.

Mr. Omo thanked the applicant for preserving the view of the downtown area from the library. He also asked if the windows in the gymnasium which had been bricked in would be reopened (they will).

Mr. Averill asked the applicant to review conversations they have has with the public.

Nathan Szanton reviewed discussion with community as well as economic development committees, downtown businesses and a surprisingly popular zoom conference attended by 38 neighbors.

Ms. Cullen also noted that the Szanton Company hosted a presentation for the Board of Trustees for the Patten Free Library, who were very excited to support the project.

Mr. Oxton opened the floor to public comment. Seeing none, Mr. Oxton ended the public comment session.

Nathan Szanton spoke to the previous uses of the building, introducing the concept that the project may be named "The Uptown Project" to reference the Uptown Theater which previously occupied the location.

Mr. Averill asked the Board their opinion on requiring a traffic impact study, which, due to the current pandemic would not be indicative of normal traffic numbers.

Mr. Tadema-Wielandt noted that a traffic engineer has been employed to generate data based on the Institute of Traffic Engineering and other public data in order to gather a more realistic assessment.

Board members showed no concern regarding traffic numbers.

Other Business:

Mr. Averill noted that the Planning Board has not met in workshop since moving to remote meetings and asked the Board if they were available to hold Zoom meetings moving forward, to which the Board agreed. Mr. Averill also noted that there is the possibility that a second meeting in either June or July may be required in order to accommodate applicant deadlines.

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

MOTION PASSED UNANIMOUSLY, 7-0

MEETING ADJOURNED AT 8:10 PM.

Minutes prepared by Karly Perry, Recording Secretary.