



CITY OF GARDINER

6 Church Street, Gardiner, Maine 04345

www.gardinermaine.com

ORDINANCE REVIEW COMMITTEE (ORC)

Monday January 22, 2018 @ 3:00 PM

Meeting Notes

Members Present:

Chair Debby Willis Joel Alexander
Louis Sigel Clare Marron
Patricia Hart, City Councilor
CEO/Assistant Planner, Barbara Skelton

Members Absent:

Les Young John Burgess

Also Present:

Dorothy Morang, Staff to Ordinance Review Committee
Mark Eyeran, Planner
Members of Gardiner's Historic Preservation Commission (HPC):
Chair Geri Doyle Hal Norvell Clare Marron (represents the HPC to this
Committee)

1.) Welcome

Acting Chair Joel Alexander opened the meeting and welcomed everyone.

2.) Roll Call

3.) Consideration of meeting notes of January 8, 2018

Louis Sigel moved to accept the minutes. Pat Hart seconded the motion.
Vote: 5 in favor. 0 opposed. Motion passed.

Chair Debby Willis arrived.

Old Business

4.) Review proposed amendments to Section 12 relative to Historic & natural resources & Guidelines

Mark gave background information on this subject. He noted that the Comprehensive Plan that was adopted in 2014 included a discussion on historical and archeological resources and it made several recommendations. The recommendations include the consideration of historical and archeological resources in the development process and to provide for a demolition delay process for historic buildings. He said the ORC members have been working on the Comp Plan recommendations as they reviewed the various ordinance sections and have come up with draft language.

Mark said that in speaking with the Maine Historic Preservation Commission representatives, historical and archeological resources is not a big issue in Maine, but once in a while evidence is found of previous buildings, etc. We want to address it before the fact and have added language in the draft to address these recommendations. He said we are pleased to have the HPC members here today and for their input.

Mark went over the draft section by section – (See Attached draft document)

Amend Section 17.2 Definitions by adding a definition for Identified Historic or Archeological Resource.

CEO Skelton reminded Mark to remove the word “builder” from page 2 Section 12.7.3.10.1 and page 3 Section 12.8.3.

Amend Section 6.3.2 Basic Information for All Applications (CEO Review, Planning Board Review and Site Plan Review) to add Section 6.3.2.7.11 to the list of existing conditions review submission requirements and revise the numbering within the section.

Amend Section 6.3.3 Additional Information for Applications for Planning Board Review and Site Plan Review by adding Section 6.3.3.5 explaining what to submit & how that information is be used in the review of historic and archeological resources and the amendment revises the preceding sections by adding the word “and” after each section.

Amend Section 6.5.1 Review Criteria for All Applications by adding Section 6.5.1 – additional criteria.

Amend Section 12.6.1 Certificate of Appropriateness (COA) to add an additional requirement for a COA concerning demolition of historic properties and/or resources.

Amend Section 12.7.3 to include an exception for applications and add Sections 12.7.3.10 and 12.7.3.11 and revise existing Section 12.7.3.9.5 concerning demolition.

Amend Section 12.8.1 to include an exception for review using the U.S. Department of the Interior’s Standards for the Treatment of Historic Properties, dated 1995, upon which to base its decision.

Amend Section 12.8 Standards of Evaluation by adding two additional criteria identified as Sections 12.8.3 & 12.8.4

Hal Norvell asked about repairing or renovating or replacement – do we preserve the site or vestige of the site – an example: Dam 1, a remnant that reminds us of what's there. Mark said they would have to come to the HPC for a COA. Clare said at this time, there is nothing requiring the property owner to preserve it.

Geri Doyle said the dam is filled with rocks. When they finish taking it down, do we have any say on how it should be finished. Mark said not now, but the proposed amendments to the Ordinance, if passed, will require that they come to the HPC for a COA and explain why the alteration is necessary and follow the standards identified on page 4 of the attached draft. He noted that the draft amendments put the identification of historic and archeological resources under the HPC; sets up a process for demolition/or alternatives; and sets up standards.

Clare asked if we should include standards for emergency situations and who determines that it is an emergency. A discussion occurred concerning this. CEO Skelton said she believes dangerous buildings are covered by state law. Pat asked if Section 12.6.1 covers this – the requirement for a COA. It was noted that Section 12.7.3.10 might apply where the Fire Marshal finds an immediate threat. Mark said he will add a provision for an emergency scenario.

Chair Willis referred to the Comp Plan, Activities 1.13.1, and page 48 Overview of Updated Inventories – Historic and Archeological Resources. In addition to the Historic District, there are 5 other properties on the National Register and 3 historic archeological sites documented. They include the Alexander Brown Trading Post, F.A. Plaisted Pottery, and Gardiner's Dam 1. Mark said that the City Council could also suggest properties to be added to the list. Chair Willis noted the old hospital and/or the yellow church. CEO Skelton mentioned the railroad bridge over Cobbossee Stream. Joel noted that Augusta designated whole streets as a historic district. Pat asked the HPC to come up with a list for the City Council.

Mark said a local list needs to be well thought out and documented and consideration given to owner's rights. He noted that there was work done a few years back by the MHPC, identifying certain streets at the top of the hill as potential historic properties. It came up at the Comp Plan meetings. Some see the benefits and others fear it. The City Council could designate the areas for review for demolition only and not a historic district. Mark said one advantage is using state & federal tax credits – is "in" right now and he used as an example, the Town of Biddeford who have made a lot of improvements using these.

Pat gave an update on Dam 1 remnants from MHPC. The ruling is that the dam not be touched. MDOT has to go back and revisit it.

Mark will add language to cover emergency situations as they relate to demolition. He will also remove "builder" from the 2 sections identified in Section 12.

Dorothy asked about the new provisions in Section 6.3.2.7.1 and noted that the added submission requirement does not distinguish between reviews for development that includes external changes

and those dealing only with changes within an existing building. Mark agreed and will make a change in the amendment excluding development within an existing building.

5.) Final review of Omnibus package

Mark asked if anyone has any changes to the Jan 2nd omnibus document that they send them soon as he will be putting together an overview w/bullets for a workshop meeting with the City Council and the Planning Board to be held in the near future.

New Business

6.) Review Subdivision proposal

Mark went over the proposed amendments for the Section 14 of the Ordinance – Subdivisions. He included in the memo excerpts from the Hallowell Ordinance. He noted that there are no provisions distinguishing minor subdivisions from a major subdivision.

He suggested adding a site inventory meeting as an alternative to the existing sketch plan option. Applicants would be required to have a pre-application conference with the Planner/CEO providing a site inventory and analysis identifying what is on the land, how the parcels will be used, utilities available, etc to determine how the site should and should not be used and developed. It would not include things such as the layout of lots, roads, storm water management, etc. This would also guide where development occurs and where open space is retained for subdivisions using open space design provisions. This meeting would determine whether it is a major or a minor subdivision.

The inventory and analysis would be discussed with the Planning Board to provide feedback to the applicant on what to expect when the preliminary plan is developed. A site walk of the property will be included in this review. The preliminary plan will include the layout of the lots, roads and utilities and include the detailed design of the subdivision. The final plan will include all of the information required by the Ordinance along with any conditions of the Planning Board.

CEO Skelton asked that we include an electronic version of the final plan in the requirements.

Dorothy identified a number of issues that have come to light over time relating to previous subdivisions – not constructing the roads and other infrastructure, no activity on the subdivision – selling of lots; confusion on who owns the roads, right-of-ways, maintenance of roads; private sewer systems, subdivision extension not followed thru on, but selling of lots; issues with property and road associations; multiple owners on open

space – confusion; and others. Another issue that has come up with the assessing of properties, not just in subdivisions but with multiple properties. Homeowners that own abutting properties, in the past they have been combined for tax purposes only, but not combined by deed. That can no longer take place – a deed has to be drawn up and in the case of a subdivision, an amendment to the subdivision will have to occur and be filed at the Registry of Deeds.

Mark identified most of these issues as no follow-through. CEO Skelton also noted that performance guarantees, if they were required, did not cover the cost of these issues. Mark will look at these issues.

Other

CEO Skelton will meet with members of the HPC to go over proposed amendments to the sign ordinance in Section 10 as they relate to the Historic District to get their input before the next meeting of the ORC on Feb 12, 2018.

Upcoming meeting dates with tentative topics:

February 12, 2018: Finish the Historic proposed amendments
Begin review of revised subdivision language

February 26, 2018;

7.) **Adjourn**
Meeting adjourned at 4:51 pm.

Draft Amendments to the Land Use Code Dealing with Historic and Archaeological Resources

The following amendments are intended to accomplish three things:

1. Assure that historic and archaeological resources are addressed in the review of development projects,
2. Create a “demolition delay” provision that applies to identified historic resources, and
3. Require a Certificate of Appropriateness for a project that disturbs an identified archaeological resource.

Amend Section 17.2 to add a definition of Identified Historic or Archeological Resource in proper alphabetical order to read as follows.

Identified Historic or Archeological Resource: A building, structure, site, or district that is listed in one of more of the following: 1) the National Register of Historic Places; 2) a listing of the Maine Historic Preservation Commission of significant historic or archeological resources; 3) the City’s adopted Comprehensive Plan; or 4) a list of locally significant historic or archeological buildings, structures, sites, and districts adopted by the City Council.

Amend Section 6.3.2.7.1 to add the following submission requirement and revise the numbering within the section to read:

9. The location . . . or similar resources: ~~and~~
10. The location . . . on the property: ~~;~~ and
11. A preliminary assessment of the potential archeological value of the site if the project is located in an area that has been identified as having the potential for containing archeological resources or involves an identified historic property.

Amend Section 6.3.3 by adding a new Section 6.3.3.5 and revising the preceding sections to read:

6.3.3.3 An erosion . . . plan; ~~and~~

6.3.3.4 A stormwater . . . of the project: ~~;~~ and

6.3.3.5 If the property contains an identified historic or archeological resource, the application shall include an analysis explaining how the resource was taken into account in the project planning and how any negative consequences of the proposed development activity on the resource will be mitigated.

Amend the review criteria in Section 6.5.1 to add an additional criterion **6.5.1.15** to read:

6.5.1.15 If the property contains an identified historic or archeological resource, the proposal shall include appropriate measures for protecting the resource, including but not limited to modification of the proposed design of the site, the timing of construction, and limiting the extent of excavation.

Amend Section 12.6.1 to read:

12.6.1 A Certificate of Appropriateness shall be required from the Historic Preservation Commission, except as provided below, for the construction, alteration, demolition or relocation of any exterior architectural feature for a building, site, monument or structure which is designated a historic property or landmark or is within a historic district, as defined. A Certificate of Appropriateness shall also be required for the demolition of any identified historic resource or for the disruption or alteration of any identified archeological resource.

Amend Section 12.7.3 to read:

12.7.3 The proposal for a Certificate of Appropriateness shall consist of an application with the submission requirements listed herein except for applications for the demolition of an identified historic resource or the disruption or alteration of an identified archeological resource. These applications shall include only the information required by 12.7.3.1 through 12.7.3.7 and by 12.7.3.10 or 12.7.3.11 as appropriate.

Amend Section 12.7.3 to add two new sections, **12.7.3.10** and **12.7.3.11** and to revise the existing Section **12.7.3.9.5** to read:

12.7.3.9.5 Scale . . . by the Commission;

12.7.3.10 Applications for the demolition of an identified historic resource shall include the following:

12.7.3.10.1 An analysis of the condition of the building including the building structure and building systems and the repairs or renovations necessary to bring the building into compliance with current code requirements. This analysis shall be performed by a structural engineer, builder, or architect with experience in the renovation of historic properties.

12.7.3.10.2 An analysis of the cost effectiveness of the renovation of the property for an allowed use versus the demolition of the property. This analysis shall be prepared by an architect, real estate professional or appraiser with experience in the renovation of historic properties.

12.7.3.11 Applications for the disruption or alteration of an identified archeological resource shall include the following:

12.7.3.11.1 An alternatives analysis prepared by an archeologist assessing the need to disrupt or alter the site including the possible redesign or relocation of the proposed activities requiring the disruption or alteration.

12.7.3.11.2 A plan prepared by an archeologist identifying how negative impacts on the resource can be mitigated and/or how proposed activities can be conducted to allow appropriate investigation of the archeological resources on the site.

Amend Section 12.8.1 to read:

12.8.1 The Commission shall review an application for a Certificate of Appropriateness and shall use the U.S. Department of the Interior's Standards for the Treatment of Historic Properties, dated 1995, upon which to base its decision except for applications for the demolition of an identified historic resource or the disruption or alteration of an identified archeological resource. These applications shall be governed by 12.8.3 or 12.8.4.

Amend Section 12.8 Standards of Evaluation by adding two additional criteria, **12.8.3** and **12.8.4** to read:

12.8.3 The Commission shall approve a Certificate of Appropriateness for the demolition or removal of an identified historic resource only if it finds that the property owner has demonstrated that cost-effective repair of the building is not possible as documented by a structural engineer, builder, or architect with experience in the renovation of historic properties and that there is no buyer for the property willing to undertake its repair.

12.8.3.1 If the property owner demonstrates to the Commission's satisfaction that he/she cannot repair the building, the issuance of the Certificate of Appropriateness shall be delayed for a period of ninety (90) days during which period the owner must make a reasonable attempt to sell the property to someone who will repair the building in accordance with the following process. The time period shall commence when the Commission determines that the owner cannot repair the property and a sale offering statement has been provided to the Code Enforcement Officer.

12.8.3.2 Within five (5) days of the determination by the Commission that the owner cannot repair the property, the property owner shall post notices on the premises of the building or structure proposed for demolition in a location clearly visible from the street. The notices shall indicate that the property is proposed to be demolished or moved and that it is available for sale to a buyer who will repair the property. In addition, the notice shall be published by the owner in the Kennebec Journal newspaper at least two times. The first notice must be published within seven (7) days of the Commission's finding, and the second notice must be published not less than forty-five (45) days prior to the end of the ninety (90) day period. The owner shall provide the Code Enforcement Officer with evidence that notices have been posted and published as required.

12.8.3.2 During the ninety (90) day delay period, the owner shall make a bona fide offer to sell such building or structure and the land pertaining thereto, at a price reasonably related to its fair market value, to any person, firm, corporation, government or agency thereof or political subdivision or agency thereof which gives reasonable assurance that it is willing to preserve and restore the building or structure and the land pertaining thereto. Prior to making such offer to sell, an owner shall first file a statement with the Code Enforcement Officer identifying the property, the offering price and the date the offer to sell shall begin.

12.8.3.3 At the end of the ninety (90) day period, the property owner may request that the Commission release the Certificate of Appropriateness, allowing the Code Enforcement Officer to issue a demolition or moving permit. The Commission shall authorize the release of the Certificate of Appropriateness only if it finds that the property owner made a bona fide effort to sell the property at a reasonable price relative to its fair market value and that there is no buyer that is willing to repair the property.

12.8.4 The Commission shall approve a Certificate of Appropriateness for the disruption or alteration of an identified archeological resource only if finds that there is no reasonable alternative for the planned activities that will eliminate the need for the disruption or alteration. If such alteration or disruption is determined to be necessary by the Commission, the applicant shall be required to carry-out the project in such a manner so as to minimize the impact on the resource to the extent reasonable and/or to provide adequate time and access for the investigation of the archeological resource.