

## **PLANNING BOARD MEETING MINUTES**

**Tuesday May 11, 2021 @ 6:00 PM**

**VIA Virtual Conferencing**

*In accordance with An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, as enacted to read: Sec. G-1 1 MRSA §403-A Public proceedings through remote access during declaration of state of emergency due to COVID-19*

**1. Call the Meeting to Order:** Chair Willis called the meeting to order at 6pm

**2. Roll Call-** Pam Mitchel, Shawn Dolley, Justin Young, Zachary Hanley, Lisa St. Hilaire, Debby Willis. Adam Lemire was not present. City Staff-Tracey Desjardins- Economic Development Director, Kris Mc Neill- Code Enforcement Officer, Mark Eyerman- City Planner, Jon Pottle- City Solicitor, Mayor Pat Hart. Applicant: Paul Boghossian, Attorney- Michael Lane, Others present included: Melanie Mohny, Logan Johnston, Ian Burnes, John Kempthorn Grosvenor, Cheryl Clark/Mike Gent, barb, Auta Main, Meg Carlson, Helen Gordon. Sue Shaw, and Patrick Wright.

**3. Review of the April 13, 2021 meeting minutes-** Lisa St. Hilaire and Pam Mitchel sent in corrections. Pg. 1 middle of the page- southwest should be one word. NERPA, should be corrected to NRPA. Change a statement about leaving the decision up to the legal experts, to 'follow the guidance of the legal experts'. On pg. 1 Pam's last name is spelled wrong. Pam Mitchel moves that we accept the minutes with corrections sent in. Lisa St. Hilaire seconded the motion. No further discussion. Roll call vote- Pam Mitchel- yes, Shawn Dolley-yes, Justin Young-yes, Zachary Hanley-yes, Lisa St. Hilaire-yes, Debby Willis-yes

**4. Public Hearing- Proposed Amendments to the Land use Ordinance relative to medical and adult-use Marijuana Establishments** – Mark Eyerman explains to the Planning Board, changes that were made around separation distance from children's schools. He also increased the distance between retail marijuana establishments to 500 feet, as requested. Board members agree with these changes.

Justin Young asked if a lighting plan is needed for marijuana establishments. The business will have to follow the states licensing marijuana requirements for lighting, so this is not needed in the City's ordinance.

There was a discussion about marijuana establishments setting up in certain properties. Any proposed marijuana establishments that are seeking to start a business on a federally funded property, should check with the Planning and Development office first. Marijuana is not legal at the Federal level, and cannot be set up in a building/property that is receiving or are requesting federal funds.

Chair Willis opens the public hearing on the proposed LUO changes. There is no one present to speak for or against this. Chair Willis asks if there has been any interest at City hall on this- No

Chair Willis asks for a motion. Pam Mitchel makes a motion that we forward the LUO, with the small changes that were made, to the City Council with the recommendation that this be passed. Second by Zachary Hanley. No further discussion. Roll call vote - Pam Mitchel- yes, Shawn Dolley-yes, Justin Young-yes, Zachary Hanley-yes, Lisa St. Hilaire-yes, Debby Willis-yes **Approved.**

**5. 150 Dresden Ave. Continuation of Final Subdivision and Site Plan Review.** City Tax map 032 Lots 023-023A in HDR. Lisa St. Hilaire is a neighbor of this project, and has recused herself- she has reserved the right to speak at the public hearing.

Mark Eyerman suggests that the first area that the Board should look at is, all the information that was requested/required, part of this application. The Board should also discuss if they feel that they can hear this application as a phased development, and if so, will they be comfortable with a phased approval. Chair Willis states that in all of her time on the Planning Board, she has never heard a Phased project.

Mr. Boghossian states that the economics of this project have changed. Mr. Boghossian states that this is a phased approach due to the rest of the proposed buildings being designed and built with the intention to be sold as condos. He tells the Board that he feels that the information that they have submitted what was requested by the board at the previous meeting.

Chair Willis asks what types of building materials will be used on the building, which is specifically identified as a requirement in the LUO. Mr. Boghossian states that they do not have concrete plans as to what will be used on the building, but they are working on it. Attorney Lane states that there is a letter in the application that discusses what will be used on the building. Chair Willis states that the operative word is 'discussed'. The Ordinance requires definition of materials.

Attorney Lane states that what they are asking for this evening is final subdivision approval for 56 units on this particular piece of property. They are also asking for Final Site Plan approval for 56 units, which will be done in 3 phases, which they have outlined. This phased approval will have 4 existing buildings and five new buildings that will be done in phases 2 and 3. Mr. Boghossian's attorney, Michael Lane, states that they need to have some sort of Planning Board approval of the overall project, before they can obtain final architectural drawings. There is not a financeable project, until there is a Board approval. They would like to move this project along.

Pam Mitchel states that there was a question from a member of the community that has seen the plans, and asked about the decks on the main building. These decks appear to be cantilevered on the side of the building. Will the decks change the footprint of the building? Mr. Boghossian answers that the decks will be placed on an inserted balcony, and will not change the footprint. He also adds that the only change to footprint, is when they pull up the asphalt parking lot for the addition of the 5 townhouses, and green area. The building's proposed appearance is hard to define from a drawing. Chair Willis states that she doesn't want to see conceptual drawings, she wants to know what it will look like on the outside.

Pam Mitchel asks about the stormwater management plan, stating that since this plan was developed, the site has changed significantly. Will this plan still work? Mr. Boghossian states that he has discussed this with the engineer and he feels that there will be less runoff, due to the amount of 'green' that has been added. The landscape plan from Mr. Coffin, has none of the internal features of the landscaping, and serves only as a buffering plan. Pam Michel has no other questions at this time.

**Chair Willis opens for public comment.** Robert 'Logan' Johnston lives on Lincoln Ave, a nearby property. Mr. Johnston states "if this application is approved, then we are setting up with other projects that will follow the same suit. If they develop this in phases, then it could end up not done-left to sit there, unfinished. The building will be left sitting there incomplete." The next topic that Logan brings up is that Mr. Boghossian keeps

bringing up the work of Louis Kahn, in the design of this building. More specifically, he keeps referring to the Salk building, which is very modern, and will look totally incompatible to the residential neighborhood that is Dresden Ave.

The next person to speak is Ian Burnes, who lives nearby on Cottage St. Mr. Burnes speaks from his experience of being a previous planning board member and being very concerned about the way this application is being conducted. There has been a lot of public input, where information has been presented, and the effort from the community to make this project better, into something the neighborhood would like to see, is huge. Yet, there continues to be rushed, inconsistent information, sent in for review at the last minute. It appears that there is no real conclusion as to what is being decided. He encourages the board to reject this proposal for the application as it sits today. Mr. Burnes suggests that Mr. Boghossian come back with a more consistent application.

Lisa St. Hilaire lives in the neighborhood, and states that she has attended several meetings, and there is still not enough information, too many inconsistencies, not enough details, much of which isn't labeled correctly. There is still no letter from the financial institution, which has been requested and is required. She is worried about potential blight, he is looking for approval of a concept without details. It seems that he is looking for approval of a concept without details. She encourages the Board to reject the proposal, and find that it's not complete.

Helen Stevens- lives on Dresden Ave, and tells the board she has been there since 1997. She tells the board that she supports everything that Logan Johnston, Ian Burnes, and Lisa St. Hilaire have said. She is interested in some proof of financial capacity. She is the one that researched Gehring Green, which is a project in Bethel that Mr. Boghossian started and is now sitting, untouched. He has not had contact with Bethel in over 10 years and the building is just sitting there. She is also concerned about the lead paint and asbestos that is in the building at 150 Dresden and how they will abate that. She goes on that the traffic study he had presented in an earlier meeting is incorrect as it was based on traffic when the property was used as a hospital. The last time this was a functioning hospital was in the late 60's. Chair Willis asked Kris McNeill about the abatement of materials, and he answered that this would be taken care of during the permitting process.

Cheryl Clark/Mike Gent, also live on Dresden Ave. She is disappointed that Mr. Boghossian did not present a financial statement, which the Board had directed, needed to be part of this application. All there is to go on is Mr. Boghossian's track record. He talks about his work at the Hathaway building, which he sold after the first phase. The project in Waterville, had financial backers and approvals. This project has none of that. She tells the board that they have already heard everything, in fact, they have heard too much. She will not say anything about his character, but she hopes that he takes his project and goes away.

Barbara Estabrook sent a statement- She states that this application refers to 56 units, not 51. He does not have enough acreage for density, because the flag lot is just that. She goes on to say that there is no consideration for the neighborhood and a large glass and steel building does not fit into the character of the neighborhood.

Chair Willis asked the Planning Board if they think they have a complete application. Justin Young would like to start with financial. Mr. Boghossian has submitted a financial reference, not a statement of financial capacity. 14.6.7 references that the applicant should supply financial capacity. Mr. Boghossian would like to correct some of the things that he has heard that he feels are not correct. He states that the property in Bethel is not just sitting. Work is being planned for the roof and the façade this summer. He also tells the board that he did submit a bank statement, but he needs approval for the project before seeking more funding options. As far as abatement of hazardous material, it would be taken care of appropriately at the beginning of construction.

The Board will start for completeness-

14.5.8.4.4.3.3 We have a fully executed and signed Copy of the application. The fee has been paid.

The original erosion and sedimentation plan was on the back of the stormwater plan. This is set up in an area where things will be disturbed when they tear up the parking lot. The parking lot will be taken up in phase 3 and work that will be done there could require a new erosion control plan.

Open Space- There needs to be a clear definition of what open space will look like at this site. There is not.

There should be a list of construction estimates. There is not.

Attorney Pottle tells the board that they need to be satisfied in regards to proof of financial capacity. This is a phased project and the Board needs to decide if there is enough to determine financial capacity. It is important that the commitment of funds needs to be enough to cover the whole project.

Chair Willis asks the board if they want to make a motion on the completeness of the subdivision application. Pam Mitchel makes a motion that the subdivision application is complete. Justin Young seconds the motion. The Board went into discussion- Zachary Hanley states that the phases are not complete, how can it be complete application. There are no concrete numbers to use for this project. He has been on the board a long time, and there is no consistency here. It's hard to be objective, without facts. He feels like he is being asked to conceptualize a conception and move forward with something procedurally. Shawn Dolley states that he sees this project as an adaptive reuse project that is relying on the property that comes along with it, to make it financially viable. There is also the fact that this project does not fit with the neighborhood with the proposed modern design, and added density. The 2 qualities of this neighborhood is that it's quiet and historic. The proposed project is not historic in appearance, and the increase in density does not suggest quiet. The board has to review the project as it is, and follow the LUO.

Pam Mitchel feels that the application needs to have a statement of financial capacity, and addition of the open space deed restriction to make this subdivision plan complete. Justin Young agrees that it is not complete without the financial information. Chair Willis states she feels the same way. This is a \$7,000,000 project and we have a character reference. There is nothing showing capacity or commitment.

There is a bank statement from Hathaway Holdings LLC, and Mr. Boghossian is acting as the agent for Hathaway. The applicant for this subdivision plan is Hathaway holdings LLC. Attorney Pottle asks what Mr. Boghossian's role is. Mr. Boghossian states that Hathaway Holdings LLC is run just by him. The statement refers to the amount that is in the Hathaway Holdings account. The board would like to see a letter from a bank stating that the applicant has the capacity to secure the loan to complete this project.

After discussion, Chair Willis calls a vote on the completeness of this application. Pam Mitchel's motion was that the final subdivision application was complete. Roll call vote- Shawn Dolley- yes, Zachary Hanley- no, Pam Mitchel-no, Justin Young- no, Chair Willis- no. 4-1 against the completeness of the application.

The Board has explained to the applicant that they need additional information. In full disclosure to the applicant, there was a letter delivered to the city late this afternoon. Chair Willis asks Mr. Boghossian if he has a federal tax lien on his property in Carrabassett Valley. Mr. Boghossian states that he does not own any property in Carrabassett Valley. Chair Willis asks if he is known as Paul O Boghossian III. Mr. Boghossian states yes, and that he did own property in Carrabassett Valley about 5years ago, but does not now. Chair Willis asks if he owes \$669,880.26 in federal taxes for the year 2017. Mr. Boghossian states yes, he does and that will be paid in the next 2 weeks. That was a tax bill that came in unexpectedly because of a gain on a non-cash transaction. He explained that he does not own any property in Carrabassett valley. He states that by the time the Board meets again, this lien will be paid and will be resolved. He states that the amount is incorrect, but it will be paid. Chair Willis states that this is an important part of financial capacity.

Chair Willis closed the public hearing.

Chair Willis tells the applicant that this building is in high density residential- HDR, This is the only district in the City of Gardiner that has design standards in the district. There are rules about building design that do not appear anywhere else in the city. He should be mindful to fit into the neighborhood and a glass and steel building does not fit into that neighborhood. Chair Willis explains to Mr. Boghossian, about the rules of HDR, the board needs to know what the building will look like, what types of materials will be used on the buildings, and what each phase will consist of.

Pam Mitchel would like to talk about open space and parking. Open space will need to be committed for this project and discussed if this moves forward. In regards to parking, according to LUO- 8.11.5.1 Landscaped areas within parking areas containing more than 50 spaces, except for parking garages, are required to provide visual and climatic relief from broad expanses of pavement and reduce surface runoff, and separate areas for pedestrian and vehicular circulation. There needs to be trees and shrubbery in the middle of the parking spots, and the plan that was presented has none.

Mark Eyerman states if the board has decided the application is incomplete, discussion should cease. If there are other concerns, it might be helpful to identify those areas now, in order to help the process proceed at the next meeting.

There is a lot of concern about Open space design and the Density bonus. 10.16.3.9 Except in the Downtown Area as defined and the Cobbossee Corridor District, a minimum open space area of 1,000 square feet per dwelling unit consisting of a yard, garden or playground area shall be provided. This application does not state how much open space there will be. Attorney Pottle states that the LUO suggests a certain methodology in how to set up open space. From the subdivision completeness standpoint, there needs to be a designation/or identification of where the open space design will be. There should be an identification of who will be responsible for the upkeep/maintenance of the open space areas, and bylaws included if the Board requests them. Mark Eyerman feels that the open space area needs to be identified on the subdivision plan- this is a requirement of the ordinance. There should be restrictions on the open space. It should be documented that the area where the open space is cannot be developed and identify how it will be maintained. . There needs to be a mechanism on how that open space will be protected. This will all need to be revisited once phase 2 and 3 happen as those areas are intended to be condos.

Exterior lighting- the revised application shows that there will be changes to lighting. If there are changes, Mr. Boghossian should look at the LUO requirements and make sure that his lighting plan fits into the requirements of the ordinance.

Mark Eyerman tells the Board that there are concerns about the stormwater management plan. Jim Coffin should review this for changes that need to be made to make sure that runoff goes to the appropriate places. Mark also feels that water and sewer needs to be looked at as there is no reference on the plan as to how these utilities will be supplied to the duplexes that will come in phase 2 and 3. The topography of the site will make sewer challenging. These areas do not need to be shown on an engineered plan, but do need to be explained on the subdivision plan.

These are all areas that PB will need to revisit for the final Subdivision when this application returns.

Attorney Lane has a few questions/points that he would like to discuss.

1. What is the Checklist that has been referenced? Chair Willis explains that she is using the ordinance.

2. The Applicant wants the completeness determination on the Site Plan as this is still pending. In order to move the application forward, they need to know what else they need for the Site Plan. Chair Willis checks with Mark Eyerman and Board members, about any known issues in regards to the Site Plan. Can the Board offer up their opinions of the completeness of the Site Plan? The general consensus with the Board is that there are issues over the design of the buildings, and that this information is necessary to comply with the ordinance. The Site Plan extensively reviews the detailed design of the buildings. How can they accept a Site plan, with an unapproved Subdivision Plan? There also needs to be an erosion and sedimentation control plan and the stormwater management plan should be updated. There will need to be provisions for water supply and waste water supply.

Kris McNeill- CEO, feels that Mr. Boghossian is not at the Site Plan approval stage yet. The Board needs construction details, and building drawings, to make this determination. Giving a site plan approval with no phased development details is not even possible. The Board cannot approve, or even review a Site plan, without phase 1 building details. Mr. Boghossian needs to have at minimum the details for Phase one drawn out with detailed information.

Attorney Lane wants to know how much financial capacity will be needed to show at the Subdivision stage. Would they just be providing financial information for Phase 1, or for the whole project? Attorney Pottle suggests a letter of interest from a financier, addressing commitment to the financing of the phases.

3. Have any board members communicated with any community members, outside of this meeting? There has been written testimony, which has been submitted to the City, which is on the City's website, has been shared with Planning Board members or anyone that is interested. The info on the website is up to date.

4. Attorney Lane asks about the federal lien, where did it come from? Chair Willis explains it was sent to her from the acting City manager. Attorney Lane asks if this will be made part of the record. Chair Willis explains that she received this information immediately prior to the meeting. Attorney Pottle states that it should be supplied to the applicant. Attorney Lane points out that the lien is against Paul Boghossian, not the applicant, Hathaway Holdings LLC. Chair Willis points out that she is aware of this, but Mr. Boghossian has stated that he is the sole member of Hathaway Holdings LLC.

5. Phased approach- There is nothing in the LUO stating that it cannot be approved. Chair Willis continues to express great concern about phased development. Chair Willis explains to Attorney Lane that the board just wants to know what the project will look like and this has not been supplied.

6. Mr. Lane wants to have a meeting with Kris McNeill- CEO, Mark Eyerman- City Planner, and Mr. Boghossian, prior to the next meeting with the purpose of going over the application for content.

7. In regards to building 6, the main hospital building. There isn't much that could be done with this building, Mr. Boghossian cannot turn it into a building with colonial-Victorian character. There is only so much lipstick they can put on it, to make it look better. This building that is concrete, glass and steel has been part of this existing neighborhood for years. . Shawn Dolley says that if the applicant listened to the cues of the neighborhood, they might be able to please them more, and have a warmer reception, than just stating what it is, ugly glass and steel. Mark Eyerman states that overall. The Board and the neighbors want to know how the building will look from the streetscape. That is all. Attorney Lane has no more questions.

**6. Other Business-** The Board gave direction for timelines for application submissions for Gardiner Green to come back. If Mr. Boghossian wants to come back for the next meeting on June 8<sup>th</sup>, he will need info submitted to the Planning and Development dept. by May 24<sup>th</sup>. If he would prefer to be on the July 13th meeting agenda, he would need to have a complete application, including a new purchase and sale agreement, by June 28<sup>th</sup> to the City of Gardiner. Anything that is updated, should all come in at once, to ensure consistency.

**7. Next meeting:** There will be a second Planning Board meeting in May. The meeting will be held on 5/25 at 6pm. Applications that will be heard are the 134 Spring Final Subdivision, and Iron mine will be returning as a continuance of their Final Subdivision.

**8. Adjourn** – Chair Willis asks for a motion to adjourn at 10:10 pm. Pam Mitchel made a motion to adjourn. Lisa St. Hilaire seconded. Roll call vote- Pam Mitchel- yes, Shawn Dolley-yes, Justin Young-yes, Zachary Hanley-yes, Lisa St. Hilaire-yes, Debby Willis-yes

DRAFT