

PORTLAND PLANNING AND ZONING COMMISSION
REGULAR MEETING
Thursday, June 6, 2024 at 7:00 PM
Buck Foreman Room (2nd Floor)
265 Main Street, Portland, CT.

Regular Meeting Minutes

1. Call Meeting to Order

Robert Ellsworth called the meeting to order at 7:00 p.m.

2. Introduction of Members and Seating of Alternates

Present: Bob Ellsworth, Robert Taylor, Victoria Tchetchet, Carolyn Freeman, Chantal Foster, Tom Bransfield, Joe Spada.

Absent: Jennifer Tellone

Joe Spada is seated for Jennifer Tellone.

Staff: Dan Bourret, Town Planner
Kari Olson, Town Attorney (Virtual)
Dawn Guite, Recording Secretary

3. Accept Agenda

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to ACCEPT the agenda as PRESENTED.
VOTE UNANIMOUS. MOTION CARRIED.

4. Meeting Procedures

Chairman Ellsworth said that public comments are limited to five minutes with permission to circle back after all who have requested have spoken.

PUBLIC HEARING

5. PZC Application #23-12: 220: Isinglass Hill Road. Request for Special Permit for construction of an 8 -bedroom residential care home. Application of Oroville Place, LLC and property of Sean McGrail Revocable Trust. Map 129, Lot 9. Zone RR.

Victoria Tchetchet recused herself from this application. Tom Bransfield is seated.

MOTION: Bob Ellsworth MOVED, seconded by Chantel to CONTINUE the Public Hearing.
VOTE UNANIMOUS. MOTION CARRIED.

RECORDED VOTE

DATE: June 6, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

To **Continue** Application #23-12: 220 Isinglass Hill Road. Request for Special Permit for construction of an 8-bedroom residential care home. Application of Oroville Place, LLC and property of Sean McGrail Revocable Trust. Map 129, Lot 9. Zone RR.

Made by: Bob Ellsworth

Seconded by: Chantal Foster

IN FAVOR

IN OPPOSITION

Tom Bransfield
Bob Ellsworth
Chantal Foster
Rob Taylor
Joe Spada

IN ABSTENTION

Recorded By: Dawn Guite

6. PZC Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% were 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb

The Public Comment section is completed.

Chairman Ellsworth said because this is composed of several different items, there are three. I suggest that we address them one at a time. The first is to approve the application in its entirety, second is to deny the application in its entirety, and third to approve one or more of the three components of the application. We can take them in order.

Chair Ellsworth read the first item - Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% were 55% is currently allowed. It is proposing a reduction in the ratio of two-bedroom apartments to one bedroom and studios in a MUD.

Deliberation

Chantal Foster said my first issue was that we didn’t know where the 55% came from so that still bothers me because I like to know where things came from if we’re going to change them.

Dan Bourret said he didn’t find a reason but that we came to the conclusion that it was original to the existing MUD regulation. That’s how it was set up initially.

Chantal Foster said that I really think that reducing the two-bedroom number down to 30% potentially limits a development from being what people may want. I think that studio and one-bedroom apartments are great but if you’re talking about two people living in them I think a higher percentage of people would like to have an extra room. I think that changing a regulation that exists is restricting and could make it unnecessarily unattractive.

Rob Taylor said that he agrees with Chantal. I don’t think we need a requirement that they have 55%. It’s just a maximum. If somebody wanted to do the 70/30 as you were originally suggesting that they’re more than we come to. I think it should be an option for the developer to choose rather than us forcing it on the developer.

Chairman Ellsworth said should we in our regulations have a percentage at all or should it be up to either the developer or up to the special permit process for the commission to decide what an appropriate percentage is for the given site. Is it appropriate to have a percentage regardless of what it is in our regulations?

Victoria Tchetchet said I think in our Regs. that are already in place it is 30% not in a MUD but in other developments. For consistency sake I think that I like to see that. If it’s 30% here I’d like to see 30% there.

Dan Bourret said the current proposal is 30% but that was because the tax abatement specified that.

Victoria Tchetchet said that the 30% came from the Board of Selectmen. To Dan Bourret: Do you know why they said 30%?

Dan Bourret said that my understanding is that it’s to limit families and that’s why I think they don’t have three bedrooms as allowable to limit families and then increase in the school population. Based on Kari’s comments last time she had indicated that you could add up to a certain percentage so that would give you some flexibility.

As of right now the way it's written I think the developer would propose that. I'm not sure you could even in a special permit process push back on the mix of units. You would need something in the regulations to point to. Like Kari indicated last time you could add up to a percentage and then you could have some flexibility I believe there.

Victoria Tchetchet said that's where that 30% comes from. That's still interesting to me that the Board of Selectmen chose that 30% number and the reason being they wanted to limit units in the MUD. I have some pros and cons that I want to throw out to you guys. There was no opposition to the developer. He didn't feel that this mix hindered him now he's already proved. He didn't see that as a problem in the Regs. and I found that interesting. I think that limiting the strain on Public Utilities is also a consideration. When I was looking at the numbers from the Public Works Department and the difference between adding a bedroom and not adding a bedroom; we're talking about a small number of apartments. I'm trying to look at it as a bigger picture as if we're going to have more of these because we did decide it applies to any MUD. Looking ahead it does encourage less children. I think that a two-bedroom apartment does encourage families to move in and I wonder about how appropriate that is in a MUD where you're talking about commercial space and the impact on the schools is a good one. I find it interesting that the Board of Selectmen also pointed that out. I think that the 30% to 55% does conform with a number of things listed in the POCD. Particularly number 1, 2, 3, 6, and 12. I think that there is consistency within the POCD to approve this 30% from 55. The things that weren't mentioned for the pros were some desire for a higher density housing. I don't agree with that in the location that we have a MUD right now. Your point Chantal about having more options for people to have roommates is valid. When I weight the pros and cons I have to disagree with you guys in terms of the pros outweighing the cons.

Rob Taylor said to Victoria I do want to point out that the stuff that was discussed during the Board of Selectmen meeting aren't really part of the record here. They weren't things that we discussed or considered. They weren't brought into here during the public hearing.

Victoria Tchetchet said that when Ben Srb was speaking mentioned the consistency of the 30% throughout the town and where it was used in other places. It may not be in the record in terms of the Board of Selectmen meeting but Ben put it on the record when he was speaking because I wrote it down. Those are things to think about and throw out there.

Chantal Foster asked Dan Bourret if what she is going to say is allowed. She recalled a comment made at the high school for the discussion of the other text amendment. Can I talk about that or not?

Dan Bourret said that you can make your own comment if that is a comment that you would like to make. I wouldn't bring in something from outside of the record. If this is a comment or feeling that you have, you can make a comment.

Chantal Foster said I heard it. I think this is something to think about which feeds onto this whole thing. Let's say I decide to move into a two-bedroom apartment downtown because I'm tired of taking care of my four-bedroom house. I would not move into a one-bedroom apartment. For the record I would move into a two-bedroom apartment when that happens. I think the idea of focusing on how many children are going to be living in that apartment is kind of a mood point because the kids are going to be going to the places that are being opened up by the people that are moving out of them.

Victoria Tchetchet said I think that's very true and I have it as a point somewhere. I think that's true but I think people will also bring their families to a two-bedroom apartment because it's a lot less expensive to be in a two-bedroom apartment with kids than a house. You can't buy a house you get an apartment and you can put two kids in a two-bedroom apartment. Have four people living there very easily. Kids share bedrooms all the time.

Chantal Foster said that I think that having any apartment is going to create more kids in town.

Victoria Tchetchet said I agree with that 100%. Anybody that leaves a home when neighborhoods turn over children move in. There's no question about that. We talked about that when talking about going from 240 to 350. I think this is another facet of that and it concerns me.

Chantal Foster said we miss out on the people who really are trying to share expenses. Roommates is limiting people who want a roommate that aren't cohabitating. Let's say we're at 240 so 55% it's 60 bedrooms. 60 bedrooms that's in the existing development.

Dan Bourret said it's 132 units that could potentially be two bedrooms at 55% or 72 at 30%. You could do up to 55% and then potentially give yourself some leeway. He asked Attorney Olson for confirmation.

Attorney Olson said that is correct.

Dan Bourret said you do have an option. I suppose you could call that a compromise because if you put up to it would give you some legislative leeway as to how many two bedrooms could be there.

Victoria Tchetchet said I might be the only one that feels the way that I feel.

Dan Bourret said I'm just giving options.

Rob Taylor said we would be replacing the words with a maximum with up to a maximum.

Dan Bourret said I believe so, yes.

Rob Taylor said I'd be fine with up to a maximum of 55%.

Victoria Tchetchet said what's the difference.

Dan Bourret said it would give you some leeway in the regulations as to how many two bedrooms could be there. Right now it's the option of up to 55%. It gives you options to decide. If you feel this development shouldn't have 55% two bedrooms you may be able to restrict it to a lower number of two bedrooms to say 40. If you feel it's a great spot for two bedroom apartments and seems like there's lot of land and it's not right downtown. You may have a different option. I'm just trying to give you guys options. I'm not trying to make it more difficult.

Chairman Ellsworth said let's keep in mind that this is an amendment change, a proposed wording change, which will be in effect for a long time. Environmental things can change which might drive the need for one bedroom versus two bedroom.

Rob Taylor said the sewage concerns brought up, I don't imagine that's a permanent problem. I think that is to say within this decade but I can't imagine it would last that long. I hope not. They can fix it. It's one of those things where there should be plans to fix it. I can't imagine it's going to be a permanent problem. I'm fine with changing the word with to up to and leaving it at 55%.

Chairman Ellsworth said clerically, if we were to decide to go that route, change the wording of the proposal that would be a denial of this application and the resubmission. We have the power to modify?

Victoria Tchetchet said because it's less, it's not more strict, it's less strict.

Dan Bourret said "no" it's not technically so. I want to make sure Kari is okay with that.

Attorney Olson said I want to be clear when you go to the up to 55% obviously you're going to have to tie whatever number you pick between 1 and 55 to your special permit criteria. You have to tie it to the criteria to justify whatever number you come up with. The text amendment, it's been brought up that they want to reduce it to 30%. So changing the word to up to 55% is less restrictive. I think it would be okay for you to make that adjustment.

Dan Bourret asked Chantal Foster if she had a question about what Attorney Olson said.

Chantal Foster said I didn't understand the first part of it.

Dan Bourret said that if you think it should be only 40% two bedrooms you'd have your special permit criteria and the POCD and you have to say it should probably be only 40% because of traffic. The extra two bedroom apartments are going to generate more traffic. Whatever the number of special permit criteria in section 10.4, those are what you decide upon. You would want to tie that number to one of those or multiple of those to show your reasoning.

Rob Taylor said we can't be arbitrary about that application if we want to reduce that number for an applicant. We need to have some reason that's logical and justified to actually change it.

Victoria Tchetchet said and we have those.

Attorney Olson said that's exactly right.

Chantal Foster said that would be the 1, 2, 3, 6, and 12.

Dan Bourret said or any combination that you can logically justify. If the developer came with 55 and you thought that was too many and you wanted 40 then you'd say I think it should be 40 because of 1, 2, 3, 6, and 12 if that was the reasoning for that application at the time.

Attorney Olson said I would suggest that somebody make a motion.

Rob Taylor made a motion to replace the language with a maximum of 55% to be up to a maximum of 55%.

Chairman Ellsworth seconded the motion and asked for a vote.

Vote:

Victoria Tchetchat – "I"

Chantal Foster – "I"

Rob Taylor – "I"

Joe Spada – "I"

Bob Ellsworth – "I"

Motion passed.

Chairman Ellsworth said we will move on to the second component of this application and that is to add a maximum number of 16 residential units per historic building restored.

Attorney Olson said her recollection meant changing it from historic building restored to historic resource preserved but I defer that to Dan.

Dan Bourret said that's my understanding as well and it was preserved in the VCI report. It's always been preserved and restored and restored and preserved mean two very different things.

Victoria Tchetchet said it's resource not building. Do we have to have a motion to change the wording again.

Dan Bourret said I think that would make sense, yes.

Chairman Ellsworth said I do too. He asked Rob Taylor to make a motion to make this wording adjustment.

Rob Taylor said I'll make a motion to adjust the language of the proposed text amendment from historic building restored to historic resource preserved. Victoria Tchetchet seconded the motion.

Vote:

Victoria Tchetchet – "I"

Chantal Foster – "I"

Rob Taylor – "I"

Joe Spada – "I"

Bob Ellsworth – "I"

Chairman Ellsworth said based on the adjusted wording...

Rob Taylor said I'm not in favor of this. I think it makes it far more complicated than it needs to be. I think there's a lot room for ambiguity of how it can be used and probably incorrectly or inappropriately. I don't like the idea of being able to move something to a property like a railway tie to a different property and call it preserved and be able to manipulate things.

Victoria Tchetchet said can you just manipulate things or it has to be an approved resource? You can't just move a railroad tie and call it a resource. You have to have it approved as a resource.

Chairman Ellsworth said I think it would have to be on a historic list.

Rob Taylor said there was a mention of talks of the list getting expanded and I think I've heard the word significantly. I don't know what's on the list now. In a year that list could be very long.

Victoria Tchetchet said that's a good thing, right?

Rob Taylor said I think that this proposed amendment just kind of makes the whole section just more difficult and unnecessarily complicated. There's better ways of encouraging preserving historic resources than through this text amendment.

Victoria Tchetchet said "how"?

Rob Taylor said I have no idea. I just don't think this text amendment is it.

Victoria Tchetchet asked who generates this list?

Dan Bourret said you do.

Chairman Ellsworth said as part of the POCD.

Victoria Tchetchet said if we're going to generate the list we're not going to approve some random shack. I'm not.

Rob Taylor said boards and commissions change all the time so maybe this commission won't but who knows in five years a different group of people could be sitting here and they might be a little more zealous than we are about preserving historic resources or just adding things to a list that may not necessarily need to be on it. There's a lot of ambiguity in historic resources in that term. It seems like that adding this makes the whole thing more complicated. That's really more my point is that it makes it more complicated when it doesn't need to be. Leaving it as it is - is fine. If you recall how much effort it took Dan and Kari to wrap their heads around it and figure out exactly what it meant. What about an applicant who is trying to figure it out. Do they need to hire an attorney to read a section of it and interpret it properly?

Victoria Tchetchet said maybe we need to make it a little more clear. I do think it does encourage greater historic preservation and I think that's a good thing and it does conform with 1, 2, 3, 4, 6, 7 in the current POCD. I think it would have to have a better reason than it's confusing or that may create ambiguity to vote it down. It does meet so many of the requirements listed in the POCD.

Chairman Ellsworth asked to interject. I want to challenge on something here. This statement the way it's worded I have two issues with. One is that it's way too vague, the historic resource is way too vague. I think it's great to give incentive for restoring historic resources but the bonus that you're giving the developer for preserving a historic resource has got to be related to the value of the historic resource. It's all relative. To me this statement to add a maximum number of 16 residential units is severely reducing the incentive from what it is today. In today's regulations if you preserve a historic resource you get a number of additional residential units per 5,000 s.f. of commercial space. This is saying you get a maximum number of 16 units per resource restored.

Victoria Tchetchet said that's in addition to ones you get.

Rob Taylor said Dan gave us a memo on that. One of the examples was number of historic resources preserved. He gave us three: commercial square footage proposed 100,000, total max units under current regs. would be 240. With this change it would be 108 so you'd be cutting out, contradicting that other number that's already in there. That's not going to help a developer who wants to come in if they have to restore several houses to get anywhere close to some of these larger numbers. Restoring old houses is not cheap especially if you have to do it historically, accurately, satisfy the historical society. It's a really expensive process. You could kill a project just with that.

Victoria Tchetchet said this isn't saying that you have to restore them it's giving you a benefit if you do. It wouldn't kill a project because you could decide not to choose this benefit.

Rob Taylor said they wouldn't be able to build as many residential units which in the current market brings in a lot more money right now. Everyday we're seeing how much in demand residential units are needed and wanted across the state.

Chairman Ellsworth said I understand in Dan's memo the example we just talked about three resources preserved 100,000 s.f. of commercial current regulations we would allow 240 it maxes out. Under this proposed change we would allow 108 additional.

Dan Bourret said "no" you would only get 108 apartments. You would build 100,000 s.f. of commercial, restore/preserve three historic homes. You would cap out at the 240 maximum. Based on the change you would get 108. Even if you built 200,000 s.f. of commercial and preserve three historic homes, you're still not capping at 108. You would add for 100,000 s.f. an additional 60 units. You do 200,000 s.f. of commercial, preserve three historic homes you get 168 apartments.

Chantal Foster said it significantly limits the number of apartments.

Dan Bourret said I pine on that at the end of the memo. Just for clarification the two following text amendments would drastically alter any compromise that you potentially do as well because you would make your existing

approval not conforming. The existing approval that you have would be non-conforming because you could have too many units on site based on the number of historic homes being preserved as well as the amount of commercial space. It applies to all potential sites going forward.

Rob Taylor said if the existing site plan for like Brainerd Place they came back with a modification. The new changes would apply to that modification.

Dan Bourret said “correct”.

Chairman Ellsworth said my other issue with this is the whole wording, the vagueness. Giving an incentive to a historic resource when it could be a Brainerd House, a railroad bed. You would want to give a developer very different incentives. A developer who’s proposing to preserve a Brainerd House versus a railroad bed. I’m not sure we can address that vagueness as part of this application but it’s something we should look at as perhaps one of our own text amendments at some point in the future.

Rob Taylor said I think we can address it when we go through the POCD. We can try to narrow down or expand and address the things that we want to see or try to bring in someone who wants to help preserve some of these things that are important for Portland’s historical history. I think right now we should leave the text as it is and discuss historical down the road in line with how we want to see the POCD.

Victoria Tchetchet asked if the POCD addresses affordable housing requirements and developments.

Dan Bourret said I believe so. In line with Rob’s comments you could separate out resources in that list too. You could identify significant resources or regular resources. Only significant would enjoy the increased density provided by preservation. That may address some of the issues.

Victoria Tchetchet said and we can make it much more attractive for a major resource.

Dan Bourret said certainly with whatever input you get from the townspeople and your own judgement you can craft that as you see fit.

Chairman Ellsworth asked if there is any more discussion on this component of the application. Hearing none we will move on to the third and last portion of this application and it reads to remove text from section 9.175m.2 quote “for good cause shown and following a public hearing the developer may secure relief from this requirement as a modification to the approved plan provided that the commission is satisfied that the conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” To try to summarize this is proposing to remove that the commission can grant to a developer based on circumstances beyond his or her control.

Rob Taylor said I understand the reason for, at least the applicant’s reason for this mostly because the ambiguity behind the phrase good cause shown is a very ambiguous thing that could pretty much cause a lot of problems. On the other hand I think it’s a good policy question of do we want to get rid of it because of ambiguity or do we want to be flexible with potential developers and be able to let them know if there’s an issue that’s beyond their control; we’re willing to negotiate, listen to their concerns, and try to find a solution to whatever issue they’re running into. When it comes to some of these bigger projects there’s a lot of money getting tossed around. Things come up. Things change. I usually lean more in favor of being flexible at the sacrifice of having to deal with a little ambiguity at least in this circumstance.

Attorney Olson said Mr. Chairman for what it’s worth mentioning there are many statutory provisions that lawyers have to use where the standard of review for the court is good cause and it would be impossible to come up with every possible scenario that constitutes good cause. You’re going to be over inclusive or under inclusive. It’s important to point out that it’s not just good cause it’s good cause that circumstances beyond the

applicant's control so there is a standard. It's not just that they didn't feel like doing it when they were supposed to, they have to provide a basis for explaining why they're behind schedule and you have to determine whether that's good cause. Good cause is broad for a good reason generally. But your regulations are also limited to good cause tied to circumstances beyond the developer's control and they're going to have to establish that for you.

Chairman Ellsworth said my understanding is that if we were to adopt this proposed amendment we would be removing the flexibility that the commission has to work with developers and modify schedules.

Rob Taylor said it would at least pull it from our hands on the zoning commission but it would probably put it more onto the zoning board of appeals for a variance application at that point which they then would be dealing with a hardship standard.

Dan Bourret said I don't see any reason why an applicant would have a hardship with the land in order to get more so I wouldn't recommend sending them to ZBA. I don't think it would approve something. It's supposed to be a hardship with the land, topography, lot shape, not something wrong with the commercial environment or the economic environment of the situation.

Chantal Foster said if a project couldn't proceed as it was scheduled to proceed it would be an enforcement issue ultimately.

Dan Bourret said potentially, I don't know. Or the project may stop. I've never developed anything. I've looked at developments a lot but I've never been in the trenches on that kind of thing. I would echo Kari. If they wanted to avail themselves of the current regulation they would have to provide good cause shown outside of their control. They couldn't just say I want less commercial or I want more commercial. If they want to shift things around, if they wanted to move more commercial up you would need this regulation just as if you wanted to move commercial down. It goes both ways. If you removed it - it would take away your ability to compromise or change or adapt an approval to some new unforeseen reality. We've all had that happen in the last five years.

Chantal Foster said that Dan Bertram spoke to this when he was here for the text amendment. He viewed this as something that was more or less necessary for a developer to want to do business in a town, for the town to demonstrate some flexibility. I believe he said that without something like this he wouldn't even consider working in a town. That's my recollection.

Chairman Ellsworth said that's my recollection as well.

Victoria Tchetchet said she looked at other towns that he's worked in and other town regulations and I don't see anything remotely like this in those regulations.

Dan Bourret said we have to be careful because if it wasn't presented during the public hearing process, we can't really bring in outside study information.

Victoria Tchetchet said I think I said it though during the open public hearing. I think I did actually.

Attorney Olson said to Victoria Tchetchet that the wise thing to do if you looked at other things is get them into the record.

Victoria Tchetchet said I didn't do that but I have mentioned this in the past on the public record. In the future I'll be careful to do that Kari.

Chairman Ellsworth asked for other questions or comments regarding the third component.

Victoria Tchetchet said that my pros are that we would eliminate the subjective nature of making decisions and it does allow the board to be objective. Another point that was made is that the board is not able to be an expert in all areas needed to make these decisions. When we're asked to give leniency we have to rely on what the builder is asking for and we don't really get a full picture and we're not experts on these things. We don't really know. It also opens the door to an incomplete project. We already put ourselves in the position where that may be the case and the developer has threatened. The cons are as stated the developer said he wouldn't start the project without the clause; felt that banks and investors needed it. He mentioned that it allows the project to have momentum if something comes up that he can keep working. If he does need a change it reduces the cost to him of making those changes because he has to come before us. Those were the standout things to me in listening to all the back and forth.

Chairman Ellsworth asked if anyone else had comments. Hearing nothing further we will now move on and vote on each of the three.

Dan Bourret said I wanted to clarify with Kari because I still do think it's less restrictive. The original change for the first one Kari was to reduce the maximum number of two bedrooms from 55 to 30 by adding up to 55. It's less restrictive than bringing it down solely to 30 – correct – and we can proceed with that.

Attorney Olson said it's less restrictive than what was there. It's not less restrictive than what was proposed because what was proposed was only 30. It's not like you noticed a text amendment for 30 instead of 55 and then you went ahead and changed it to 75. The presumption is that if anybody's interested and concerned they're going to show up and they're going to hear and again the difference between 55% and up to 55% is really not that. It's giving you all discretion to work with the developer consistent with what you need that's in the best interest of the town based on the criteria and your POCD.

Chairman Ellsworth asked for motion to be read.

Victoria Tchetchet read the motion. To approve application 23-15. Motion to approve proposed text amendment modification to section 9.17.1 to change to the number of 2 bedrooms up to a maximum of 55%. Reason: This application meets section 10.3 of the zoning regulation and conforms to the town's POCD. Seconded by Rob Taylor.

Vote:

Victoria Tchetchet – “I”

Chantal Foster – “I”

Rob Taylor – “I”

Joe Spada – “I”

Bob Ellsworth – “I”

Motion passes.

RECORDED VOTE

DATE: June 6, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

TO APPROVE Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% were 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb. With changes and/or clarifications to the proposed text amendment as follows:

Motion to approve proposed text amendment modification to section 9.17.1 to change to the number of 2 bedrooms to up to a maximum of 55%.

Reason: This application meets section 10.3 of the zoning regulation and conforms to the town’s POCD

Effective Date: _____

Made by: Victoria Tchetchet

Seconded by: Rob Taylor

IN FAVOR

IN OPPOSITION

Victoria Tchetchet
Chantal Foster
Rob Taylor
Joe Spada
Bob Ellsworth

IN ABSTENTION

Recorded By: Dawn Guite

Chairman Ellsworth said now we'll move on to voting for the second component of application.

Victoria Tchetchet said to approve application 23-15. Motion to text amendment to section 9.17.1 to add a maximum number of 16 residential units per historic resource preserved. Rob Taylor seconded the motion.

Vote:

Victoria Tchetchet – “No”

Chantal Foster – “No”

Rob Taylor – “No”

Joe Spada – “No”

Bob Ellsworth – “No”

Motion fails.

RECORDED VOTE

DATE: June 6, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

TO APPROVE Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% were 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb. With changes and/or clarifications to the proposed text amendment as follows:

Motion to approve proposed text amendment to section 19.17.1 to add a maximum number of 16 residential units per historic building restored.

Reason: This application meets section 10.3 of the zoning regulation and conforms to the town’s POCD

Effective Date: _____

Made by: Victoria Tchetchet

Seconded by: Rob Taylor

IN FAVOR

IN OPPOSITION

Victoria Tchetchet _____
Chantal Foster _____
Rob Taylor _____
Joe Spada _____
Bob Ellsworth _____

IN ABSTENTION

Recorded By: Dawn Guite

Victoria Tchetchet said to approve application 23-15. To approve proposed text amendment 9.17.5.M.2 to remove for good cause shown and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.

Reason: This application meets section 10.3 of the zoning regulation and conforms to the town's POCD

Vote:

Victoria Tchetchet – “Yes”

Chantal Foster – “No”

Rob Taylor – “No”

Joe Spada – “No”

Bob Ellsworth – “No”

Motion fails.

RECORDED VOTE

DATE: June 6, 2024

COMMISSION: PLANNING & ZONING COMMISSION

MOTION

TO APPROVE Application #23-15: Proposed Amendment to the Portland Zoning Regulations. Change to section 9.17.1 to change to the maximum number of 2 bedrooms to 30% were 55% is currently allowed. To add a maximum number of 16 residential units per historic building restored. To remove text from section 9.17.5.M.2 “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.” Application of Ben Srb. With changes and/or clarifications to the proposed text amendment as follows:

Motion to approve proposed text amendment to section 19.17.5.M.2 to remove “For good cause shown, and following a public hearing, the developer may secure relief from this requirement as a modification to the approved plan provided that the Commission is satisfied that conditions beyond the control of the developer will prevent the execution of the schedule of development as approved.”.

Reason: This application meets section 10.3 of the zoning regulation and conforms to the town’s POCD

Effective Date:

Made by: Victoria Tchetchet

Seconded by: Rob Taylor

IN FAVOR

Victoria Tchetchet

IN OPPOSITION

Chantal Foster

Rob Taylor

Joe Spada

Bob Ellsworth

IN ABSTENTION

Recorded By: Dawn Guite

Victoria Tchetchet said motion to set the effective date of the approved motions to the text amendment application 23-15 to July 1, 2024. Rob Taylor seconded the motion. (Voice Vote)

Vote:

Victoria Tchetchet – “I”
 Chantal Foster – “I”
 Rob Taylor – “I”
 Joe Spada – “I”
 Bob Ellsworth – “I”

Motion passes.

Regular Meeting

8. Receive Application:

- PZC Application #23-18: Proposed Amendment to the Portland Zoning Regulations. Add to use table in section 5.1 “Offices: Sale, Service & Delivery of Heating Fuel Products” to B1 zone as a special permit. Application of TCBS Properties LLC. *Public Hearing will be set for June 20th.*
- PZC Application #23-19: 1359 & 1401 Main Street. Request for a Special Permit for special event to hold the Portland Fair from October 4th to October 6th. Application of the Portland Fair and property of Cote Range LLC and Portland Farmers Fish and Game Club Inc. Map 75 Lot 2 and Map 68 Lot 1.
- Zone FP. *Public Hearing will be set for June 20th. Application may not be ready.*

9. New Business:

- None

11. Old Business:

- Business and Industrial Zoning - None

12. Staff Report:

- Correspondence - None
- Brainerd Place Update – None

• OTHER

Chair Ellsworth said that there were questions raised relative to Brainerd Place regarding established schedules and deadlines. Who oversees that, reports on it, and tracks all the schedules that are in place.

Dan Bourret said that should be me. I will get back to you on some of those things.

Chair Ellsworth asked if this is in his planner role or in the zoning enforcement role?

Dan Bourret said zoning enforcement but I oversee the department so the buck would stop with me. If you would like those outstanding questions answered I will circle back with Kari on that and get back to you. I’ll probably prioritize 220 Isinglass at this point and getting those questions worked out so that we’re ready for the 20th. I’ll try to do the other one as well. If it goes to July I don’t foresee anything impacting any of the answers between now and then.

Chantal Foster said I thought when we talked about this a long time ago and the fees that were paid as a result of the application fees for all; a lot of money goes into having all of these things happen. My understanding is a lot of those fees were there to compensate for people that were supposed to be coming in and checking on.

Dan Bourret said a lot of that's happened on the building side. We actually received additional monies from the developer outside of the fees for engineering reviews, for all the infrastructure that went in. Rick Kelce has been working for Jeff Jacobson doing a lot of on-site evaluations. I may have to request more money from the developer once we get firm plans on the preservation of historic homes to have an independent eye review that and make sure that they are in significant conformance with the Secretary of the Interior standards. I will once we get those things firmed up. I'll probably be sending a letter. They have been working on this for quite some time. Pete has been working with the architect a lot to try to make sure that the proposed preservation of the historic home meets current building code and fire code.

Victoria Tchetchet said I would really like to push this issue of the town having a Clerk of the Works again on this site whether that be your zoning enforcement officer or a candidate that's capable of doing that and knows enough to do that would be a very good option. If not, I think an independent person needs to be hired to represent the town on this building site. It can't just fall on you.

Dan Bourret said it's certainly something to think about. I can talk to Ryan but I'd like to hire a zoning enforcement officer soon.

Victoria Tchetchet said I really want to push that issue because it is extremely important to the town.

Dan Bourret said I think that's the role that needs to be filled to help to do that. It's something we will be pursuing. The only difficulty is finding time to do the interviews.

Victoria Tchetchet said if you could find time to talk to Kari and look at some of the things that aren't getting done.

Dan Bourret said we're going to be doing that.

Victoria Tchetchet said maybe the energy could go towards finding somebody to take this off your plate instead of putting more on your plate.

Attorney Olson said it's not just about this site. Dan, I don't even know how he manages. There is a good reason to have an assistant for him in general for zoning enforcement for all of you. I echo your suggestion Victoria fully.

Tom Bransfield said have we having worked in Waterford and Norwich on some major projects that both those communities put a condition on our building permits that the contractor or the developer, which we were, was required to hire an independent engineering firm to oversee and verify the project complied with all the conditions.

Dan Bourret said it is currently happening. The ICC reviews all of the building side of things.

Tom Bransfield said this was everything utilities, buildings.

Dan Bourret said "yes" everything; utilities, buildings. It will be for the preservation of those buildings as well.

Tom Bransfield said upon completion of the project the town would receive a report with an independent engineering approval so that it met all your requirements.

Dan Bourret said the developers paid the town to pay Jeff Jacobson who hired Rick Kelce to review all the utility work. The ICC is reviewing all of the building plans so that all buildings meet code. We will have to hire an outside architectural or preservation firm to review the historical preservation in terms of the zoning though that falls to me. Any deficiencies in that area is on me.

Carolyn Freeman asked if that includes building code. Does that include brownstone?

Dan Bourret said “no” that would fall to me and I know we talked about the lack of brownstone before. That’s something that I’m going to have to loop back with Kari once I can give her all of the facts and lay them out so she can see them and then we’ll make a determination from there.

Chairman Ellsworth said that for the record my opinion on the Clerk of the Works position for a project this big goes beyond the role that I would expect from a town planner or zoning enforcement official to fill. It sounds like it could be a full-time position and I think the sense I’m getting is that it’s kind of being proven out that this position is sorely needed based on some of the testimony we heard, some of the conflicts in the testimony that we’ve heard.

Dan Bourret said that I think if we have a zoning enforcement officer a lot of this is picked up and then I have more time to help them. If we get a zoning enforcement officer we’re adding a significant percentage of hours on the land use side and hopefully potential candidates have experience in these areas which we’re certainly looking for.

Rob Taylor said that during a lot of the public comment of the last couple of applications we’ve had a couple people get sidetracked on the Welcome to Portland sign and I understand it’s a completely separate issue.

Dan Bourret asked Rob if he wanted an explanation for the record?

Rob Taylor said “no” but I if you’re the developer coming back with Brainerd Place with some type of changes there might be room or negotiation for finding a place for that sign on that area somewhere.

Dan Bourret said I can broach that with the developer. I imagine he’s on right now so he probably heard you. The rock is actually on his site right now. Oh it’s the town garage. They had to remove it though. I will ask for that.

13. Public Comment: The Commission will hear brief comments at this time from anyone wishing to speak. Comments may not be made regarding any pending application.

Ben Srb thanked the commission for all the hard work being done. If I didn’t agree with some of the thought process I really do respect that you all came to a conclusion that you wholeheartedly agreed with and I love that. People don’t come up here and tell you guys that you are volunteers. You put in a lot of time. You’ve put in more time in the past few months so I really want to put that on the record. I really like the thought process you all put into it. I think you are heading in the right direction. There are a lot of deficiencies with that application. I believe it’s too much time for Dan. Dan does a great job. I don’t want to overwhelm him. There are a lot of issues that I could list. Ryan did send a default on the tax abatement that’s completely separate. He also told me he was sending out default or violations on this site.

Dan Bourret said I’m working on it. There’s nothing I’ve sent out. I’m trying to get over tonight’s hurdles. I will probably be reaching out to the developer on the soil and erosion control plan. That’s the first thing I’m going to focus on.

Ben Srb said we really do need someone that understands this and we get the right product at the end. I want it to be successful. Stay on that track. I greatly appreciate it and thank you for everything.

14. Approval of Minutes: 5/16/24 Regular Meeting, 5/8/24 and 5/29/24 Special Meetings.

MOTION: Chantal Foster MOVED, seconded by Rob Taylor to APPROVE Minutes of 5/8/24 Special Meeting as presented. **VOTE UNANIMOUS. MOTION CARRIED.**

Minutes for 5/16/24 Regular Meeting and 5/29/24 Special Meeting are deferred.

15. Adjourn

MOTION: Chantal Foster MOVED, seconded by Robert Taylor to ADJOURN the meeting at 8:30 p.m. **VOTE UNANIMOUS. MOTION CARRIED.**

Respectfully Submitted:

Dawn Guite

Recording Secretary