INFORMATIONAL MEETING AGENDA

THURSDAY, NOVEMBER 9, 2017
CITY HALL (COUNCIL CHAMBERS)
6:30 P.M.

A. Items for discussion submitted by the City Council and/or the City Manager:

1. Colonial Theater, Inc. Funding Request – City Manager
2. DPW Winter Operations – City Manager
3. Multiple Planning Board Recommendations – City Manager
   a. Farmer’s Market at Elim Church (Land Use Change)
   b. Educational Services in PD2 District (Conditional Use)
   c. Elimination of Utility Easement Setbacks
   d. Shore Land Timber Harvesting
   e. Willow Street Rezoning

B. Persons wishing to address the City Council who have submitted a formal request in accordance with Section 2-61 of the Code of Ordinances:

C. Open comment period for any persons wishing to address the City Council.
Mr. Bridgeo,

I’m writing as Chair of the Board for the Colonial Theater. We would like the opportunity to address the City Council on the subject of the City’s pledge of $300,000 to aid in the restoration of the Colonial Theater. As you may know, the Colonial has received a very generous grant from Kennebec Savings Bank of $100,000, designated to repair the hole in the Theater’s floor. We feel that repairing the floor is a crucial step in maintaining our momentum and believe that providing a tangible improvement to the Theater will aid greatly in our fundraising efforts. We have secured a contractor and they mobilized to the site. Quickly it was discovered that in order for the contractor’s crews to work safely, some environmental cleanup of coal ash and asbestos would need to be done. We had been aware of the need for a cleanup, but the extent and cost was not fully known until work began. We have received pricing for the environmental work from multiple vendors and have determined that the work can be done for $60,000. This puts us at a roadblock. Kennebec Savings has designated money for the floor, but we do not have available funds to do the environmental work that needs to be done for the floor to be repaired.

The City’s pledge was originally designated to be received at the end of the project. As progress has been made and many community leaders are investing in the Theater's future, we would like for the City to reconsider the timeline of your commitment. We are asking that the City release 10% of it’s pledge, to cover half the cost of the environmental work that needs to be completed. As this project has picked up steam, we would also like to propose the following schedule for releasing the remaining pledge.

$30,000 to aid in the environmental cleanup
$70,000 upon completion of 100% construction documents
$200,000 upon award of the construction contract to a general contractor

I’d like to thank you for your consideration and for the City’s support.

Tobias Parkhurst
Memo

To: City Council

From: Matt Nazar, Director of Development Services

Date: November 6, 2017

Re: Elim Church Rezoning

The Farmer’s Market is looking for winter space and have had conversations with the owners of the Elim Church on the corner of State and Oak Street about locating there for the winter season. Their size and hours are limited during the winter, so the addition of a retail use in this location, a zoning district where retail is not allowed as a primary use, would be minimal.

Planning Board recommends to City Council to create a Contract Rezoning that continues to allow all of the existing potential uses of the Elim Church in the BP zone, with no change to their performance standards, and add the use “Retail” limited to being open to patrons for no more than six (6) hours per week for the Augusta Farmer’s Market, with the use further limited to the first floor of the building. The use of the property for the Augusta Farmer’s Market “Retail” use would not require any on-site parking. There is on-street parking on State Street that is never in use and would be enough for the proposed Farmer’s Market limited usage. All other uses allowed on the property would have to meet all performance standards. Farmer’s Market shall have the same meaning as defined in MRSA Title 7, Section 415.
§415. FARMERS' MARKET

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Farmers' market" means a building, structure or place used by 2 or more farmers for the direct sale of farm and food products to consumers, at which all sellers of farm and food products meet the requirements of subsection 2, paragraph B. [2009, c. 547, §1 (AMD).]

B. "Farm and food products" means any agricultural, horticultural, forest or other product of the soil or water, including, but not limited to, fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, maple products, apple cider, fruit juice, malt liquor, wine, ornamental or vegetable plants, nursery products, fiber or fiber products, firewood and Christmas trees. [2011, c. 280, §1 (AMD).]

[2011, c. 280, §1 (AMD).]

2. Prohibitions. The following acts are prohibited.

A. A person may not use the term "farmers' market" to describe a market or other sales location that does not meet the terms of the definition set forth in subsection 1. [1993, c. 138, §1 (NEW).]

B. A person may not sell farm and food products at a market labeled "farmers' market" unless at least 75% of the products offered by that person were grown or processed by that person or under that person's direction. A product not grown or processed by that person or under that person's direction must have been grown or processed by and purchased directly from another farmer and the name and location of the farm must be identified on the product or on a sign in close proximity to the displayed product. [2009, c. 547, §2 (AMD).]

[2009, c. 547, §2 (AMD).]

3. Penalty. A person who violates this section commits a civil violation for which a forfeiture of not less than $100 nor more than $200 may be adjudged.

[1993, c. 138, §1 (NEW).]

4. Relationship to farmers' market rules. This section does not prohibit a market from imposing more stringent requirements on its sellers than those imposed by subsection 2, paragraph B.

[1993, c. 138, §1 (NEW).]

5. Enforcement; prima facie evidence. The commissioner or an agent of the commissioner may request proof of the origin of a product for the purpose of enforcing this section. Failure to provide written documentation or other reasonable proof upon request as to the origin of the products offered for sale at a farmers' market is prima facie evidence that a person is in violation of this section.

[2005, c. 512, §6 (NEW).]

SECTION HISTORY

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MEMORANDUM:

TO: City Council

FROM: Matt Nazar, Director of Development Services

DATE: October 23, 2017

RE: Add Educational Services in the Planned Development 2 (PD2) Zoning District

The Planning Board, on October 10, 2017, recommended for the City Council to add Educational Services as a Conditional Use in the Planned Development 2 (PD2) District.

The Planned Development 2 (PD2) District, created in 2009, was formerly the Planned Development (PD) District, which permitted educational services. Prior to 2009, the PD District listed educational services as a conditional use. When the PD2 District was created, educational services were not-permitted. Matt Nazar, Director of Development Services, Mayor Rollins and former Councilor Cecil Munson were involved with the groundwork to create the PD2 District, and they do not recall a reason why this use was changed from permitted to not-permitted.

The definition of Educational Services is “Use of land or a building or buildings for the establishment and maintenance of a public or private college, secondary or elementary school or other educational institution that is designed, constructed, or used for educational or instruction or persons in any branch of knowledge.” The definition includes dance, gymnastics and karate studios as they instruct persons in a branch of knowledge.

The request was initiated as part of a rezoning request for 458 Riverside Drive, which would like to operate a karate studio. This use was historically on the property, previous to the current residential use, and is now not-permitted. Adding educational services as either a permitted or conditional use would enable this business to operate, and Mainly Gymnastics, which is in the same zoning district, would become a conforming use.
MEMORANDUM:

TO: City Council

FROM: Matt Nazar, Director of Development Services

DATE: October 23, 2017

RE: Elimination of Utility Easement Setbacks

The Planning Board has recommended to City Council the below listed revisions to the Setbacks section of the Land Use Ordinance. Elimination of setbacks from utility easements is proposed due to the fact that utility easements, when established, define the limits of the space required for maintenance or installation of new infrastructure. Setbacks from utility easements can impede site development un-necessarily.

§ 300-515 Setbacks; general requirements.
[Amended 1-21-1992 by Ord. No. 303; 8-3-1992 by Ord. No. 571; 5-6-2002 by Ord. No. 211; 8-4-2003 by Ord. No. 86]

C. Except where setbacks are specified in the dimensional requirements of a zoning district; or except where other provisions of this chapter impose stricter setback or yard or buffer yard requirements, or except for required egress structures, or except for structures within the KBD1 District (for which there shall be no setback requirements for any structure, including, but not limited to, any setback requirements for public pedestrian walkways and their structural elements proposed to be built over, adjacent to, or within a public right-of-way), no structure shall be located within the following limits:

1. Within 10 feet of the right-of-way line or utility easement where one exists on any street within the City except as specified below or in zoning district regulations or by deed restrictions.

2. Within 10 feet of any new right-of-way line made necessary by construction or reconstruction of any street or right-of-way or utility easement where one exists within the City.
MEMORANDUM:

TO: City Council

FROM: Matt Nazar, Director of Development Services

DATE: October 23, 2017

RE: Shoreland Zoning Land Use Ordinance Amendment – Timber Harvesting

On September 1, 2017 the Maine Department of Environmental Protection approved revisions to the City of Augusta’s Shoreland Zoning Ordinance. One condition was placed on the approval which can be eliminated with the following amendments:

Section 300-528 (O) Timber Harvesting shall be amended as follows:

O. Timber harvesting. The Bureau of Forestry shall administer the regulation of state wide standards for timber harvesting and related activities in shoreland areas all forestry activities within the City of Augusta. Title 38 M.R.S.A. section 438-A provides that, notwithstanding other provisions of the Mandatory Shoreland Zoning Act, the regulation of timber harvesting and timber harvesting activities in shoreland areas must be in accordance with section 438-B and rules adopted by the Maine Bureau of Forestry Forest Bureau pursuant to Title 12, section 8867-B. Timber harvesting regulation repealed May 20, 2017. December 19, 2016.

The planning board unanimously approved this proposed revision on October 10, 2017 for City Council consideration.
MEMORANDUM:

TO: City Council

FROM: Matt Nazar, Director of Development Services

DATE: October 23, 2017

RE: Medium Density Residential (RB1) to Kennebec Business 2 (KDB2) District and Medium Density Residential (RB1) to Kennebec Locks (KL)

The Planning Board recommends to City Council a revision to the Zoning Map which would change the zoning from Medium Density Residential (RB1) to Kennebec Business 2 District (KBD2) for Tax Map 38, Lot 220 (Kennebec Plaza) and Lot 220A (Greater Augusta Utility District). Tax Map 38, a portion of Lot 235A (AIM Recycling) would be change from Medium Density Residential (RB1) to Kennebec Locks (KL) so that the entire land parcel is within the same zoning district.

The General Rezoning shall meet the following criteria identified in the Land Use Ordinance:

(1) The rezoning shall be consistent with the 2007 Comprehensive Plan, any plans or policies subsequently adopted by the City;

The comprehensive plan identifies this area as River/Downtown Land Use area which is proposed to have dense residential development, where lot size and residential densities should not be regulated and setbacks should be minimal or not exist, defining features of the KBD2 District. The Kennebec Locks District was established in 2014, following goals of the comprehensive plan. The proposed zone changes are consistent with the comprehensive plan.
(2) The rezoning shall be consistent with established land use patterns;

The Kennebec Plaza apartment housing is a high density residential development with reduced setbacks which has been in existence since 1980. It is adjacent to another high density residential development, the Inn at City Hall, which is in the KBD2 district. The other sites are a public utility and vacant land, which are common in any area of the city.

(3) The rezoning will not create an isolated district unrelated to adjacent districts;

The proposed rezoning from RB1 to KDB2 will be connected to the existing KDB2 district and will not create an isolated district. The proposed rezoning from RB1 to KL will be connected to an existing KL district and will not create an isolated district.

(4) Adequate utilities, roads and services must exist or must be provided;

Adequate utilities, roads and services exist at the property as it is within the urban center of Augusta.

(5) The rezoning is justified by a changed or changing condition(s).

The proposed addition of 3 residential dwelling units to the 67 existing residential dwelling units at the Kennebec Plaza highlighted the importance of changing the zoning district of these parcels to better match the existing conditions of the property and to reduce non-conformity with zoning requirements for density and setbacks. The utility district parcel benefits from the rezoning for reduced dimensional requirements for their existing building. The majority of the Aim Recycling site was rezoned to Kennebec Locks District in 2014; this will bring the remaining portion of the lot into the same zoning district.