



## City of Auburn, Maine

Economic & Community Development

Michael Chamings, Director

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### PLANNING BOARD STAFF REPORT

To: Auburn Planning Board

From: Eric Cousens, Deputy Director of Economic and Community Development

Re: 34 and 35 Laurel Avenue Subdivision Review for Residential Redevelopment Project

Date: September 11, 2018

PROPOSAL- Oleg Opalnyk, President of OPO Custom Design is seeking site plan and subdivision approval of a 10-unit residential redevelopment of the property at 34 & 35 Laurel Av (PID #'s 221-050 & 221-051) pursuant to Chapter 60, sections 60-45 (a) Projects requiring Site/Plan and Special Exception review and section 60-1359, Subdivision Guidelines.

The new owner of the building is proposing to convert the former synagogue into 10 market rate residential units. This conversion is a subdivision under State Law and local ordinances due to the creation of 3 or more dwelling units. State Subdivision law allows proposals that create 3 or more dwelling units within an existing structure to be reviewed as a Subdivision or as a Site Plan and Special Exception if the local requirements are at least as stringent as State Subdivision Law. While we believe that to be the case here, title attorneys have been concerned about that approach recently with other projects and staff recommends that we apply both standards to the development.

#### I. DEPARTMENT REVIEW-

- a. Police – Ensure parking is safe.
- b. Auburn Water and Sewer- The main concern from the Water and Sewer is determining the status of the existing roof drains and sewer hook-up and whether or not they are separated and low enough that proper cover is provided after grading the site. AWSW has capacity to serve the site.
- c. Fire Department- None
- d. Engineering - The Department of Engineering noted that additional grading details will be needed to review the proposed site changes and for construction.

II. Planning Staff- The staff has worked with the developer to provide adequate parking for the new apartments, however the existing site constraints make this

challenging. The developer has proposed more parking than the ordinance requires, and staff recommends that the Planning Board consider reducing the number of spaces in the front yard area and to reduce the curb opening width across the street from the structure. Parking demand for 10 units is estimated at 15 spaces, while the former use as a church required approximately 100 spaces. The initial plan was not in compliance with ordinance provisions prohibiting parking in front yard areas and backing into streets. The updated plan shows a reduction of impervious area and front yard parking and continues the use of existing parking across the street from the development while expanding it by 2 spaces. Providing parking is important but cannot be accomplished without waivers from other standards due to site constraints. Staff would like to discuss the options with the Board to provide additional guidance and find compromise between the two requirements so that the overall plan meets the objectives of site plan review.

III. PLANNING BOARD ACTION- The Planning Board needs to review the following:

#### **SITE PLAN**

##### **Sec. 60-1277- Objective-**

“In considering a site plan, the planning board shall make findings that the development has made provisions for:”

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas; **(The Board has some latitude on this as the applicant intends to reuse existing nonconforming parking for a lower traffic use that what previously existed. The Board should consider the alternatives provided and provide feedback on the options for a final plan. If clear direction is provided from the Board then staff is comfortable handling the final plan as a condition of approval)**
- (3) Adequacy of the methods of disposal for wastes; and
- (4) Protection of environment features on the site and in adjacent areas.

**SPECIAL EXCEPTION-**A Special Exception is defined in the Zoning Ordinance as follows: “**Special exception** means a use that would not be appropriate generally or without restriction throughout the district, but which, if controlled as to number, area, location or relation to the neighborhood, would promote the public health, safety, welfare, order, comfort, convenience, appearance, prosperity, or general welfare. Such a use may be permitted in such district as a special exception, if specific provision for such special exception is made in this zoning chapter and reasonable restrictions imposed by the planning board are complied with.” For this development application, the proposed new building is over 5,000 square feet in size and therefore is a Special Exception in the GBII zone.

##### **Sec. 60-1336. Conditions-**

- (a) As conditions prerequisite to the granting of any special exceptions, the board shall require evidence of the following:
- (1) That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
  - (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard. **(The Board has some latitude on this as the applicant intends to reuse existing nonconforming parking for a lower traffic use that what previously existed. The Board should consider the alternatives provided and provide feedback on the options for a final plan. If clear direction is provided from the Board then staff is comfortable handling the final plan as a condition of approval)**
  - (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.
  - (4) That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
  - (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with [section 60-1301\(14\)](#), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
  - (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
  - (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.

#### **Sec. 60-1359. Guidelines (for Subdivision Review)**

When reviewing any subdivision for approval, the planning board shall consider the following criteria, and before granting either approval or denial, shall determine that the proposed subdivision:

- (1) Will not result in undue water, air or noise pollution. In making this determination it shall at least consider:
  - a. The elevation of land above sea level and its relation to the floodplains, the nature of soils and sub-soils and their ability to adequately support waste disposal;
  - b. The slope of the land and its effect on effluents;
  - c. The availability of streams for disposal of effluents; and

- d. The applicable state and local health and water resources regulations, including stormwater management requirements in accordance with section 60-1301(14);
- (2) Has sufficient water available for the reasonably foreseeable needs of the subdivision;
  - (3) Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
  - (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
  - (5) Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed; **(The Board has some latitude on this as the applicant intends to reuse existing nonconforming parking for a lower traffic use that what previously existed. The Board should consider the alternatives provided and provide feedback on the options for a final plan. If clear direction is provided from the Board then staff is comfortable handling the final plan as a condition of approval)**
  - (6) Will provide for adequate sewage waste disposal;
  - (7) Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;
  - (8) Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
  - (9) Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;
  - (10) Is funded by a sub-divider has adequate financial and technical capacity to meet the standards of this section; **(The applicant has substantial technical ability based on prior projects, but will need to provide additional financial information)**
  - (11) Will not adversely affect the character of the surrounding neighborhood and will not tend to depreciate the value of property adjoining the neighboring property under application;
  - (12) Has provisions for on-site landscaping that are adequate to screen neighboring properties from unsightly features of the development;
  - (13) Will not create a fire hazard and has provided adequate access to the site for emergency vehicles;
  - (14) Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;
  - (15) Does not have long-term cumulative effects of the proposed subdivision will that unreasonably increase a great pond phosphorus concentration during the construction phase and life of the proposed subdivision.

NOTE: The applicant provided a narrative in the application that addresses these criteria for approval.

- IV. **STAFF RECOMMENDATION-** The Staff recommends **that the Board consider parking alternatives and financial capacity information available at the public hearing and if those two items satisfy section 60-1359 criteria 5 and 10 noted above, section 60-1336(2) and section 60-1277(2), then we believe that** the application meets the subdivision criteria and Site Plan/Special exception requirements noted above.

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Eric J. Cousens  
Deputy Director of Economic and Community Development