

Planning and Development

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Minutes

Planning Board

Tuesday, May 14, 2019

6:00 PM Special Meeting

Fire Station Training Room

Present for the Board: Chair Neil Schuster, Jeff Brochu, Peter Scontras, Alyssa Bouthot, Matthew Provencal, Joyce Leary Clark

Absent: Don Girouard, Vice Chair

Also Present: Emily Cole Prescott, City Planner; Bob Hamblen, Consulting Planner; Kimberly Sawyer, Program Coordinator

1. Call to Order: Chair Schuster called the special meeting to order at 6:02 PM.
2. Minutes of April 30, 2019 Meeting: **Jeff Brochu moved to approve the minutes of the April 30, 2019 meeting as presented. Peter Scontras seconded the motion, and it carried unanimously.**
3. New Business, Tabled Items & Public Hearings
 - a. Application Review & Public Hearing: Map 38 Lot 9: Construction of a nature-like fishway

- Applicant: Kelly Maloney; c/o: Brookfield White Pine Hydro, LLC

Gerry Mitchell and Ralph Nelson, for Brookfield Engineering, were present to discuss the application.

Overview: Bob Hamblen, Consulting Planner, introduced the project: Applicant Kelly Maloney, on behalf of Brookfield White Pine Hydro, LLC, the owner of the Cataract Hydroelectric Project which includes Springs Dam and three others in the Downtown Saco-Biddeford area, proposes to construct a “nature-like fishway” that would include some limited demolition of the crest dam, construction of a new concrete abutment and new rock training wall, and placement of approximately 5,521 cubic yards of fill material covering 0.56 acres within the Saco River, below the Ordinary High Water Mark.

The project as designed would facilitate upstream and downstream movement of species native to the Saco River, as spelled out in the application materials: salmon, American shad, herring and others. This installation would simulate natural low gradient riffle and pool habitat conditions.

The project was required by the Federal Energy Regulatory Commission in 2007. Since 2016, the applicant has met several times with state and federal regulators, resulting in the current plans and applications. The applicant hopes to begin work in June, in-river work starting on July 15, and complete the project by October 31.

Other permits or review agencies involved with the project include:

- Flood Hazard Development, City of Saco – Application has been submitted: CEO Dick Lambert is the permitting authority
- Saco River Corridor Commission – Permit granted on March 27, 2019. Among the conditions of that approval were a revegetation plan upon completion of work along the riverbank, a vegetation management plan, a stormwater management plan, and fencing subject to staff approval

- U.S. Army Corps of Engineers
- Maine DEP – Condition Compliance permit
- Federal Energy Regulatory Commission – The overall Cataract Project, which includes not only the Springs Dam but also the West Channel Dam, Cataract Dam and the Bradbury Dam, is subject to FERC licensing – true of all such projects in the U.S. The current project was required by FERC in an order dated 7/18/07, as a result of discussion that included U.S. Fish and Wildlife, the National Oceanic Atmospheric Administration, the Maine Department of Marine Resources, and the Maine DEP.
- U.S. Fish and Wildlife

Determination of Completeness: Bob Hamblen indicated that no waivers are requested. **Joyce Leary Clark moved, based on submissions to date, that the Board find the application for site plan review of a Marine Structure in the Saco River Overlay Zone to be complete. Matt Provencal seconded the motion, and it carried unanimously.**

Public Hearing: **Alyssa Bouthot moved to open the public hearing. Peter Scontras seconded the motion, and it carried unanimously.**

The following member of the public spoke:

- Bruce Audie, 110 Lincoln Street, regarding changes to the water level.
- Nathan Johnston, City Councilor, asked questions about the proposal.

No other members of the public chose to speak about the application. **Alyssa Bouthot moved to close the public hearing. Matt Provencal seconded the motion, and it carried unanimously.**

Discussion:

When asked by Jeff Brochu about whether the City had requested peer review of the application materials, Bob Hamblen stated that staff did not consult independent agencies because of the many agencies involved and approvals required at both the state and federal levels.

The City Engineer has also reviewed the project and provided comments and questions in his review memo, included in the meeting packet. He recommended that specific traffic routes be coordinated with the applicant.

Action: **Joyce Leary Clark moved that the Board grant approval for the site plan and shoreland zoning applications submitted on behalf of Brookfield White Pine Hydro, LLC for the installation of a Nature-Like Fishway at the Springs Dam, based on the Findings of Fact and Conditions of Approval dated May 14, 2019. Alyssa Bouthot seconded the motion, and it carried, 5-1, with Jeff Brochu in opposition.**

Joyce Leary Clark moved to amend her motion to include several conditions:

- Flood plain development application be approved by the Code Enforcement Department
- The applicant will work with the Public Works and Parks & Recreation Department to create green space for a “pocket park”
- The applicant will coordinate the easement referenced in the City Engineer’s review memo with the Public Works Department.
- The applicant will meet with city officials to discuss and coordinate the traffic route for construction.

- The applicant will update and submit the vegetation and maintenance plan to the satisfaction of city staff.

Alyssa Bouthot seconded the amended motion, and it carried, 5-1, with Jeff Brochu voting in opposition to the motion.

Adjournment: Without objection, the meeting ended at 8:15 PM.