

February 27, 2025

Nicholas Livesay, Chair
Brunswick Zoning Board of Appeals
85 Union Street
Brunswick, ME 04011

RE: Tedford Housing's Response to Administrative Appeal by
 Jennifer Navarro of Planning Board's January 28, 2025
 Extension of Tedford Housing's Site Plan Approval

Dear Chairman Livesay:

Our firm represents Tedford Housing ("Tedford"). This letter is in response to Jennifer Navarro's February 4, 2025 appeal of the Brunswick Planning Board's January 28, 2025 decision to extend Tedford's site plan approval for its "Shelter Resource Center" in the Town's Growth Mixed-Use 4 Zoning District (the "GM4") until January 11, 2027.

As explained below, the grounds on which Ms. Navarro bases her administrative appeal are both legally and factually erroneous. It should be accordingly denied.

1. Governing Standard of Review

Before addressing the substantive reasons why Ms. Navarro's appeal should be denied, it is important to highlight the standard of review that governs this Board's review of the Planning Board's decision to grant Tedford an extension of its site plan approval.

Under § 5.2.7.A.3 of the Town of Brunswick Zoning Ordinance (the "ZO"), when reviewing an administrative appeal from any decision of the Planning Board, this Board may "[n]ot substitute [its] judgment...for the judgment of the Board whose decision is under appeal." Rather, it must "[d]etermine on the basis of the entire record presented whether [the Planning Board] could reasonably have found the facts and reached the conclusions upon which the decision under appeal was based."

Accordingly, the proper inquiry is not whether this Board could, based on the evidence, conclude differently than the Planning Board. Rather, it is more deferential. Like the standard of review that governs Maine courts' review of municipal board decisions, this Board should reverse the Planning Board's findings *only* if the record *compels* a contrary conclusion. *See Two Lights Lobster Shack v. Town of Cape Elizabeth*, 1998 ME 153, ¶ 5, 712 A.2d 1061; *Gillespie v. Town of Southwest Harbor*, 675 A.2d 501, 503 (Me.1996). Under the clear terms of § 5.2.7.A.3(a)(vi) of the ZO, if this Board finds that the Planning Board did not clearly err in its review of Tedford's extension application, then its determination must be upheld.

Because, as discussed below, the Planning Board committed no legal error, and its decision to grant Tedford the requested extension of its approval was based on substantial record evidence, its decision must be affirmed.

2. Ms. Navarro Lacks Standing to Bring This Appeal

It is a fundamental principal of municipal law that before someone may bring an administrative appeal, they must possess the requisite standing. In order to have standing, the individual must be an “aggrieved party,” under § 5.2.7.A(2)(a) of the ZO. This term is not defined in the ZO; however, it has been frequently analyzed by Maine courts.

Under well-established Maine case law, in order to establish standing, appealing parties bear the burden of establishing both that they: (1) participated in the administrative proceedings being appealed; and (2) suffered a particularized injury or harm greater than that suffered by the general public. *Nergaard v. Town of Westport Island*, 2009 ME 56, ¶ 16, 973 A.2d 735, 740 citing *Norris Family Assocs., LLC v. Town of Phippsburg*, 2005 ME 102, ¶ 11, 879 A.2d 1007, 1012.

Even if Ms. Navarro could establish the second requirement, she cannot demonstrate that she participated in the Planning Board proceedings, which is a necessary precondition to establish standing. *See Friends of Lincoln Lakes v. Town of Lincoln*, 2010 ME 78, ¶¶ 12-13, 2 A.3d 284, 288 citing *Pride's Corner Concerned Citizens Ass'n v. Westbrook Bd. of Zoning Appeals*, 398 A.2d 415, 417 (Me.1979).

Ms. Navarro did not participate in the Planning Board proceedings from which she appeals. Although she alleges that she did not receive notice of the proceedings, for the reasons outlined below, she was not entitled to individual notice. Moreover, the agenda for the January 28, 2025 meeting at which the Planning Board considered and granted Tedford’s extension request was duly posted on the Town’s website. Attached as **Exhibit 1** is a copy of said agenda. Because she did not participate in the proceedings, despite proper notice having been posted, Ms. Navarro’s appeal should be denied for lack of standing.

3. Grounds of Appeal

Ms. Navarro’s grounds of appeal appear to be three-fold: (1) she challenges whether Tedford’s request for extension was made prior to expiration, as required by § 5.2.9.Q(1)(c) of the “ZO”; (2) she asserts that she was not given appropriate notice of Tedford’s extension application; and (3) she questions the impact of the possibility of HUD and federal/state funds being withheld.

Each ground of appeal will be addressed separately below. For the reasons that follow, they all lack merit and should be dismissed accordingly.

A. Tedford’s Request for an Extension Was Timely

Both the undisputed record evidence and the plain wording of the governing provisions of the ZO clearly demonstrate that Tedford's request for an extension of its site plan approval was timely.

Section 5.2.9.Q(1) of the ZO, entitled, "Expiration of Development Review Approvals" provides, in relevant part, as follows: "(c) The applicant may, *at any time before the date of expiration*, make a written request to the Review Authority for a time extension..."

The record makes clear that Tedford did, in fact, make its application prior to the expiration date of its site plan approval. Attached as **Exhibit 2** is a copy of Tedford's final approval of its application for Final Plan Major Development Review dated January 11, 2022. According to § 5.2.9.Q(2) of the ZO, site plan approvals shall expire three (3) years from date of approval. Accordingly, per the clear terms of the ZO, Tedford's site plan approval was scheduled to expire on January 11, 2025.

On December 30, 2024, on Tedford's behalf, Tedford's engineer, Nancy St. Clair, submitted an application to Julie Erdman, the Town's Director of Planning and Development requesting "an extension of its site plan approval (final major development review) prior to its upcoming expiration on January 11, 2025." Attached as **Exhibit 3** is a copy of said application together with Ms. St. Clair's email exchange with Ms. Erdman in connection with same.¹ Responding to Ms. St. Clair's submission, Ms. Erdman expressly acknowledged the timeliness of the extension request, stating, "Thank you, Nancy. Per subsection 5.2.9.Q(1), your application for a site plan extension has been received prior to its January 11th expiration. We will place this item on the Planning Board's January 28th agenda." See **Exhibit 3**.

Section 5.2.9.Q(2) of the ZO requires that requests for extension must be made "no less than 14 days prior to applicable Review Authority consideration." Tedford's extension request was made on December 30, 2025. See **Exhibit 3**. The meeting at which the request was considered by the Planning Board took place on January 28, 2025, which date was 29 days after the request, which well exceeded the 14 day requirement under the ZO.

Based on the foregoing, any suggestion that Tedford's request for an extension was untimely is unfounded. The undisputed record evidence unequivocally establishes that the request was made on December 30, 2024, which was prior to the January 11, 2025 expiration of Tedford's site plan approval. Moreover, the request was made more than 14 days from the date that the Planning Board considered it. As a result, Ms. Navarro's appeal on this basis must be denied as a matter of law.

B. All Governing Notice Requirements Under the ZO Were Met

¹ The application was two-fold. In addition to requesting an extension of Tedford's site plan approval, the application also requested certain minor modifications to the approved plan. Given that Ms. Navarro's appeal application does not list any concerns relating to the requested minor modifications, that portion of the application has been excluded from **Exhibit 3**.

Ms. Navarro appears to assert that she did not receive appropriate notice of Tedford's request for an extension as required by the ZO. Again, this ground of appeal lacks merit and should be dismissed accordingly.

Section 5.1.3.B, of the ZO, entitled "Notice Provided," states as follows:

When an application for Development Review is received, Town staff shall notify the owners of all property as follows:

For Minor Modification applications, direct abutters to the property under review;

For Conditional Use and Special Permit applications, all property owners located within a 300-foot radius of the parcel; or

For all other Development Review applications, all property owners located within a 300-foot radius of the parcel.

Contrary to her suggestion, Ms. Navarro was not entitled to individual notice of the Planning Board's consideration of Tedford's extension request for several reasons.

First, the notice provisions only apply to "applications for Development Review." At issue was a request for an *extension*. There was no *application* for development review. Rather, Tedford's development review application had *already* been reviewed and approved three years prior. Ms. Navarro had every opportunity to participate in those proceedings. Given that the project has already been approved, there can be no prejudice to Ms. Navarro occasioned by its extension.

Second, the extension request was submitted together with a minor modification application. The plain language of § 5.1.3.B, of the ZO makes clear that only direct abutters (which Ms. Navarro is not) are entitled to individual notice.

Third, and most notably, even if § 5.1.3.B of the ZO did require that individual notice of Tedford's extension application be given, its unambiguous language requires that only property owners within a 300-foot radius of the subject property be notified. By Ms. Navarro's own admission in her appeal materials, she is located 325 feet away.

Based on the foregoing, any suggestion by Ms. Navarro that she was entitled to individual notice under the ZO is legally and factually incorrect and must be rejected accordingly.

C. Ms. Navarro's Suggestion That Tedford May Lack Financial Capacity is Unfounded

Without providing any factual foundation for her suggestion, Ms. Navarro asserts that various HUD and federal/grants could be withheld (with the implication that this would then make the project unviable). Once again, this ground of appeals lacks factual and legal basis and should be consequently ignored.

Ms. Navarro has offered no factual basis for her suggestion that HUD or other grants will be withheld from Tedford. Nor has she cited to any provision of the ZO that would require an extension request be denied even if such grants were withheld.

First, any such grants constitute a small percentage of the construction costs. Second, in granting the original approval, the Planning Board specifically found that Tedford met § 4.16 of the ZO's "financial capacity" requirement, which requires applicants to demonstrate "adequate financial and technical capacity to meet the standards of the proposed development." Such capacity can be evidenced by "documentation from an independent third-party as to applicant's financial capacity." Tedford submitted such documentation in support of its original application, based on which, the Planning Board concluded that "...An updated letter, dated November 22, 2021, from Bath Savings Institute is included and indicates the applicant's financial capacity to completed the proposed project." See **Exhibit 2** at p. 8.

4. Conclusion

For all the foregoing reasons, Tedford Housing respectfully requests that Ms. Navarro's administrative appeal be denied.

Sincerely,

A handwritten signature in black ink, appearing to read 'Leah B. Rachin', with a long horizontal flourish extending to the right.

Leah B. Rachin

cc: Andrew Lardie, Tedford Housing
Julie Erdman (via email)
Jennifer Navarro (via regular mail)



Town of Brunswick, Maine

DEPARTMENT OF PLANNING & DEVELOPMENT

Planning Board Meeting Agenda Brunswick Town Hall 85 Union Street – Council Chambers Tuesday, January 28, 2025 @ 6:00 PM

There is an opportunity to attend this meeting in person or view the meeting via Zoom, TV 3, or live stream.

How to watch and comment via Zoom:

<https://www.brunswickme.org/313/Brunswick-Cable-TV3>

How to watch via TV3 or Live Stream:

The link to view or listen to the meeting on TV3 (Channel 3 on Comcast) or via live stream from the Town's website: <http://tv3hd.brunswickme.org/CablecastPublicSite/watch/1?channel=1>

The public may provide comment via email (jerdman@brunswickme.gov) prior to the meeting OR they may provide live comment at the meeting via Zoom or in person. Comments are allowed during the public comment period, during public hearings, and on other items and matters at the discretion of the Planning Board Chair or Vice Chair.

1. **Case No. 24-071 Northbridge Apartments** - The Planning Board will review and act upon a **Sketch Plan Major Development Review** application submitted by Atlantic Resource Consultants on behalf of Northbridge Brunswick Land, LLC for 4 multi-family buildings with 24 units each (96 units in total), associated parking and amenities. The subject property, 0 Admiral Fitch Avenue (Map 040 Lot 50), is located within the **Growth Mixed-Use 7 Zoning District (GM7)**.
2. **Case No. 24-072 Pleasant Street Dental Conditional Use Permit** – The Planning Board will hold a **PUBLIC HEARING** and act upon a **Conditional Use Permit** application submitted by Dextrous Creative on behalf of James Moshier, DMD for expansion of the existing **Office** use. The project will expand the building footprint by 333 sq ft to add a wheelchair lift and stairs to the second floor which will be expanded by 946 sq ft. The subject property, 53 Pleasant Street (Map U16 Lot 51), is located within the **Growth Residential 6 Zoning District (GR6)** and the **Village Review Overlay District (VRO)**.
3. **Case No. 24-073 Pleasant Street Dental Minor Review** - The Planning Board will review and act upon a **Minor Development Review** application submitted by Dextrous Creative on behalf of James Moshier, DMD for expansion of an existing dental office. The project will expand the building footprint by 333 sq ft to add a wheelchair lift and stairs to the second floor which will be enlarged by 946 sq ft. The subject property, 53 Pleasant Street (Map U16 Lot 51), is located within the **Growth Residential 6 Zoning District (GR6)** and the **Village Review Overlay District (VRO)**.
4. **Case No. 24-076 Extension Request for Tedford Housing Site Plan Major Development Review Approval** - The Planning Board will review and act on a **Site Plan Major Development Review Approval Extension Request** of the approved Case No. 21-70, Tedford Housing Homeless Shelter, Resource Center, submitted by St. Clair Associates on behalf of the property owner, Tedford Housing. The subject property is located at 65 Thomas Point

Please call the Brunswick Department of Planning and Codes (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521. This meeting will be televised.

Road (Map 42, Lot 8) and within the **Growth Mixed-Use 4 (GM4) Zoning District**.

5. **Other Business**

6. **Adjourn**

Town of Brunswick, Maine

DEPARTMENT OF PLANNING AND DEVELOPMENT

APPROVED FINDINGS OF FACT FINAL PLAN MAJOR DEVELOPMENT REVIEW PLANNING BOARD

REVIEW DATE: January 11, 2022
CASE NUMBER: 21-070
PROJECT NAME: Tedford Housing Homeless Shelter, Resource Center
ADDRESS/ TAX MAP: Map 42, Lots 8 and 11
ZONING DISTRICT: Growth Mixed-Use 4 (GM4) Zoning District
OVERLAY ZONING: Cook's Corner Master Plan and Design Standards
APPLICANT: Tedford Housing
P.O. Box 958
Brunswick, ME 04011
REPRESENTATIVE: Nancy St. Clair
St. Clair Associates
34 Forest Lane
Cumberland, ME 04011

I. APPLICATION COMPLETENESS

Staff has reviewed the application and determined that it is complete.

Approved Motion:

The Planning Board concurs with staff's conclusion that the basic Final Plan Major Development Review application materials have been submitted and that the application is complete such that the Board may proceed with substantive review of the application and identification of any further information required from the applicant.

First: Art Pierce Second: Rob Burgess Vote: 7-0-0

II. PROJECT SUMMARY

The approved Findings of Fact are based on the Final Plan Major Development Review Application titled "Major Development Review Tedford Housing Building" and dated November 23, 2021 (Exhibit A). The Planning Board reviewed and approved a Sketch Plan Major Development Review Application on September 8, 2021 (Exhibit B). The Staff Review Committee (SRC) reviewed the Final Plan Major Development Review application on December 8, 2021. The SRC meeting notes are included under separate cover.

The proposed *homeless shelter, resource center* is intended to provide temporary emergency housing and on-site resources for individuals and households that are clients of Tedford Housing. The proposed shelter is approximately 17,568 square feet and it will include ten (10) household apartment-style units, each with a bedroom with four (4) beds and living and dining space in each unit. The proposed shelter will also accommodate twenty-four (24) individual clients in a dormitory-style space. Therefore, the total number of beds proposed is sixty-four (64). The applicant has indicated that the facility will not be a "drop-in" facility available to any member of the public. Occupants of the shelter must be enrolled in Tedford Housing's programs to help seek

new housing options.

The project site will be served by a twenty-six (26) space parking lot, two (2) of which will be compliant with Americans with Disabilities Act (ADA) standards. Additional site improvements include interior walkways with benches, play area, connection to the retail center to the northeast of the site, small storage building, and a dumpster enclosure.

The applicant has included a Purchase and Sale Agreement with the property to demonstrate right, title, and interest.

III. REVIEW STANDARDS

3.4.1.X Homeless Shelter Supplementary Use Standards

Subsection (1) provides the formulas necessary to calculate maximum density allowed for a *homeless shelter, resource center*. Based on the underlying GM4 Zoning District, the maximum number of dwelling units permitted for the subject property is forty-six (46) dwelling units. The proposed project includes ten (10) apartment-style household units and twenty-four (24) dormitory-style beds for individuals. Using the formula, the twenty-four (24) individual beds equate to six (6) residential dwelling units. Therefore, the total number of dwelling units is calculated as sixteen (16), well below the maximum number of units allowed.

Subsection (2) provides the formulas necessary to calculate the demand for parking spaces for a *homeless shelter, resource center*. Using these formulas, the included traffic study by Maine Licensed Traffic Engineers John Adams and Bill Bray of Barton and Loguidice / Traffic Solution calculates the minimum parking demand as twenty-six (26) parking spaces. The proposed project provides the minimum twenty-six (26) parking spaces, including two (2) spaces compliant with the Americans with Disabilities Act (ADA).

Subsection (3) requires the applicant to provide interior floor plans dimensioned with spaces labeled with the proposed use. The applicant has provided floor plans prepared by Ryan Senatore Architecture in their application.

Subsection (4) requires non-apartment-style homeless shelter space to be dedicated for use by unaccompanied minors under eighteen (18) years of age or adults, but not both. The applicant has indicated that the dormitory-style section of the building is intended only for individual adults.

Subsection (5) requires a minimum 1,000-foot separation between any new homeless shelter and any existing homeless shelter. The nearest homeless shelter, which is operated by Tedford Housing, is approximately 2.6 miles from the subject property.

The Planning Board finds that the provisions of Section 3.4.1.X are satisfied.

4.1. Applicability of Property Development Standards

As the proposed project is for a commercial use, all regulations established in *Chapter 4 – Property Development Standards* of the Zoning Ordinance apply. The Town Codes Enforcement Officer and other members of the SRC have reviewed the application

and found that it complies with all applicable Zoning Ordinance standards associated with the GM4 Zoning District.

The Planning Board finds that the provisions of Section 4.1 are satisfied.

4.2. Dimensional and Density Standards

As referenced in Item 4.1 above, the proposed project has been found to comply with all applicable property developments standards. This includes the standards established in *Table 4.2.3. Growth Area Dimensional and Density Standards* of the Zoning Ordinance.

The Planning Board finds that the provisions of Section 4.2 are satisfied.

4.3. Natural and Historic Areas

4.3.1 Mapping of Natural and Historic Areas Requirements

As there were no natural or historic areas identified via the wetland delineation study performed by Mark Hampton Association, the Maine Natural Areas Program (MNAP), or the Town's GIS system.

The Planning Board finds that the provisions of Section 4.3.1 are not applicable.

4.3.2 Pollution

The subject property is not located within any floodplain or other special flood hazard area. No on-site wastewater is proposed as the applicant is proposing to connect to the Brunswick Sewer District system. Stormwater will be managed via Maine Department of Environmental Protection's Best Management Practices to treat stormwater runoff prior to discharge.

The Planning Board finds that the provisions of Section 4.3.2 are satisfied.

4.3.3 Protection of Natural Vegetation

As indicated in Item 4.3.1 above, no natural areas were identified on the subject property.

The subject property is not located in any designated scenic area.

The applicant has indicated that the site plan was developed with an attempt to protect existing wooded area to the greatest extent possible.

As indicated on the landscape plan, the subject property will be improved with new plantings and fencing.

The Planning Board finds that the provisions of Section 4.3.3 are satisfied.

4.3.4 Protection of Significant Plant and Animal Habitat

As stated in Items 4.3.1, the proposed project is not located within the Town's

Wildlife Protection Overlay (WPO) District and no other mapped significant plant and animal habitats were identified during the review process. Therefore, the proposed project will not have an undue adverse effect on important plant and animal habitats identified by the Maine Department of Inland Fisheries and Wildlife, or on rare and irreplaceable natural areas as identified by the Maine Natural Areas Program.

The Planning Board finds that the provisions of Section 4.3.4 are not applicable.

4.3.5 Steep Slopes

The subject property on which the proposed project is to be constructed does not have any 5,000 square foot or more of contiguous slopes exceeding twenty-five percent (25%).

The Planning Board finds that the provisions of Section 4.3.5 are not applicable.

4.3.6 Erosion and Sedimentation

The applicant has provided an Erosion and Sediment Control Plan and Narrative demonstrating that the plans have been developed according to the DEP's Best Management Practices Handbook. The plan also provided post-construction requirements. Furthermore, an Inspection and Maintenance Plan and Log have been provided.

The Planning Board finds that the provisions of Section 4.3.6 are satisfied.

4.3.7 Groundwater

The subject property is not located with any of the Town's Aquifer Protection Overlay (APO) Districts. Sewage will be conveyed by a connection to the Brunswick Sewer District. The applicant has indicated that they will construct an extension from Brunswick and Topsham Water District's water main along Thomas Point Road. The above referenced Best Management Practices for stormwater runoff and erosion and sedimentation control will treat stormwater prior to discharge.

The Planning Board finds that the provisions of Section 4.3.7 are satisfied.

4.3.8 Surface Waters, Wetlands, and Marine Resources

The wetland delineation study found no surface waters or wetlands on the subject property.

The Planning Board finds that the provisions of Section 4.3.8 are not applicable.

4.3.9 Historic and Archaeological Resources

No historic or archaeological resources were identified within the subject property.

The Planning Board finds that the provisions of Section 4.3.9 are not applicable.

4.4. Flood Hazard Areas

The subject property is not located within the Flood Protection Overlay (FPO) District or mapped Flood Hazard Area.

The Planning Board finds that the provisions of Section 4.4. are not applicable.

4.5. Basic and Municipal Services

4.5.1 Sewage Disposal

The proposed project will connect to the Brunswick Sewer District System.

The Planning Board finds that the provisions of Section 4.5.1 are satisfied.

4.5.2 Water Supply and Quality

The applicant has indicated that they will construct an eight-inch (8") diameter extension approximately 702 feet from the nearest connection to the Brunswick and Topsham Water District.

The Planning Board finds that the provisions of Section 4.5.2 are satisfied

4.5.3 Solid Waste Disposal

The site plan includes a dumpster enclosure for solid waste disposal. The applicant has indicated that they will contract with a local commercial waste hauler.

The Planning Board finds that the provisions of Section 4.5.3 are satisfied.

4.5.4 Stormwater Management

The proposed project requires only a DEP Stormwater Permit by Rule. The applicant has included an approved permit as an addendum to this application.

The Planning Board finds that the provisions of Section 4.5.1 are satisfied.

4.6. Landscaping Requirements

The proposed landscape plan has been reviewed by the Town Codes Enforcement Officer and Town Arborist and found to be consistent with all applicable Zoning Ordinance landscape standards. The applicant has also provided amenities such as an internal green space, benches, bicycle racks, and an outdoor play area.

The Planning Board finds that the provisions of Section 4.6 are satisfied.

4.7. Residential Recreation Requirements

As there are no permanent residential dwelling units proposed, the residential recreation impact fees are not applicable to the proposed project.

The Planning Board finds that the provisions of Section 4.7 are not applicable.

4.8. Circulation and Access

4.8.1 Street Standards

No new streets are proposed as part of the project. The applicant provided a traffic study with an estimated sixteen (16) peak hour trips. This number falls below the one-hundred (100) trips that would trigger the need for a traffic movement permit from Maine DOT. Furthermore, the traffic associated with the proposed project is not anticipated to impact the existing level of service.

The Planning Board finds that the provisions of Section 4.8.1 are satisfied.

4.8.2 Circulation and Access

There is one (1) access point proposed. The Town Engineer did not state any concerns with the location and dimensions of the access point. However, an entrance permit from the Town Engineer will be required.

The Planning Board finds that the provisions of Section 4.8.2 are satisfied.

4.8.3 Pedestrian and Bicycle Access

A network of internal paths and walkways, including a connection to the Wal-Mart shopping center, are proposed. Bicycle racks are provided on-site. Furthermore, the applicant has indicated their willingness to contribute to a sidewalk fund that will be used for the future Thomas Point Road improvements.

The Planning Board finds that the provisions of Section 4.8.3 are satisfied.

4.8.4 Access for Persons with Disabilities

The site plan has been developed in accordance with Americans with Disability Act (ADA) design standard. This includes access from two (2) ADA-compliant parking spaces with accessible routes to the building entrance. ADA-compliant ramps are provided where necessary.

The Planning Board finds that the provisions of Section 4.8.4 are satisfied.

4.9. Parking and Loading

The twenty-six (26) parking spaces (include two (2) ADA-compliant spaces) provided meet the minimum parking demand standards for homeless shelters established in Section 4.3.1.X of the Zoning Ordinance.

A bicycle rack for six (6) bicycles meets the minimum standard.

All parking spaces meet the minimum dimensional standards.

The Planning Board finds that the provisions of Section 4.9 are satisfied.

4.10. Lighting

The applicant has included spec sheets for full cut-off lighting fixtures to be used on the subject property. The included photometric plan indicates that there will be no light trespass onto surrounding properties. The applicant did not indicate the proposed color temperature for the outdoor lighting but is strongly encouraged not to exceed 3,000 Kelvin.

The Planning Board finds that the provisions of Section 4.10 are satisfied.

4.11. Architectural Compatibility

The applicant has included a memorandum from Ryan Senatore Architecture outlining the architectural treatments used to be consistent with the Cook's Corner Design Standards. Such traditional New England architectural features include its main gable roof with smaller gable dormers perpendicular to the main roof and gabled projecting bays.

Consistent with traditional New England architecture, the proposed windows are double-hung with mullions dividing the individual panes.

Proposed exterior material include fiber cement siding with battens and architectural asphalt shingles, both of which are used throughout the surrounding area.

The Planning Board finds that the provisions of Section 4.11 are satisfied.

4.12. Neighborhood Protection Standards

As the proposed project is surrounded by the GM4 Zoning District neighborhood protection standards do not apply.

The Planning Board finds that the provisions of Section 4.12 are not applicable.

4.13. Signs

The proposed project includes a monument and building mounted sign. The Town Codes Enforcement Officer reviewed the proposed signage and found it consistent with Section 4.13

The Planning Board finds that the provisions of Section 4.13 are satisfied.

4.14. Performance Standards

The applicant has indicated their ability to comply with all of the performance standards pertaining to noise, smoke and particulate matter, dust and fumes, odors,

vibrations, unlicensed motor vehicles, or lighting and glare. If approved, construction of the facility will occur between the permitted hours of 7:00 AM – 7:00 PM

The Planning Board finds that the provisions of Section 4.14 are satisfied.

4.15. Site Maintenance

The applicant has indicated that the proposed project will be maintained consistent with their standard in place at their existing locations. The stormwater management plan accounts for the necessary maintenance of BMPs. A Inspection and Maintenance Plan and Log is included with the application.

This finding serves to advise the applicant that site features constructed or installed as required by this development review must be maintained in good repair, and replaced if damaged or destroyed, or in the case of living materials, if they die or are effectively destroyed after installation.

The Planning Board finds that the provisions of Section 4.15 are satisfied.

4.16. Financial and Technical Capacity

The application includes a Purchase and Sale Agreement with the owner of the subject properties. Copies of the subject properties' deeds are also included. An updated letter, dated November 22, 2021, from Bath Savings Institute is included and indicates the applicant's financial capacity to completed the proposed project.

A performance guarantee is required prior to the construction of the infrastructure intended to be dedicated to the Brunswick and Topsham Water District. According to the applicant, the BTWD has indicated the potential that they will cover the cost difference between installing a twelve-inch (12") diameter water main rather than the proposed eight-inch (8") diameter water main.

The introduction letter includes all members of the project's design team and their associated qualifications.

The Planning Board finds that the provisions of Section 4.16 are satisfied, provided the applicant provide a performance guarantee to the Brunswick and Topsham Water District.

4.17. Administrative Adjustments / Alternative Equivalent Compliance

No administrative adjustments or alternative equivalent compliance plans are requested.

The Planning Board finds that the provisions of Section 4.17 are not applicable.

IV. EXHIBITS

- A. Final Plan Major Development Review Application, dated November 23, 2021
- B. Sketch Plan Major Development Review Documentation, dated September 8, 2021

APPROVED MOTION
CASE NO. 21-070
REVIEW DATE: JANUARY 11, 2022

APPROVED MOTION: That the Final Plan Major Development Review for the properties located at Map 42, Lots 8 and 11 is approved with the following conditions:

1. That the Planning Board's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. Prior to the issuance of a building permit, the applicant shall submit to the Department of Planning and Development a copy of a performance guarantee approved by the Brunswick and Topsham Water District.
3. Prior to the issuance of a building permit, the applicant shall submit to the Director of Planning and Development documentation depicting Lots 8 and 11 as consolidated.
4. Prior to the issuance of a building permit, the applicant shall submit to the Department of Planning and Development a copy of a letter from the Brunswick Sewer indicating their ability to serve the project.
5. Prior to the issuance of a Certificate of Occupancy, the applicant shall submit to the Department of Planning and Development an as-built construction plan per the request of the Cumberland County Soil and Water Conservation District.
6. Should within the next five (5) years the Town of Brunswick fund improvements to Thomas Point Road, as proposed in the existing Capital Improvement Plan, the applicant, prior to the start of said improvements, shall contribute funds for materials, mutually agreed upon in cost, for a sidewalk along the subject properties' Thomas Point Road frontage, not to exceed 387 feet in length. Should the Town not commence construction of the sidewalk within five (5) years of the date of approval this condition shall become null and void.

First: Kelly Matzen Second: Jane Arbuckle Vote: 7-0-0

From: Julie Erdman <jerdman@brunswickme.gov>

Sent: Thursday, January 2, 2025 2:00 PM

To: 'Andrew Lardie, Tedford Housing' <andrew@tedfordhousing.org>; 'Danielle Triffitt' <danielle@tedfordhousing.org>; 'Timothy Schneider' <tps@sagestoneconsulting.com>; 'David Merrill' <dam@warrenconstructiongroup.com>

Cc: Lourdes Sanchez <lsanchez@brunswickme.gov>; James Dealaman <jdealaman@brunswickme.gov>

Subject: FW: Tedford Housing Request for Site Plan Approval Extension and Minor Modification

Warning: Unusual sender <jerdman@brunswickme.gov>

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Thank you, Nancy. Per Subsection 5.2.9.Q(1), your application for a site plan extension has been received prior to its January 11th expiration. We will place this item on the Planning Board's January 28th agenda.

I find that the attached proposed changes do constitute a Minor Modification, and I will notice those accordingly so that the application may be acted on following the Planning Board's decision on the extension.

Best Regards,

Julie Erdman
Director
Planning and Development
P: (207) 721-4022
E: jerdman@brunswickme.gov

Brunswick
maine
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From: Nancy St.Clair <nancy@stclairassociatesmaine.com>

Sent: Monday, December 30, 2024 12:48 PM

To: Julie Erdman <jerdman@brunswickme.gov>; 'Andrew Lardie, Tedford Housing' <andrew@tedfordhousing.org>; 'Danielle Triffitt' <danielle@tedfordhousing.org>; 'Timothy Schneider' <tps@sagestoneconsulting.com>; 'David Merrill' <dam@warrenconstructiongroup.com>

Cc: David C. St. Clair Jr P. L. S. <david@stclairassociatesmaine.com>

Subject: Tedford Housing Request for Site Plan Approval Extension and Minor Modification

Dear Julie,

Attached are digital copies of our two-part application package in support of Tedford Housing's new building currently under construction on Thomas Point Road. As our enclosed cover letter describes, we are respectfully requesting your consideration of an extension of the project's site plan approval (final major development review) prior to its upcoming expiration on January 11th, 2025. In addition, we are also requesting staff review of minor site revisions as described in the attached letter. In addition to our letter, we have enclosed the minor modification application form and a digital set of drawings for your consideration. Tedford Housing will be dropping off the check for application fee this week. Five paper copies of the attached materials are being delivered to your office today.

Please let us know if you would like this information uploaded to the permit portal as well. We look forward to hearing from you. Please let us know if you need any additional information or if you have any questions.

We hope you have a safe and enjoyable New Years Eve.

*Thanks,
Nancy*

Nancy St.Clair P.E., Vice President
St.Clair Associates
34 Forest Lane
Cumberland, ME 04021

207-615-8586 cell
207-829-5558 office





21012

December 30, 2024

Julie Erdman, Director of Planning Development
Town of Brunswick Planning and Development
85 Union Street
Brunswick, ME 04011

Request for Site Plan Approval Extension and
Request for Minor Modification
Major Development Plan & Conditional Use
Tedford Housing Building (Case # 24-020)
65 Thomas Point Road
Assessor's Map 42, Lots 8 and 11
Brunswick, ME

Dear Ms. Erdman,

On behalf of Tedford Housing, we have prepared this two-part application to seek an extension of Site Plan Approval and Minor Site Revisions to address further detailing associated with site construction. We offer the following for your review:

Request for Site Plan Approval Extension

As you know, on May 14, 2024 the Brunswick Planning Board issued a re-approval of the Conditional Use Permit for Tedford Housing's new facility on Thomas Point Road. Previously, on January 11, 2022 the Brunswick Planning Board granted unanimous approvals of a Conditional Use Permit and the Final Major Development Review for Tedford Housing on Thomas Point Road. At the time of re-approval of the Conditional Use Permit, the Site Plan Approval had not lapsed (and will not lapse until January 11, 2025) and did not require re-approval.

We are respectfully requesting that the staff and Planning Board consider this request for extension of the Applicant's Site Plan Approval (Final Major Development Review), given the fact that the building is currently under construction but will not be ready for

occupancy by the date associated with the original Site Plan Approval (January 11, 2025).

As you may be aware, subsequent to the original Approvals in 2022, the Applicant continued its Capital Campaign to raise funds to support the construction of this new facility, including pursuit of Federal funding support. The fundraising process has been lengthy but finally reached the point to allow construction to proceed this fall. However, given the timing of this process, including the time necessary to complete the Federal level reviews, the construction will not be sufficiently complete to allow building occupancy by January 11, 2025. It is anticipated that the building will be completed for occupancy in late 2025. Given this timing, we are respectfully requesting an extension of the Applicant's Site Plan Approval (Final Major Development Review).

Request for Minor Modification

In addition, we have prepared the enclosed materials in support of a proposed Minor Modification to the Tedford Housing Site Plan. We have prepared the enclosed Minor Modification Application to accompany the revised plans associated with this site.

It is our understanding that as part of this process, you will and other staff members will evaluate the materials to determine whether the proposed changes qualify for a staff-level review process, or whether the proposed changes warrant a return to the Planning Board.

It is important to note that the building's size and location on the lot have not changed, the amount of parking spaces have not changed and the driveway location has not moved. The following section describes the proposed minor modifications in further detail.

Proposed Minor Changes

- Sheet naming and numbering revisions on the Site Plan drawings:

To support the bidding and construction process these minor revisions were made. Since the Site Plan drawings are now included in a larger construction set which includes all the drawings associated with the architectural, structural, mechanical, electrical, and plumbing drawings these naming and numbering changes were made. Additional details and clarifications have also been added to address contractor questions during

the bidding process. These changes were made to clarify and further detail the design of the site elements with no changes to the overall design intent.

- Addition of walkway to mechanical room:

As part of the conditional use review and reapproval of the project, in May of this year, the Fire Department requested that a paved walkway be added from Thomas Point Road to the mechanical room located along the front of the building. This short, paved walkway has been added, as requested.

- Paving of walkway through rear of site:

As you know the original Site Plan included a walkway through the rear of the site to provide pedestrian access to the abutting Walmart property. The surface of this walkway had been proposed as mulch on the previously approved plan. The Applicants have proposed that the surface of this walkway be a material that can be maintained year-round. Accordingly, the Applicants are proposing that this walkway be paved. There are no proposed changes to the route of the walkway.

- Pedestrian Scale Walkway Lighting:

In order to facilitate safe pedestrian use of the walkway, pedestrian scale lighting has been added along the walkway through the rear of the site. An updated lighting and photometrics plan has been prepared to demonstrate compliance with the local lighting criteria. A copy of this updated lighting plan is enclosed.

- Sewer Service Revisions:

The building's proposed sewer service has been modified to address the connection to the discharge point for the internal plumbing. In addition, when the contractor excavated the existing manhole in Thomas Point Road, it was discovered that the existing manhole structure would not allow connection at the original design invert. The invert was modified and the service slope was adjusted to accommodate this existing condition. The proposed sewer service modifications were reviewed with the Brunswick Sewer Department and found to be acceptable.

- Addition of Door at Easterly Wall:

As part of the further detailing of the interior floor plans for the building, an egress door and threshold were added along the easterly wall. This door is located at the end of a hall in the office area and will allow an additional exit from the office area, if needed. This door is not a public access and is not available for the residents' use.

- Mechanical Unit Locations:

As part of the detailed mechanical systems design for the building there are a series of small exterior pad mounted mechanical units that are placed along the outer edges of the building. These unit locations have been added to the plan.

- Proposed future generator pad:

As part of the original design there was a rectangular paved area off the northeasterly edge of the parking lot. This rectangular area was intended to provide access to the previously proposed gravel wetlands in the area for maintenance. With the prior elimination of this BMP (as approved in the prior modifications in late 2023) this pad area was not being used. This paved pad has been converted to a proposed concrete pad to allow for future placement of a backup generator.

Review Criteria for Minor Changes

It is our understanding that a minor modification is allowed under certain conditions which are established in the Brunswick Zoning Ordinance in Chapter 5.2.10.B. We have addressed each of the 6 bulleted items contained in the Ordinance below. For ease of review, the criteria are shown in *italics*, along with our response, as follows:

- *Does not materially alter the layout or scale of the development or its impact on its surroundings;*

As noted above, the overall site layout and scale are not materially altered by these proposed minor changes. The building location, orientation, size and overall program elements remain as previously approved. No changes are proposed to the site entrance, parking layout and number of parking spaces.

- *Does not increase the number of lots or dwelling units;*

There are no proposed changes with regard to lots or dwelling units.

- *Does not violate provisions of any Town Ordinance;*

The proposed changes have been designed in accordance with the applicable Ordinance standards.

- *Does not reduce the effectiveness of the approved landscaping, screening, or buffering of the site;*

The proposed minor changes do not modify the provisions of landscaping, screening or buffering of the site included in the prior approved plans.

- *Does not significantly alter on-site vehicular circulation; and*

No changes are proposed to the vehicular circulation patterns on the site. The previously approved parking layout remains unchanged, no changes are proposed with regard to the driveway location or width or number of parking spaces on the site.

- *Does not significantly alter drainage patterns.*

As noted above, the proposed site changes include modifications to the walkway surface material through the rear of the site. No grading changes were made as part of this modification. As such, no changes to the overall site drainage patterns occurred. Our office also evaluated the change in impervious cover associated with the conversion of the walkway surface to pavement. This increase in impervious cover did not alter the overall curve number (CN) of the subcatchment that includes the walkway. As such, there are no anticipated increases in peak discharge for this subcatchment.

Application Materials

We have included five copies of the following materials in support of the applicant's request for an extension of the project's Site Plan Approval and Minor Modification to the previously approved Final Major Development/Conditional Use for Tedford Housing:

- Cover Letter/Project Description
- Minor Modification Application Form
- Revised Site Plan Set (including a revised Photometric Plan)

Please note that in addition to the plan information cited above, a check for the Minor Modification Application fee, in the amount of \$250.00, is being delivered directly by the Applicant, under separate cover, to be included as part of this submittal package.

Closure

With the submittal of the materials listed above, we are respectfully requesting staff consideration of this request for an extension of the project's Final Major Development Review approval and approval of these proposed Minor Site Plan changes under the Brunswick Ordinance provisions for a Minor Modification to the Planning Board's prior approval for Final Major Development/Conditional Use review for this project, as described above.

As the enclosed Plans, and this letter demonstrate, the Applicant is proposing minor modifications to the site that are intended to allow the project to be constructed while still maintaining the integrity of the previously approved plans.

We are confident that you and other staff members will concur with our assessment that the enclosed Plan revisions are within the criteria for review as a Minor Modification.

We are available to meet with you if you have any additional questions as you review the enclosed materials. We look forward to hearing from you after you have had a chance to further review these requests.

We look forward to hearing from you.

Sincerely,

ST. CLAIR ASSOCIATES



Nancy J. St. Clair, P.E.

Vice President

NJS:njs

Andrew Lardie, Executive Director Tedford Housing

Danielle Triffitt, Director of Administration, Tedford Housing

Tim Schneider, Sage Stone Consulting