

Minutes
Planning Board Meeting
Tuesday, April 14, 2015

Present: Neil Schuster, Chairperson; Don Girouard, Rene Ittenbach, Donna Bailey, Angela Blanchette, city engineer, and Bob Hamblen, City Planner. Absent: Deborah McKenney

1. Minutes of March 31, 2015

Donna moved to accept the minutes as written, seconded by Rene. Vote was 4-0. Motion passes.

2. Public Hearing: Preliminary subdivision review of a proposed amendment to the four lot subdivision off Simpson Road approved December 17, 2014. Applicant is Simpson Farm LLC. Tax Map 115, Lot 12. Zoned C-1.

Hamblen: This proposal is to amend the four lot subdivision approval granted by the Board on 12/17/14 returns to the Board for preliminary subdivision review. Per Section 7.1 of the Subdivision Regulations, the creation of an additional lot mandates both preliminary and final subdivision review.

Applicant Simpson Farm, LLC proposes to carve a fifth lot out of the abutting parcel owned by Mezoian Development, LLC, so that the four lot subdivision on a 12.226 acre parcel would become 5 lots on 14.3 acres.

The project would be serviced with individual wells and septic systems, and includes no proposed street, as each of the five lots would include 200 feet of frontage or more on Simpson Road. No open space is proposed, so a fee for open space and active recreation facilities is required, and addressed in the Conditions of Approval.

A. Determination of Completeness

Applicant is requesting the Board to waive proposed 2-foot contours, parking areas, curbs and gutters, sidewalks, streetlight, street sign, street trees, service buildings and structures, and dumpsters within the subdivision:

Rene: "I move that the Board grant waivers for submission requirement items 5.2.2(7), topography, and 5.2.2.(16) including parking areas, streetlights, sidewalks, street signs, curbs and gutters, street trees, service buildings and structures, and dumpsters based on the applicant's written statement and the limited size of the project making these requirements unnecessary." Seconded by Donna. Vote was 4-0

Rene: "I move that the Board find the application for preliminary subdivision review to be complete." Seconded by Donna. Vote was 4-0

The stormwater plan has not been finalized, but this can be addressed between preliminary and final. Little has changed since the December approval of the 4 lot project. A pre-construction meeting was held,

but roads were posted soon after, so work has not yet begun on the cistern, the only significant piece of public infrastructure involved.

Steve Blake, BH2M: Other than adding Lot 5 to the plan, the project pretty much stays the same. The only change is the location of the fire tank. The stormwater calculations will be updated to coincide with the amended Simpson Farm Subdivision Plan.

Angela Blanchette, city engineer: Stormwater is the big concern, but she has no objection in moving forward, but it will need to be resolved.

Rene: questions brought up by FST and Dick Lambert regarding the same ownership, but not being considered as one application, he doesn't have a problem with them being viewed separately.

Bob: abutter, Randy Meserve confirmed that the lot was indeed gifted. His concern was about the site distance.

Angela: That is a dangerous driveway.

Donna: Move to open the public hearing, seconded by Rene. Vote was 4-0

No comments from the public

Rene: Move to close the public hearing, seconded by Donna. Vote was 4-0

Don: He agrees with MMA comments, but he understands Dick's concern for the common scheme and the splitting of 2 acres here and 2 acres there. Maybe we need to revisit the Subdivision Regulations and see if we need to change that area.

Donna: "I move that the Board grant approval under the provisions of the Subdivision Regulations for the preliminary plan for the proposed Simpson Road Amended Five Lot subdivision, based on the Findings of Fact dated April 14, 2015." Seconded by Rene. Vote was 4-0. Motion passes.

3. Public Hearing: Site plan review of a proposed 15,925 s.f. research and manufacturing facility at 23 Mill Brook Road. Applicant is Joan Gordon, President, Maine Molecular Quality Controls, Inc. Tax Map 45, Lot 19-3-8. Zoned I-3.

Hamblen: Applicant Joan Gordon, President of Maine Molecular, proposes a 15,925 s.f. building that would house a light industrial use at 23 Mill Brook Road. The building would include production/manufacturing, office and lab space initially for about 15 employees on a 13.12 acre lot in the Mill Brook Business Park.

The parcel fronts on the cul de sac at the easterly end of Mill Brook Road, and will be accessed via the existing utility and access easement that provides public access to the Eastern Trail. Like other Mill Brook parcels, it is pre-permitted by the Maine DOT for traffic and by the Maine DEP. The DEP requires the submission of a Site Application for Condition Compliance, basically a notification that development of the lot is now proposed, and, of a Modification for the Site Law permit for the business park.

The applicant also notes that an NRPA Tier II permit application is being submitted to the DEP due to proposed wetland impacts associated with the driveway, above and beyond existing NRPA approvals for the business park.

This project triggers the need for site plan review due to proposed new construction of a nonresidential building in excess of 1,000 s.f. The building is not subject to design review; being on a lot in a City industrial park, that topic was addressed by the City's Economic Development Commission on April 13 – results available for the meeting.

The site plan application is complete, with the determination that a hydro geological study and an archaeological/historic survey are not applicable, given the site. A proposed motion:

Parking: Required: one space for each employee, maximum working shift

Proposed: 30, based on projected future employment level

Stormwater: two under drained filtration basins and one subsurface gravel wetland would provide treatment for surface drainage, then discharge to the same locations as under pre-development conditions. Treatment for the business park is accomplished via water quality wet ponds for Lots 1, 2, 5 and 9. Treatment measures are the responsibility of individual lot owners for the remaining lots.

Water, Sewer: Connection to existing mains in Mill Brook Road.

Utilities: Overhead electric and telephone service will be extended to site from existing overhead service on Mill Brook Road, then underground onto the site.

Joan Gordon, President of Maine Molecular Quality Controls, Inc: Overview of the business: I was senior technologist at the Maine Medical Center and then Research Associate at the Maine Medical Center Research Institute for 30 yrs. My scientific expertise is in molecular genetic testing and molecular cloning technology. I developed the technical protocols for production and manufacturing the nucleic acid constructs in MMQCI's products. I am co-inventor on two patents. I am treasurer of the AACC, Industry Division and was a member of the Annual Meeting Organizing Committee for 2006. I received my B.S. in Medical Technology (Suma Cum Laude) from the University of Vermont. I pursued graduate studies in Applied Immunology and Molecular Biology at the University of Southern Maine.

Maine Molecular Quality Controls, Inc. (MMQCI) designs and markets molecular controls for use in inherited disease testing, infectious disease detection, and pharmacokinetics.

As experts in quality assurance of laboratory medicine, MMQCI produces **high caliber controls** uniquely suited to monitor all phases of molecular testing as required by best practice and regulations.

The company was formed by two principals, me, and **Clark Rundell**, Ph.D. We both have a strong background in clinical laboratory testing, as well as extensive research and development skills in the molecular biology field. As long-term workers in a clinical laboratory at Maine's largest healthcare

facility, they are thoroughly familiar with the importance of controls in assuring laboratory accuracy, as well as the Federal regulations governing their use. While implementing novel genetic testing assays in the newly established Maine Medical Center Molecular Pathology Laboratory, Dr. Rundell invented and patented a process to stabilize target DNA constructs for utilization as controls in molecular-based diagnostic assays. I developed protocols based on this patented process to manufacture an FDA-cleared quality control for an infectious disease test platform. We continue to pursue further research and development of unique technologies to produce additional molecular control products. Funds from the National Institutes of Health and Maine Technology Institute have assisted the development of new technologies used in MMQCI products.

They have been in Scarborough since 2004, but because of their requirements to meet certain guidelines, and in order not to compromise the space where products come in, they are looking at building a new facility. They do not do the testing. They make the controls only. Currently they have an inventory of 13-15 controls, with 8 scientists, 4 technicians and 1 Administrative Assistant. They will increase in R&D and eventually have their own Sales staff.

She really likes Saco. It's close to where she lives, and the lots at the Mill Brook Business Park are next to the Eastern Trails, where she can ride her bike

Mark Johnson, SMRT, representing MMQCI: We are proposing a 16,000 s.f. facility on one level that will accommodate an office, laboratory, and production spaces. The building will support an entry drive, staff and visitor parking, loading/service area, site utilities and lighting, stormwater management systems, and landscape planting. Signage will be located at the main driveway entrance. DEP site license and MDOT Traffic Movement permit have already been obtained by the city for the park. No further permitting is expected relative to traffic.

Hamblen: DEP is allowing the City to review the stormwater under delegated review, and Joe Laverriere is okay with that. Lighting has been signed off. Joe Hirsch commented on trees and asked that applicant reconsider changing the hemlocks to another species.

Don: "I move to find the application for site plan review submitted on behalf of Maine Molecular Quality Controls, Inc., to be complete." Seconded by Donna. Vote was 4-0

Mark Johnson: they have planned for future expansion by positioning the building to the south of the lot. They will be using propane for heat. It will most likely be a long time before gas is available, because of the expense of a pressure reduction system. The building design will have a clean look, and have colored tiles mapping out a double helix. A metal panel system will be used on the north side, where future expansion will take place. They will be using LED lighting, with bollards along the primary walkway. The entrance sign is not finalized.

Rene questioned the movement pattern of trucks, which doesn't appear to have enough room to turn around.

Mark: the hammerhead is approximately 50-60 ft, which should accommodate the truck movements. The parking spaces are accounted for in the expansion as well.

Rene: Do you make live cultures? **Joan:** No. They make complete synthetic controls

Rene: Move to open the public hearing, seconded by Donna. Vote was 4-0

No public comments

Donna: Move to close the public hearing, seconded by Rene. Vote was 4-0.

Bob: Number 8 of the Conditions of Approval anticipated Joe Laverriere comment regarding The City's delegated authority.

Donna: "Move that the Board grant approval under the provisions of the Saco Zoning Ordinance, Article 11, Site Plan Review, for a Light Industry use in a commercial building as proposed by Maine Molecular Quality Controls, Inc., the Maine Stormwater Law for a Condition Compliance application for stormwater management, and the Site Location of Development law based on the Conditions of Approval and Findings of Fact dated April 14, 2015." Seconded by Rene. Vote was 4-0. Motion passes.

- 4. Public Hearing: Preliminary subdivision review of a proposed 51-lot subdivision off Rte. 5 adjacent to the Maine Turnpike. Applicant is Jason Labonte. Tax Map 87, Lots 1-1 and 1. Zoned R-1d and contract zone. Item was tabled at the August 12, 2014 meeting.**

Hamblen: The Board reviewed this most recently on August 26, 2014, at which time it was tabled for further review. An inspection of the property took place prior to that meeting. At the time, the application was found complete in order to allow discussion to move forward, while the Board recognized that a plan for street trees and a capacity letter from Maine Water were still due. The letter has been submitted from the water company.

New for this meeting:

- Plan set revised through April 8,
- Progress on sewer plan, both on site and crossing Turnpike,
- Changes to stormwater system, primarily removing the proposed chamber system and replacing with a vegetated under drained soil filter field,
- The proposed open space has been removed, and a fee will be paid instead, if acceptable to the Board,
- A fair amount of progress has been made on the sewer main crossing of the Turnpike. No permit yet issued from the MTA.

Still outstanding:

- Jennifer West's July 8 comments on the wetlands delineation, which recommended that Mark Hampton revisit the site, and that a vernal pool survey be completed for the site. The latter has been done, the former, not. Addressed in the draft Conditions of Approval.
- Consideration should be given to Section 10.11.5.11 of the Subdivision Regulations, which requires sidewalks "...along all subdivision streets, and any street which abuts the subdivision, or gives access to it." See below for more discussion.

The City Council approved a contract zone for this project on Sept. 16, 2013. The applicant agreed to extend public sewer across the Turnpike; public water is already available. The only yard and lot requirement affected by the Contract Zone Agreement is minimum lot size: reduced from 15,000 s.f. to 10,000 s.f. Setbacks and frontage remain as usual for the R-1d zone.

The project would take place on just under 24 acres; 51 lots, 4.2 acres of open space; about 17,315 s.f. of wetland impacts, for which a Tier II wetland alteration permit will be necessary from the DEP.

Bill Thompson is the project manager, assisted by Andy Morrell; P.E. Jason Labonte is the developer.

The Board voted to find the application complete for the purposes of discussion at its meeting of Aug. 26, 2014. No waivers requested to date. ~~Items that remain to be submitted:~~

Sec. 5.2.2(16) -- street trees.

Donna: “I move that the Board waive submission item 5.2.2(16) – street trees, for the purposes of reviewing information that has been submitted, and that consideration of approval of the final plan will not occur until this information has been submitted.” Seconded by Rene. Vote was 4-0. Motion passes.

Rene: “I move that the Board find the submissions for a preliminary subdivision plan to be complete.” Seconded by Donna. Vote was 4-0. Motion passes.

- No recreational facilities or open space are proposed, so payment of an impact fee is addressed in the Conditions of Approval.
- Staff has met with the applicant and Mr. Morrell to discuss the sewer and pump station, which is designed with capacity for about 40 lots over and above that required for this subdivision, per the request of the WRRD (treatment plant staff). Howard Carter, Angela, and CDM Smith are in the process of reviewing the design of the pump station and the plan for the Turnpike crossing, respectively.
- Contract zone – the primary issues impacted by the Contract Zone Agreement:
 - Table 412-1 is amended to establish a minimum lot size of 10,000 square feet for individual building lots on the Subject Property.
 - Sections 10.12 and 11.14 of the Subdivision Regulations are amended in order to allow the implementation of a Low Impact Design stormwater management system that shall comply with existing City and state water quality and quantity standards.
 - Provision shall be made for pedestrian and bicycle access to and from the subdivision. In that the Turnpike overpass on New County Road is too narrow for the construction of a sidewalk connection to the existing City sidewalk that ends at the corner of Bradley Street and Shadagee Road, staff recommends that a contribution to future sidewalk construction be assessed and found acceptable by the Planning Board during subdivision review. This is a distance of roughly 1,250 feet, addressed in draft Conditions of Approval.

- How is the 30 foot wide easement held by Maine Water to be identified and/or protected? This will essentially be the back or side yard for 25 lots. Will the easement be delineated by markers, fenced, or...? Should it be?
- Parks and Rec's Joe Hirsch has suggested that vegetative screening be considered along Rte. 5 so that lots fronting on that busy arterial would have some buffering. Also, that additional trees be considered along the Turnpike side of the project, even recognizing that trees are proposed to be retained along that property line and a 10 foot wall is proposed. A plan for these plantings would give Joe and the developer something to go on.
- The abutter across the street, you may recall from the site walk, wondered if a fence could be installed on her property to discourage west-bound motorists from swinging wide around left-turning vehicles and taking out her mailbox. We had suggested perhaps a few barrel-sized boulders be set on the lawn, parallel to Rte. 5, that would serve the same purpose as a fence. However, turns out the Rte. 5 right of way is well onto the abutter's lawn – more of the lawn is in the right of way than is on the abutter's property. Angela has discussed with the MDOT, and they regard the placement as suggested as deadly fixed objects, and will not allow the boulder plan.

No follow-up to date on the request by Ms. West for a revisit of potential wetlands areas or a vernal pool survey. While a lot of progress has been made on the sewer system and pump station, until the Turnpike crossing is approved by the MTA and found acceptable by staff that remains a huge issue. If these and items above have been finalized by or at the meeting, then approval of the preliminary plan would be possible. If not, perhaps another tabling is in order.

Andy Morrell, BH2M: They are continuing to work with MDOT and some of the details are still being worked on. They are also working with Howard Carter on the Pump Station design, who has requested us to use Steven's Electric. CD Smith will be reviewing the Site. Jennifer West and Mark Hampton are still working out issues. Per the Main Water Company, they have approved the fire hydrant locations, and they have added the water main, signage, and monumentation to the plan to let people know. There will be some fill brought in, to elevate the land. Major changes to the plan are: Sewer Crossing, Sewer Design, which will accommodate the potential of 40 more new houses. They removed the chamber sewer system and will now be a gravity sewer system. The Open Space has been eliminated in lieu of applicant paying a fee. Sidewalk: the applicant is proposing a fee of \$200 per house. Everyone agreed a sidewalk on Rte. 5 would be dangerous. **Jason:** There will be a sidewalk throughout the project.

Don: How much fill will be covering the water main? Is 30ft in the ROW going to be enough? **Andy:** They will probably add about 2ft. **Don:** If there was to be a major blow out in the water main, you could have houses floating away. **Jason Labonte, applicant:** maybe some rebar could be added with red caps along the water main ROW? **Rene:** You could swale the water out to Goosefare Brook. **Andy:** There is a swale down the center of the development. **Angela Blanchette, city engineer:** She doesn't want to see multiple pump stations, like we call the Hillview Affect. **Neil:** It needs to have a 50ft access to an abutting property. **Rene:** There needs to be two. **Jason:** He can give access, but wants to remain in ownership.

Andy: They would like to propose a sound barrier wall, along the length of the turnpike, in lieu of the typical landscaping. Home owners would be responsible for this fence. **Neil:** Sidewalk contribution

seems to be fair. Access to abutting property needs to happen. Bob will work out details with the City Attorney. **Andy:** He will speak with Main Water Co. on what they think about the monumentation designation. It was their suggestions that they add note #22 on the plan.

Rene: Move to open the public hearing, seconded by Donna. Vote was 4-0

No public comments

Rene: Move to close the public hearing, seconded by Donna. Vote was 4-0

Don: "Move that the Board approve the preliminary plan application submitted for the proposed Precious Hidden Estates subdivision based on materials submitted to date, and the attached Findings of Fact and Conditions of Approval dated April 14, 2015." Seconded by Rene. Vote was 4-0. Motion passes.

Angela: She still has issues with the sewer elevations coming out to Rte. 5. There are still a lot of outstanding and unsettled issues.

Don and Rene: They understand Angela's concerns, but these issues will need to be settled before the Final plan is submitted.

5. Old Business: proposed amendments to Article 16 of the Zoning Ordinance – impact fee related to Fire Department and Emergency Medical Services. Item was tabled at the March 31 meeting.

Hamblen: At the Board's 3/31 meeting, Fire Chief John Duross introduced the amendments to Article 16, and mentioned several issues that bear on the identified need for an FD/EMS impact fee: the need to maintain the current level of service; the department is at its max; the fee would spread eligible costs to new construction; the department does not currently meet the national standard for arrival of a response team within 240 seconds to 90% of incidents.

A Board member noted that accounting will be difficult to manage the receipt and use of fee revenues, and, that impact fees cannot pay for services. The response would be that the City has managed the receipt of open space and recreational facility impact fees since 2002, and that those fees have been applied to capital improvements, infrastructure, and equipment, as allowed by state law and by Article 16.

Another point raised was that identifying particular uses, such as senior facilities, and revising the proposed fees to focus on facilities that have demonstrated greater service levels. The City must treat user groups the same or it's opening itself up to litigation.

The notion of a single larger impact fee was mentioned, with the idea of departments eligible under state law then dividing up the revenue generated. It's probably surprising that it's taken 14 years for a second department to propose an impact fee in support of its operations. Chief Duross is all we've heard from; other departments are not clamoring for fees specific to their disciplines. Not to say they couldn't, however.

As follow-up to the discussion and public hearing held during the Board's March 31 meeting, here are a few points that have a bearing on the issue.

- The Maine Legislature created Title 30-A §4354. Impact Fees in 1989, thereby allowing a municipality under its home rule authority to require the construction of off-site capital improvements by a developer, or, to require an impact fee instead of construction such improvements. Infrastructure facilities related to “public safety equipment and facilities” is one of seven municipally-provided services that such a fee can be established for.
- In 2001, the City Council approved an addition to the Zoning Ordinance: Article 16. Impact Fees. The new section introduced a Recreational Facilities impact fee and an Open Space impact fee, as allowed under §4354.1(6) “Parks and other open space or recreational areas...”
- Article 16 was drafted so as to allow not only the Recreational Facilities and Open Space impact fees, but also additional and/or future impact fees to be established, as may be approved by the Council.
- The Recreational Facilities and Open Space impact fees have worked well, if evaluated in terms of revenue generation. The Recreational Facilities impact fee has generated an average of \$62,967.59 per year from 2002-2014. The Open Space impact fee has generated an annual average of \$20,313.54 over the same period.
- The proposed Fire Department/Emergency Medical Services Impact Fee seeks to ensure that current levels of service are maintained as Saco's population grows, and demand for services increases. With current and future capital facilities and equipment needs estimated at \$400,000 annually, there is a strong need for additional resources.
- The proposed fee would be assessed on new residential and non-residential buildings. Based on an average year from 2001-2013, the fee would generate \$40,000-50,000 in revenue specifically for capital facilities and equipment. By itself, the fee won't buy a new fire truck or expand a fire station, and cannot be used for staffing, but it can become part of the yearly calculation on arriving at a budget that maintains current levels and is acceptable to the Council.

Don: He didn't know that Eldercare facilities would be considered commercial. He has a problem with that, because, commercial to him is more like, retail, store fronts, industrial. **John Duross:** Elderly housing is considered somewhat semi-private. **Rene:** another way of looking at it is Elderly housing is a “For Profit”. They are in it to make money. **Don:** need to be careful how we categorize. We have to make sure that the fee fits the table. Looking at the table the Single Family is \$500, then 2-family at \$250/unit. Maybe the fee should be tied into the number of people. The fee structure should fit the category. There should be a new category “Eldercare Housing”, based on the ratio of people according to Section 1602-4. In fact the ratio should all be recalculated to start with Single Family dwelling at \$500, then Eldercare Housing based on the number of people.

Don: Residential, such as Single Family dwelling at one fee, and then for all the other uses, whether you want to call it Elderly Housing, those fees would be based on the ratio of people. All the other uses combined in Section 1602-4. This means we would take the \$500 for a Single Family, divide that by 3.2

and then multiple it by 1.2 for an Eldercare Facility. Then we would do the same for Single Family, Multi-Family, etc.

Don: How do we put Mobile Homes in a different category? **Donna:** In Sec. 1602-4, they have them both in the same category. **Don:** that means they are the same. **Rene:** Well they are the same. **Don:** But we have one fee for Single Family and another fee for Mobile Homes. They will need to be adjusted so as to be the same.

Don: “I move that the Board forward a positive recommendation for the proposed amendments to Article 16. Impact Fees.” Based on the fee structure recalculated as discussed tonight, seconded by Donna. Vote was 4-0. Motion passes.

Meeting adjourned at 8:30pm

Respectfully submitted by,

Maggie Edwards

Board Secretary