

## Minutes

### Planning Board

Tuesday, August 18, 2014

Present: Neil Schuster, Chairperson; Don Girouard, Donna Bailey, Peter Scontras, Michael O'Toole, Patrick Fox, Director of Public Works, and Bob Hamblen, City Planner. Absent: Marty Devlin, Rene Ittenbach.

Workshop: 5:00pm

- a. Discussion, update of Rte. 112 Study
- b. Discussion of MU-3 issues.

**Don:** Maybe we should consider leaving the lots that are along Rte. One to 200ft with the 40ft buffer, and the lots in the back to maybe 150ft, with a 30ft buffer. (To be continued at upcoming workshop).

Regular Meeting: 5:45pm

#### 1. Minutes of August 4, 2015

**Peter moved to accept the minutes as written, seconded by Don. Vote was 5-0. Motion passes.**

#### 2. Street Acceptance: request that the City accept Zachary Lane and Turnberry Circle in The Trails subdivision as City streets. Applicant is Normand Berube Builders. Tax Map 93, Lot 3-2.

**Hamblen:** At the request of developer Normand Berube Builders, Inc., the Board is asked to provide a recommendation regarding the acceptance of streets found in The Trails subdivision, off Hearn Road. The Trails was approved on Dec. 13, 2011: a 10 lot subdivision on a 39.6 acre parcel off Hearn Road. It is well away from public sewer and water, and is instead serviced by private wells and septic systems. Its' "starting point" was a private road, Zachary Lane that was upgraded to City street specifications. It includes a looped street off Zachary, Turnberry Lane – roughly 3,100 s.f. of new street and sidewalk.

A copy of the deed and metes and bounds description is in the packet, as required under Section 11.24 of the Subdivision Regulations. Record drawings are under review by FST. The City Attorney has reviewed the deed and found them acceptable; a copy of his comments is in the packet. City staff is unanimous in recommending acceptance of Zachary Lane and Turnberry Circle as new streets.

The August 14, 2015 memo from Patrick Fox will be added to the COA. **Don:** Will the list be accomplished before the acceptance? **Pat:** He feels confident that it will. There is little risk if the Board approves. **Peter:** There is 3,100ft of road. And sidewalks? **Bob:** Yes, sidewalk included throughout.

**Peter: Move to recommend to the City Council that Zachary Lane and Turnberry Circle and associated infrastructure and easements be accepted by the City, seconded by Don with amendment to include**

**Pat Fox's memo of August 14, 2015 to be completed/addressed before approval. Peter accepted the amendment. Vote was 5-0. Motion passes.**

**3. Public Hearing: Conditional use review of a proposed Day Care Center at 80 Flag Pond Road. Applicant is Michelle Goulet. Tax Map 62, Lot 16. Zoned R-1a.**

**Hamblen:** The applicant, Michelle Goulet, seeks to establish a Day Care Center on the property at 80 Flag Pond Road. This is a conditional use in the R-1a zone. Ms. Goulet received conditional use approval for a Day Care Home from the Board on Nov. 4, 2008, which by definition is limited to no more than 12 children. By seeking approval for a Center, that number would increase to no more than 24 children. She proposes to accommodate the increased number with an additional building to the rear of the single family dwelling that exists currently.

Ms. Goulet currently operates a Day Care Home, defined by the Ordinance as "A dwelling or other place providing day care or babysitting services to 7 to 12 children and fully meeting the licensing requirements of the Maine Department of Human Services." The applicant cares for up to 12 children Monday-Friday between the hours of 7:30 a.m. and 5:30 p.m. A Day Care Center is defined as "A place providing day care services to more than 12 children and fully meeting licensing requirements of the Maine Department of Human Services." Staff is of the understanding that the DHHS limits the number in a Center to 24.

There are no specific standards in the Ordinance for such a use – the Department of Human Services will address issues such as adequate space, code requirements, staffing levels, etc. Sec. 901-1 of the Zoning Ordinance charges the Planning Board with finding "...that the use meets the standards of Section 901-4..." Staff's review indicates that these standards can be or are met by the applicant.

Section 901-1.2.h is suitable for waiving: topography. Other submission requirements that may be considered applicable but have not been fully complied with include (g) existing site features – the parcel is wooded, but not shown on plan; (i) a large parking area is shown, but spaces and dimensions are not; and (m) lighting details have not been provided, other than locations on plan. If the Board deems these critical to the application, either the applicant can supply this info at the meeting, or, a tabling may be in order. Each can be waived, as well.

**Mike:** Is staff ok with the lighting? **Bob:** A photometric plan would accomplish little in this setting; only new fixtures are residential front and side door installations. **Michelle:** There are 3 lights in the front and 1 in the back of the building.

**Mike: I move to waive Sec. 901-1.2.h as being unnecessary because of the nature of the proposed use, seconded by Donna. Vote was 5-0. Motion passes.**

**Donna: I move to find the application for a conditional use permit complete, seconded by Peter. Vote was 5-0. Motion passes.**

Six parking spaces are required for the day care, at one space per four children. It appears that ample space is available; given the plan provided and given the varied times that programming starts and ends. The applicant explains in her letter that children are delivered at staggered times from 7:30 to 9 a.m.,

then picked up at 11:30, 1 p.m. and 5:30 p.m. Given the existing day care home, this proposal to double the capacity from 12 children to 24 is viewed as reasonable by staff.

**Don: Move to open the public hearing, seconded by Donna. Vote was 5-0. No public comments made**

**Don: Move to close the public hearing, seconded by Donna. Vote was 5-0.**

**Donna: Move that approval be granted for a Conditional Use permit for a Day Care Center at 80 Flag Pond Road, under the provisions of the Saco Zoning Ordinance, Article 9, Conditional Uses, based on the Findings of Fact and Conditions of Approval dated August 18, 2015, seconded by Don. Vote was 5-0. Motion passes.**

**4. Public Hearing: Site plan review of a proposed commercial Stable use at 115 Louden Road. Applicant is river Winds Farm, LLC. Tax Map 106, Lot 10-1. Zoned C-1.**

**Hamblen:** Applicant River Winds Farm LLC received site plan approval from the Board on June 5, 2012 for a 19,440 s.f. indoor riding arena on the property at 121 Louden Road. At the time, the Board was advised thusly: "Due to its size, the building is subject to site plan review. It is intended for private use, and is not proposed as a commercial facility open to the public. Parking for 10 vehicles is proposed, and a row of pine trees for buffering from Louden Road." The arena was built later that year.

As the Board is aware, the applicant proposes to establish a riding program for high school students. When consulted, Code Enforcement Officer Dick Lambert – also the City's Zoning Officer – opined that such a use is commercial in nature. Knowing the details of the 2012 approval, Mr. Lambert suggested that the 2012 approval would not allow such a use, and, that a contract zone would be the only route under which such a use could be established.

The Board made a recommendation on the proposed contract zone at its June 2 meeting. The City Council approved the contract zone on July 20, thereby allowing an "educational horseback riding program" to be established, and modifying the setback requirement from the northeasterly property line so that the existing 41 (47?) foot setback is now regarded as conforming. As with all contract zone projects, it now returns to the Board for site plan review. It is staff's intent to lean heavily on the 2012 application, as much of the information remains the same. The LLC is represented by Beth Austin, and by her attorney, Leah Rachin.

**Determination of Application's Completeness**

The applicant has requested the waiver of:

1104-1.6 – stormwater management plan (addressed in 2012)

1104-1.7 -- topography (2012)

1104-1.8 – utility plan (2012)

1104-1.9 -- landscape plan (2012)

1104-1.10 – standard boundary survey (waived 2012)

1104-1.14 – erosion and sedimentation control plan (2012)

1104-1.15 – traffic impact analysis (2012)

1104-1.16 – hydrogeologic assessment (N/A 2012)

1104-1.17 – stormwater quality management plan (2012)

1104-1.18 – lighting plan (waived 2012)

**Donna: I move that the Board waive Sec. 1104-1.6, 1104-1.7, 1104-1.8, 1104-1.9, 1104-1.10, 1104-1.14, 1104-1.15, 1104-1.16, 1104-1.17 and 1104-1.18 as being previously approved, or unnecessary due to the nature of this project, seconded by Mike. Vote was 5-0. Motion passes.**

**Peter:** He recently saw an advertisement where River Horse Farms was running an ad for a public horse arena. Is there something more to this that we are not aware of? **Leah, Bergen and Parkinson, attorney for Beth Austin:** The Contract Zone that recently went to Council, was approved for a commercial riding stable affiliated with Thornton Academy. To her understanding, if Beth wanted to add any other entity and/or make it a public riding stable open to the general public, she understands that they would have to come back before the Planning Board for a Conditional Use approval. There was discussion back and forth between the attorney, and Mr. Scontras regarding clarification of use. Is it going to be a Public Riding Stable, or is it going to be an Educational Riding Stable?

**Bob:** He referred to Ms. Austin's August 10<sup>th</sup> letter requesting to establish a riding program with Thornton Academy students. **Donna:** Is this program for TA students only? Or are you allowing the public to sign up under the umbrella of TA for this program? **Leah:** they are seeking approval for a riding program, affiliated with Thornton Academy. Public riding Stable is separate Conditional Use with Planning Board approval. Traffic may increase on Saturdays during the day only. Existing lighting won't change.

**Mike: I move that the Board find the site plan application for the Austin horse arena to be complete, seconded by Peter. Vote was 5-0. Motion passes.**

**Donna: Move to open the public hearing, seconded by Peter. Vote was 5-0. No public comments were made. Peter: Move to close the public hearing, seconded by Donna. Vote was 5-0.**

**Peter:** Are there enough spaces for the student's vehicles? **Bob:** Yes. **Don:** It is important for the Board to understand and agree on this educational program with Thornton Academy, because it is a matter of time before Biddeford and other schools step up and want the same. We should understand the contract zone and its scope and limitations. **Neil:** I wish that we would address the whole thing at once as a Public riding Stable. **Don:** Over time they may expand, and then the traffic may be something we will need to address. **Leah:** If they expand to another school, they will come back to the Board for approval. An Educational Riding Stable associated with Thornton Academy, is what we are here for tonight.

**Bob:** The arena is built; the gravel parking area is in place. As-built plans were submitted, reviewed and found acceptable in June, 2014, meaning that the project was built as proposed per City standards. The former Duranceau parcel next door has been purchased by the applicant, so the most directly affected

abutter is no longer there. The requirement by the Council that the Duranceau parcel be added to the subject property so as to result in a single parcel is in the works. The standards for approval were met by the applicant in 2012, and little has changed since that time.

**Mike: I move that the Board approve the application for site plan review submitted by applicant River Winds Farm LLC based on the Findings of Fact and Conditions of Approval dated August 18, 2015, seconded by Donna. Vote was 5-0. Motion passes.**

**5. Public Hearing: Final plan review of a proposed nine-lot subdivision off McKenney Road. Applicant is Dearborn Family, LLC. Tax Map 125, Lot 2. Zoned C-1.**

**Hamblen:** Applicant Dearborn Family LLC received preliminary approval for this nine lot subdivision at the Board's June 16 meeting. The Board asked that a letter from Maine IF&W be submitted, that a no-cut buffer be shown on the plan along the southerly boundary, and that streetlights be figured out and proposed, though streetlights were waived for purposes of discussion for that evening. The former two issues have been addressed. Staff representing the PD, FD, DPW and Planning agree that normal policy for street lighting should be followed: a streetlight at the intersection being created with the proposed street, and a streetlight at the end of the proposed street.

Dearborn Family LLC proposes to create nine new lots from a roughly 24.5 acre parcel with frontage on McKenney Road. Lots 1, 2 and 9 would derive frontage from McKenney Road, while Lots 3-8 would front on a proposed new street, Joanna Drive. Aside from electricity, cable and phone, public utilities are not available or nearby, so lots would be serviced with private wells and septic systems. Fire protection would be addressed with an underground cistern, within a proposed easement adjacent to McKenney Road. No open space is proposed; the draft conditions of approval require payment of an open space and recreational facilities impact fee. Project manager Bill Thompson, BH2M, is representing the applicant.

**Donna: I move to find the application for final subdivision review to be complete, seconded by Mike. Vote was 5-0.**

As this is written, staff-identified issues have been communicated to the project manager and generally addressed with the July 30 re-submittal, though not yet finalized. The concerns expressed by neighbors at the public hearing – lot grading and drainage, whether a sidewalk should be required, what a buffer from existing lots might consist of, and potential impacts on groundwater – were generally addressed during the 6/16 meeting.

With the Rte. 112 Corridor Study complete, staff's intent is to act on its recommendations. Randy Dunton, Gorrill-Palmer, is reviewing the impacts of traffic generated by the project on Rte. 112 and we anticipate recommendations as to impact fees. Said fees would be used to implement study recommendations; hoping for a recommendation by the meeting. We anticipate further FST comments by the meeting, and believe that the plan and application are at the point that final approval could be considered by the Board.

**Abutter Tracy Zinck** submitted an email dated August 14, 2015, who suggests that the 25ft no-cut buffer zone cover the entire border of the Boynton Brook Road residents, and she does not wish to see an access road, so as to prevent further development.

**Pat Fox, Director of Public Works:** They have been testing out Solar lighting at Richard's Way and Plymouth Drive and so far he is impressed. It's a nice option to get away from our \$20/month per pole cost to the City. **Don:** Item 2 on page 7 of the COA; Traffic Impact fee. Space needs to be filled in with \$585.00. **Bob:** Will make the change. And, there will be no connection to The Clearing subdivision.

**Donna:** There are 2 comments from FST. One is wetlands and secondly, the driveway location off the turnaround. Have they been addressed? **Bob:** He did not see the need for a wetlands consultant. It used to be an old gravel pit, so there was no wetlands peer review done. **Pat Fox:** He is ok with the location of the driveway, as Bill Thompson has explained and as shown on plan.

**Bill Thompson, BH2M:** MDIFW has not mapped any Essential or Fisheries Habitats that would be impacted by this project, per their letter. We have added a 25ft no-cut buffer on the southern boundary of the parcel. We have not added street lighting on the plan yet, because they are still in discussion on what will be used and where they will be placed. The Fire Chief has approved the tank location. Project will replace an existing 26" cast iron drainage pipe with two 24" culverts. The elevation of the proposed culverts has been lowered to allow for adequate inlet capacity during a 50 year storm event.

**Lindsey Dearborn, applicant:** She has a concern with adding a street light at the end of the hammerhead, as well as how the traffic figures are determined compared to other subdivisions. **Bob:** Gorrill-Palmer determined the formula based on trips at 50% times the amount the 9 lots. You'll see that a proposed subdivision off Ferry Road (Juniper Knoll II) is a greater distance from Rte. 112, and is figured at 25% a base amount multiplied by 16 lots.

**Pat Fox:** sadly the Rte. 112 study will be going on for a long time. Wish he could say it would be implemented in 10 years, but it's doubtful. The cost for the infrastructure outweighs the money we collect. The money that is now being collected will only help with the small fixes.

**Neil:** There was a question about the wetlands? **Bill T:** There are only 80 sq.ft. of wetlands. All the water drains across the site to the drainage pond.

**Donna: move to open the public hearing, seconded by Peter. Vote was 5-0.**

**Tracy Zinck, 16 Boynton Brook Rd:** there was no mention of the adjacent development and its' no cut buffer. The Board should resolve the no-cut buffer all along the subdivision. And the access road should not be a public way. **Keith Lehigh, 160 Grant Rd:** He would prefer that the light at the end of the road, be solar. There is water pooling. His sump pump runs year round. He just doesn't want any more water on his property. **Dana Weeman, 146 McKenney Rd:** He owns adjacent parcel. This is a nice package. Culvert on Lot 4 has a lot of water in the spring. They may want to reclaim and taper the pit. The Clearing plan showed an access road. **Pat:** the access road won't be connected to this subdivision.

**Neil suspended the public hearing.**

**Bill:** the road is ditched away from Mr. Lehigh's property, so he shouldn't have any added water on his property. The no-cut buffer is on the plan. **Mr. Weeman:** the gravel pit runs over onto his property. **Don:** Lots 4 & 5 have easements? **Bill:** the whole piece is a drainage easement to the city.

**Peter asked the applicant:** Would you volunteer to add a sidewalk and esplanade on one side of the street? **Lindsey:** Honestly no. **Peter:** It seems like we are placing the kids at risk. We require sidewalks for some subdivisions, but not others. We need to be consistent. I suggest revisiting sidewalks for this subdivision. It's not just a sidewalk to nowhere. We are placing the City at risk. **Ms. Zinck:** She thinks the sidewalk is a great idea.

**Mike: Move to close the public hearing, seconded by Donna. Vote was 5-0.**

**Peter:** Why does the Board not want to approve the sidewalk? **Don:** Lighting relocation of street light agreement between Public Works and the applicant. No decision on whether a light at end of dead-end. Subdivision Regulations give the Board authority. Lighting fixture should be deferred to Public Works.

**Donna: Move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the final plan submitted for the proposed Morrill Estates subdivision based on the attached Findings of Fact and Conditions of Approval dated August 18, 2015, with the addition to add the fee of \$585 to item #8 in FOF and that the decision for a street light be determined by Public Works, seconded by Don. Vote was 4-1 (Peter). Motion passes.**

Meeting adjourned at 8:00pm

Respectfully submitted by,

Maggie Edwards  
Board Secretary