

Planning Board Minutes  
March 1, 2016

Members Present: Neil Schuster, Chairman; Rene Ittenbach, Michael O'Toole, Donna Bailey, Marty Devlin, Peter Scontras, and Bob Hamblen, City Planner. Absent: Don Girouard

### **Workshop 5:00p.m.**

Design Standards, Section 729

### **Regular Meeting 5:45 p.m.**

#### **1. Minutes of February 23, 2016**

**Rene:** His comments on pg 5, should be noted as saying: **There is an existing trail maintained by Saco Bay Trails nearby and could there be a connection to this development? Don also made a few corrections such as,**

**Don:** My comments are all within the paragraph beginning after #5. "The Law Court....."

1. The first "Don" comment: I said that I was glad decisions on site plans don't go to the ZBA because I didn't think it was appropriate for the ZBA to potentially substitute its judgment for ours on planning issues.

2. Immediately following, the comment about 901-10 is attributed to me, but I think it was Mike who made that comment. Mike's same comment with respect to 901-10 starts again in the 5th from the last line at the bottom of the paragraph.

3. About mid-paragraph, concerning my comment with respect to Section 1004-7, I believe my comment was that the paragraph was worded to reflect only when a member's conflict of interest was challenged, and I suggested that it should be added that occasionally a member will challenge themselves or at least ask the Board for a determination on their situation. Sorry, I can't remember the exact wording of the paragraph nor can I remember the exact wording of what I suggested.

**that are reflected in the minutes. Mike: I move to accept the minutes with corrections, seconded by Peter. Motion passes, 6-0.**

#### **2. Old Business: Site plan and Site Location of Development review of a proposed 22,676 s.f. dormitory at Thornton Academy. Tax Map 40, Lot 29. Zoned R-2. Item was tabled at the Feb. 9 meeting.**

**Hamblen:** Board members will recall tabling this item at the Feb. 9 meeting, asking for changes in design of the exterior of the building, the third of four proposed dormitories along Main Street, just north of the main entrance to the campus. The applicant has provided response materials, dated Feb. 24, 2016.

Thornton Academy began welcoming international students to its campus in September 2009. Some Board members will recall the first two dorm projects reviewed:

- An 18,200 s.f., two-story, 38-bed and four apartment dormitory, since named Nelson Hall.
- A 19,660 s.f., two-story, 42-bed and four apartment dorm, since named Stasio Hall, the second of four planned dorms.

Nelson Hall is located within the Historic Preservation District. The building's design was reviewed and approved by the Historic Preservation Commission. Stasio Hall and dorm 3 are in the R-2 zone, and not in the historic district. In that the project is subject to site plan review, design review is also triggered. PDT Architects has provided responses to Sec. 729.E, Design Standards, and graphics of the exterior elevations of the proposed building.

Stormwater would drain to the existing under drained stormwater pond southwest of the dorms, which outlets to the municipal storm drain network in Main Street, thence to Bear Brook, a tributary to Goosefare Brook. The proposed building has a footprint of roughly 11,600 s.f. There are seventeen proposed new parking spaces, intended to accommodate the current proposal and the fourth dormitory shown as part of the Campus Master Plan. A landscaped stormwater bio-retention filter will be constructed between the relocated basketball court and Dorm 3.

Lighting and landscaping would mimic that which is in place for the existing dorms. Traffic was addressed in 2009 via a Traffic Movement Permit from the Maine DOT, which required closure of the former driveway to the Alumni House from Main Street, installation of the overhead pedestrian flasher at the Main Street crosswalk, and realignment of the main entrance from Main Street.

Any substantive changes to the T.A. campus result in the need for amendment of both site plan and the existing Site Location of Development Review permit, as was the case with the 1994 Arts Center project, in 2010 with the fieldhouse, in 2006 with the Middle School project and 2007 with the science building parking lot, and in 2008 and '11 with the dorm projects.

The Board voted to find the application for amendment of the existing site plan to be complete, 6-0, at the Feb. 9 meeting.

A few points worth mentioning for those Board members who have not served for long:

- T.A. went through a master planning process which culminated in a 3/16/10 appearance before the Board for review and approval. The written approval is attached, and includes the new dorm buildings, a dining hall expansion, a new turf field and stadium lighting, etc.
- The Board was introduced to the dorm proposal in a workshop, then a regular meeting on 9/16/08: a proposed "dormitory village" in the current Main Street location.
- The first dorm building being located in the Historic Preservation District was subject to review by the Historic Preservation Commission. Barba and Wheelock Architecture did an extensive job of surveying the Main Street corridor and designing a building that reflected architectural elements of the neighborhood.
- The HPC found that the proposed dorm's metal roof would be in keeping with existing buildings on campus; that the proposed exterior materials simulate existing historic buildings; that the layout of the proposed buildings minimize intrusiveness on Main Street; that the arborvitae and fence just west of the Main Street sidewalk lessen the visual impact of the building from the public way; and that the hip roof "shortens" the building and lessens the visual impact. They issued a Certificate of Appropriateness (an approval) on 9/30/08.

- As the Board knows, elements of design to be avoided include a flat, featureless wall greater than 50 feet in length. This applicant proposes for the third time a thoughtfully designed building that is institutional in scale, but for which a good deal of detailed design work has been done with the objective of lessening the overall impact of what will be a 234 foot long building. The design found acceptable for the previous two buildings features changes in the plane of the exterior walls, pitched roofs, double-hung windows, and varied siding elements.
- A principle of historic preservation is that new construction is acceptable – old buildings burn down, deteriorate, and are replaced – but don't build the new building to look like an old building. Let the new building's design stand on its own, and be recognized as a building of its own time. To its credit, that's what TA has directed its architects to do, and Saco's HPC and two previous Planning Boards have agreed with.
- Staff would suggest that consistency is to be strived for from a Planning Board and planning office. Developers like to know that what was true last year in a town will remain true in three years. Banks like consistency. Existing institutions such as TA like consistency. TA was instructed nearly 6 years ago that its master plan is acceptable to the City, and that buildings such as Nelson Hall and Stasio Hall are consistent with the City's design standards, and meet the standards set forth by the Secretary of the Department of the Interior (which the HPC conducts its reviews by).
- What this Board did on Feb. 23 was to change the rules of the game. While personal feelings about the dorm's appearance can't be discounted, members are encouraged to be aware of what has come before, what has been found acceptable by other boards, and let its discussion be guided by the design standards found in Sec. 729.

Staff is in agreement that the plan creates no adverse issues. A few of the applicable items from Joe Laverriere's comments of Jan. 12 have been included in the draft Conditions of Approval.

**Lyndon Keck – PDT Architects:** they listened to the Board's comments from the last meeting and made design changes. He admits that the graphics for the last presentation before the Board were very flat. These current changes will strengthen and reinforce the goal of designing a building which has two front door elevations, one that faces Main Street and the other that faces the center of the residential quad. We have submitted 3-dimensional elevations. Some of the elevations show various screenings along the front of Main Street. There is a thick border of arborvitae, some 30ft tall, along Main Street. They were asked by TA to keep same design as the other dormitory buildings. Nelson Hall was built in 2007, and Stasio Hall in 2011. They would like to start construction next month. The Board asked to make the bathroom windows larger, so they made them 2ft x 3ft. The scale is compatible with the other buildings on the campus. Materials and textures will be the same as the two previous dormitories, which will consist of clapboards on the first floor, shingles on the 2<sup>nd</sup> floor, separated by a row of decorated "fish scale" shingles. Pitched roof with a standing seam 50-year metal roof with large overhangs and low profile fascia board. Varying roof lines, building projections and recesses, and front door porches. No portion of the building exceeds 50ft without an architectural feature such as windows, porches, or roofs. Red wood trim will be added to all the windows.

**Peter:** The changes are not enough. The HPC did a great injustice. The Planning Board takes advice from them and felt it was sufficient at the time. The other buildings are not in the historic district. He is suggesting two conditions be met. Firstly, there are gaps between some of the arborvitae. Some are growing well and some are not, but none are at 30ft. The gaps should be filled in. There should be some vigorous screen plantings. Secondly, there is a black fence, and evergreens should be brought up to the fence.

**Neil:** In my opinion you did listen. Beauty is in the eye of the beholder. The 3 dimensional view is helpful. This footprint was on the Master Plan. That is what the planning board agreed on. He appreciates the consistency.

**Lyndon:** The applicant has no problem filling in the planting gaps in front of the building. It is a New England style building. The TA campus is rich in design with the various buildings, and all the architecture.

**Mike:** He appreciates the changes that were made. The contrast adds a lot. He would suggest that screening be added along Main Street as far south as Nelson Hall, which would screen the basketball court.

**Mike:** I move to open the public hearing, seconded by Donna. Motion passes 6-0. No comments from the public.

**Rene:** I move to close the public hearing, seconded by Marty. Motion passes. 6-0.

**Donna:** Who will maintain the plantings? **Bob:** there is language in the conditions of approval and Ordinance that speaks to that. **Peter:** Why not have evergreen screening up to the corner before turning west? Are you telling me it's due to the expense? **Lyndon:** Each tree costs \$210. It would cost \$15,000-\$20,000 to add to where you want them to go.

**Paul Kelly, Chief Finance Officer for Thornton Academy:** the TA Board likes it. Part of the design is to see the building. We want to create a village. We want the same uniformity.

**Rene:** Move that the Board grant approval under the provisions of the Saco Zoning Ordinance, and under the provisions of the Site Location of Development Law for the construction of a dormitory with associated site improvements as proposed by Thornton Academy, based on the Conditions of Approval and Findings of Fact dated March 1, 2016, with added conditions to: include plantings on the northerly side of Nelson hall, and to fill in the gaps with other plantings along the front of Main Street, seconded by Marty. Motion passes, 5-1 (Peter against).

**3. Public Hearing: Contract Zone review of a proposal to reduce the setback from Lehner Road for the parcel at 2 Lehner Road. Applicant is Sure Winner Foods, Inc. Tax Map 69, Lot 8. Zoned I-2.**

**Hamblen:** Applicant Sure Winner Foods, Inc., owns a 4.4 acre parcel at the corner of Industrial Park Road and Lehner Road. Being a corner lot, the parcel is subject to a front yard setback of 50 feet from each street, and a 25 foot side setback from each of the other two property lines. Lehner Road is a bit of an odd duck in that it is a City street for its 528 foot length, but ends at a jog in the Sure Winner northeasterly property line. Beyond that point, Sure Winner has improved a gravel road including a gate that restricts through travel, though the road allows easy passage to the company's Lund Road property.

The City has been reluctant to consider discontinuing Lehner Road, as it provides part of what could be a connector between Lund and Lehner. If a large scale development ever occurred on Lund Road, the opportunity to create another means of access could become important, albeit the cooperation of Sure Winner would be necessary to make this happen.

The difference between a 25 and a 50 foot setback along Lehner Road, a "secondary access road that serves only industrial uses," as described by the applicant, means that 10,000 s.f.+/- is tied up due to setbacks. The

applicant would like to “reclaim” that land, and thus proposes a contract zone in order to reduce the front setback from Lehner Road from 50 feet to 25 feet.

See Dick Lambert’s comments suggesting a change to I-2 setbacks rather than attempting to resolve this via a contract zone. Current conditions are such that Industrial Park Road and Lehner Road are the only such situation – corner lot created by intersecting streets -- in the I-2 zone. If the Board were so inclined, it could consider a Zoning Ordinance amendment such as a footnote added to the list for Table 412-1: “In the I-2 zone, the front yard setback may be reduced to twenty-five (25) feet for parcels with frontage on Lehner Road.” This would affect two lots.

As stated in Sec. 1403 – 6, “Before forwarding a recommendation (on) a contract zoning amendment to the City Council the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Council requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be negative. The Planning Board shall base its recommendation on whether the rezoning:

- A. is for land with an unusual nature or location;
- B. is consistent with the Comprehensive Plan;
- C. is consistent with, but not limited to, the existing uses and permitted uses within the original zone; and
- D. that the conditions proposed are sufficient to meet the intent of this section. “

If the Board is inclined to support an amendment to the Zoning Ordinance rather than the contract zone, the public hearing can be scheduled for March 15.

**Shawn Frank, Sebago Technics:** A contract zone was recommended, but he would be happy to go for an amendment to the zoning ordinance. The 50ft measured from Industrial Park Road as well as Lehner Road impacts a great deal of the property. The applicant requests that the City allow reducing the required front yard setback for a secondary access road that serves only industrial uses on Lehner Road, to 25ft, which is the required side and rear yard setback in the I2 zone. The 50ft front yard setback will be retained along Industrial Park Road. Only a 25ft front setback will be required along Lehner Road to allow for the potential development of the property.

**Donna:** what about the other properties on the Lund Road? **Bob:** Three of those parcels belong to Sure Winner Foods. Only parcels on Lehner Road would have front yard frontage reduced to 25ft.

**Marty: I move to open the public hearing, seconded by Donna. Motion passes 6-0. No comments from the public.**

**Marty: I move to close the public hearing, seconded by Peter. Motion passes 6-0.**

**Neil:** It takes the same amount of time whether it be a contract zone or zoning ordinance amendment.

**Mike: I move that the Board table consideration of a contract zone and instead encourage the applicant to pursue an amendment to the Zoning Ordinance that would allow a reduction in the front yard setback from Lehner Road from 50 feet to 25 feet, seconded by Donna. Motion passes, 6-0.**

**4. Public Hearing: Preliminary subdivision review of a proposed 16-lot subdivision off Richards Way. Applicant is Mezoian Development LLC. Tax Map 23, Lot 20. Zoned R-1a. Item was tabled at the Feb. 9 meeting.**

**Hamblen:** The Board tabled review of this application at its Feb. 9 meeting, and asked that the issue of the “no-cut stormwater buffer” as shown on the Strawberry Fields subdivision plan, and how it relates to this (JKII) subdivision be resolved. Accordingly, staff followed up with the legal department of the Maine Municipal Association. Attorney Richard Flewelling had provided an opinion on May 22, 2015 as to whether any change to the no-cut buffer as part of the JKII project might necessitate an amendment to the Strawberry Fields subdivision plan; such an amendment would be necessary, he opined.

Upon being provided additional information, Mr. Flewelling suggested (see Feb. 16, 2016 e-mail) that the City has sufficient standing to initiate the amendment to the Strawberry Fields plan, and suggested that course of action as being “...probably the most pragmatic resolution.”

Whereupon staff, recognizing that the City Attorney has been involved in and aware of the Strawberry Fields projects for several years, included Mr. Murphy in the issue. Find Tim’s two e-mails of Feb. 17, 2016, attached. Briefly, Tim argues that the no-cut buffer shown on the 2004-approved Strawberry Fields plan was erroneous – “...the Board’s jurisdiction over Strawberry Fields was limited to the developer’s land not other third party abutting land. For this reason, the no cut could not and did not legally burden the third party land.”

So – that aside, does the Strawberry Fields plan need to be amended? The City Attorney says no: “...the no cut buffer set out in 2004 is without legal basis. Why spend time, effort, funds amending the SF plan simply to excise the no cut. What benefit is served?”

Tim goes on from there, but staff believes that the issue of most importance to the Board – must the Strawberry Fields plan be amended before the Juniper Knoll II plan can go forward? – has been answered. Further, the Juniper Knoll II applicant proposes to address in full the issue of drainage flowing through the no-cut buffer, which the DEP has found acceptable through its 12/23/15 Site Law approval.

Staff suggests that the Board could request this of the applicant:

The remnant of the no-cut buffer has been absorbed into proposed Lot 1, at 39,569 s.f. A fair amount of Lot 1 is wetlands, per the plan, and most of the wetlands are within what was the no-cut buffer. In addition, when the abutting Strawberry Fields lot was purchased by Perry, it was with the understanding that the no-cut buffer was just that, most likely in perpetuity. Could the wetlands/former no-cut buffer portion of Lot 1 be permanently protected via easement, while still allowing Lot 1 to be developed?

The preliminary plan application was found to be complete at the Board’s July 29, 2014 meeting.

A handful of things here:

- A summary of the McCallum/Strawberry/Mezoian projects to date follows:

Strawberry Fields --	49.228 acres, 45 lots
Ocean Greens II --	7.65 ac., 7 lots, 10 units
Carson’s Point, 2 lot amendment --	3.095 ac., 2 lots
Carson’s Point, private road –	0.467 ac, 2 lots: 1.51 ac., 1.25 ac.
Juniper Knoll --	11.319 ac., 14 lots
Copper Leaf --	16.401 ac., 19 lots

<i>Juniper Knoll II --</i>	<i>14.57 ac., proposed 16 lots</i>
Total --	105.49 acres, 108 lots/units

The Department of Public Works has recommended that Richards Way be identified as the sole construction route for the project, same as for Juniper Knoll and Copper Leaf. Also, they are requesting that the Board impose a \$1,098 per lot fee that would go toward an overlay of Richards Way at the completion of this project. This fee has been required of lots within the Juniper Knoll and Copper Leaf subdivisions to date, was first collected in February, 2012, and totals \$30,766.40 to date – 28 houses. This is addressed in the draft conditions of approval.

- Traffic – addressed in part with the Traffic Movement Permit granted by the Maine DOT in 2015. Also, the Traffic Safety Committee met on 9/25/14 and discussed the potential for a 4-way stop at Richards Way and Ocean Greens Drive, which was at the time a 2-way stop. It is now a 4-way. Also, streetlights off Ocean Greens Drive by the detention pond in Strawberry Fields, and by the ball field off Richard Way. Both have been installed. Also, the public works department has installed a signalized crosswalk at the corner of Richards Way and Ferry Road.
- Stormwater – the subsurface chamber system for collecting stormwater has been scrapped in favor of a wet pond and a vegetated, underdrained filter. The DEP has approved the Site Law modification for this project, which includes a Stormwater Permit and an NRPA permit. The latter is necessary due to the proposed alteration of 17,388 s.f. of forested wetlands. The DEP is handling this by requiring a contribution of \$70,943 to compensate for the permanent alteration of the wetlands, an amount due prior to the start of construction.

The existing median where Richards Way meets Ferry Road has been identified as being an issue, as large vehicles tend to ride up on it and beat up the curbing. DPW is willing to either remove the median, or have it removed. Addressed in draft conditions of approval.

This project should be very close to the final shoe to drop on Strawberry Fields, etc., though at least a couple of house lots remain the property of the former owner. With the Site Law and NRPA permits being issued, the City is somewhat assured that the technical review of environmental impacts has been completed by the ultimate review authority in the state, and found to be consistent and compliant with existing state law and DEP regulations.

Upon completion of Copper Leaf subdivision and Juniper Knoll II, the \$1,098 per lot fee that has been collected for each lot will be utilized by the City to finish pave Richards Way, the authorized construction route. The City will have collected roughly \$83,260 in Open Space and Recreational Facilities impact fees.

**Bill Thompson, BH2M:** This project has been under review for about 2 years. We have reviewed the comments from DPW dated January 18, 2016 and comments by Stantec dated January 25, 2016 and offer the following responses:

Response Comments to DPW

1. The design of Taylor Berry Lane has been revised to a 24ft wide, as suggested. The first 770ft will taper to 15ft, and will be a one-way out.

2. The driveway for Lot 12 has been relocated
3. Curb cuts for the proposed wet pond and grassed underdrain filter have been revised
4. The extent of rip rap at the wet pond emergency spillway has been revised as suggested and the granite curb has been eliminated.
5. The extent of paving, curbing and grading at the end of Ocean Greens Drive has been revised.
6. The extent of sidewalk near Lot 7 on Taylor Berry Lane has been revised and the curb ramp has been eliminated.
7. Construction Traffic for Juniper Knoll II will utilize Taylor Berry Lane; construction traffic will be directed to Taylor Berry Lane to avoid accessing the project from the intersection of Ocean Greens and Richards Way. The Applicant is not aware of any turning maneuver challenges at the intersection of Ferry Road and Richards Way.

#### Response Comments to Stantec

1. David Pendleton from the City of Saco Fire Department on May 8, 2015. David requested that the location of the fire hydrant along Taylor Berry Lane be relocated to the intersection of Taylor Berry and Richards Way. Refer to Sheet 4 for the location of the fire hydrant.
2. The Applicant has not secured the rights to provide plantings as shown. It is our understanding that the property is currently listed for sale and the homeowners are out of the country. A note was included on the plans requiring coordination with the homeowner prior to installing the plantings. The Applicant would like to have the plantings shown on the plans such that they can be installed should the homeowner, at the time of construction request some screening.  
Homeowners will be responsible for plowing and maintaining

**Neil:** In conditions of approval, it says. “preserve access to trails? Have you looked at it?

**Bill:** He will look at before the next submission. **Neil:** Will the covenants be consistent with Juniper Knoll I? **Bill:** Yes.

**Marty:** I move to open the public hearing, seconded by Peter. Motion passes 6-0.

**John A. Cunningham, Eaton Peabody:** spoke on behalf of Mr. McCallum.

It was noted that the applicant (Strawberry Fields (SF), McCallum) did not have the right to create an easement on the Prendergast parcel, as he didn't own it. But, neither did McCallum own the SF acreage at the time; he had an option to buy upon approval. Cunningham went on to describe ‘negative easements,’ the right to prevent others from doing something on a property, such as a view easement or a conservation easement, or, a no-cut buffer.

He was told that Eva Prendergast granted the no-cut buffer/negative easement for the benefit of SF. He went on to note that all lot owners in a subdivision acquire ‘private rights’ for such things as use of the streets in the subdivision. It follows that each lot owner in SF acquired private easement rights, and the ability to enforce the no-cut buffer. Later, the developer can't take those rights away. He agreed with you that the no-



cut buffer was not approved with approval of the SF plan, but feels it was approved with the sale of the property after approval of the subdivision.

Upon the sale of the property, the City had rights by virtue of the SF subdivision approval. Private rights had been created, too. The City and the DEP can remove those rights, but no one can eliminate the private easement rights, as we see in the case of paper streets. Private rights, in the case of SF, have been overlooked, says Cunningham. Other issues: it has been suggested that the Hale ROW being replaced with equivalent or better access would be okay. However, a private ROW can't be relocated unless both the burdened and the benefitted parties agree. See *Davis v. Bruk*.

He cited *Rutland v. Mullen* when suggesting that a private ROW is not lost by the passage of time. An added opinion may be warranted, he said. He would encourage the Board to not move too fast, even though he realizes that the Board has been reviewing this project for some time now. He would be happy to speak with the City's attorney or Attorney Flewelling.

**David Ordway, attorney for the applicant:** Cunningham's points are best handled in court, not by this PB. You can get many different legal opinions. No one will give definitive answers. It's not the planning board's job. The Board's job is the Subdivision Ordinance standards, not ROWs or no-cut buffers. **Bailey:** Mr. Cunningham re: the deed and McCallum's 'imposing' the no-cut easement on the Prendergast property, has raised valid points. **O'Toole:** also impressed by Cunningham's talk, but these are private rights, and there are forums for that.

**Mark McCallum:** this is not the first time that this developer has gone before this Board to ask that this ROW be put into existence, so his project can get done. In the early 80's, he was part of Plymouth Settlement I, And then in the early 90's, Jim Prendergast developed Plymouth Settlement 2, where there were 2 flag lots with 600ft of frontage, enough for 6 houses, and a 50ft ROW. The only thing was that Angela Blanchette never allowed him to put a hammerhead.

**Robert Dunn, 8 Richard's Way:** He has lived there for about 10 years, and there have been 10 years of construction. He does not think removing the island at the end of the road would be a good thing. It adds character. The City hasn't been maintaining it, the residents have. There are many lots that have been built. How many remain? Do the drainage ponds stay with the developer? Can easements be built on? There isn't any trailhead. Nobody knows where it begins. Is the sewer design capable of handling this development? Will there be a repaving of Richard's Way once construction is done? Who is holding the escrow? **John Perry, 31 Richards's Way:** 6-7 years ago he purchased his property, looking for a private lot. They also purchased 33 Richard's Way when that became available. They did the research beforehand, knowing at the time that the "no-cut buffer" couldn't be changed. Now you are saying it may be changed. What could he have done different?

**Don Duffy, 28 Richards Way:** He lives across from the no-cut stormwater buffer. How would you like to have 134 vehicles shining lights at your house? He used a projector to highlight various items such as: Slide 3, Sec. 606 C. Individual lots, buildings, and units are arranged and situated to relate to surrounding properties, and to lessen area devoted to motor vehicle access and to minimize the adverse effects of shadows, noise, and traffic on the residents of the site. Slide 4, who owns this development? Prendergast. Slide 9, lists costs of homes in development. What is EDC plan, council's vision; Alternate ways for

construction vehicles. Slide 13, why would you put streets where they are? Slide 16: reference Bob's email. At the time, he didn't think it was good to cross the no-cut buffer either. He was shocked how many complaints he found in the file from residents. They had a lot to say about signage. The Board's duty to weigh all this information. Slide 28: Not sure if it means One Way? His purpose for speaking is: the planning board needs to evaluate what adverse effects allowing a street across the no-cut buffer will have.

**Bill Thompson, BH2M:** BH2M has been involved with this project since 1999. This is the last that they will develop, at least that they know of. All roads will be offered up to the City when development is done. The pump station will be built to handle this development. This is not a clustered subdivision. Pump Station will be privately owned by the Homeowners Assoc. **Joe Laverriere,** city engineer: the City will accept stormwater ponds.

**Mike O:** there are two means of egress? **Bill:** It is a requirement. **Peter:** Why can't it be one way going the other way? **Bill:** It goes towards Ocean Greens Drive. It will minimize impact on Mr. Duffy's property. **Mike O:** What's to stop people from using Taylorberry Ln? **Bill:** There will be signage. **Donna:** There should be some kind of buffering to buffer Mr. Duffy's property.

**Mark McCallum:** there are only a few lawyers who know this parcel. He would like some of it protected. **James Audiffred, lawyer for Mr. McCallum:** He read the deed from Eva L. Prendergast to Goosefare Acres, LTD that spoke of ROW and easements, which was submitted as evidence.

#### **8:50pm Neil suspended the public hearing.**

**Neil to Bob:** Where is the money in escrow for repaving of Richard's Way? **Bob:** the City has been requiring funds of \$1100/building permit, for Copper Leaf, Carson's Point, and Juniper Knoll I. Funds have been going to a specific account for repaving Richard's Way when all development off Strawberry Fields is complete.

**Donna:** issues that were brought up by Attorney Cunningham and the deeds are new information. Assuming Attorney Murphy will look at the deeds, will it change his opinion? **Mike:** He is impressed by attorney Cunningham, but those are private rights. Do we put this applicant on hold even if this is a private matter? He is more concerned about the traffic.

**Marty:** He agrees with Mike. We are not attorneys. There seems to be something new every time this project comes before the Board. We should look at what is before us tonight. **Peter:** He is not sure about the "no-cut buffer". Bob, what is your take on it? **Bob:** He is impressed with attorney Cunningham's presentation. In 2004, the Strawberry Fields "no-cut buffer" was significant to stormwater; it allows storm water to leave the subdivision, once treated. The applicant designed it to flow through the no-cut buffer then, and this applicant has designed Juniper Knoll II to accept the run-off that has been flowing through the buffer. DEP and Stantec and Joe Laverriere say it is an adequate plan, or better.

**Donna:** We might want to ask the applicant to work with Mr. Duffy, to come up with buffering his property. **Bob:** will draft conditions of approval to meet Mr. Duffy's concerns. **Bill:** re: the trailhead, will present something at next meeting.

**Joe Laverriere, City engineer:** the sewer as designed is adequate to handle this project. It will be privately owned, as will the pump station. Water Resource Recovery Department requires third party to maintain stations.

**Marty: I move to close the public hearing, seconded by Rene. Motion passes. 6-0**

**Donna:** She would prefer to check with attorney Murphy to get his opinion on the information presented on the no-cut buffer. When Mr. McCallum purchased the land, did that encumber the no-cut buffer?

**Peter: I move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the preliminary plan submitted for the sixteen (16) lot subdivision proposed by applicant MSB, LLC based on the attached Findings of Fact and Conditions of Approval dated March 1, 2016, with added conditions pending input from attorney Murphy regarding the deed questions to the no-cut buffer that was presented by attorney Cunningham, also the buffering of Mr. Duffy's property from headlights be addressed, seconded by Marty. Motion passes, 6-0.**

Meeting adjourned at 9:30 p.m.

Respectfully submitted by,

Maggie Edwards  
Board Secretary