

Minutes

Planning Board Meeting

Tuesday, June 7, 2016

Members Present: Neil Schuster, Chairperson; Michael O'Toole, Rene Ittenbach, Peter Scontras, Don Girouard, Vangel Cotsis, and Bob Hamblen, City Planner, and Bill Mass, Economic Development Director. Absent: Marty Devlin

Workshop

- **Request for consideration of an amendment to the Park North contract zone. Applicant is Park North Development.**

As the Board knows, the Park North subdivision was approved on January 8, 2008. Within a relatively short time the Rte. One sewer main had been extended to the property with the aid of a TIF approved by the Council, and a road and utility network constructed. A handful of lots were sold and developed over the next several years as the market for new construction struggled. A few minor amendments to the original plan came and went.

As the market improved, developer Elliott Chamberlain worked on the details of a portion of the residential piece of the project. The Board reviewed and approved this on March 4, 2014:

Development Proposed: details proposed for portions of Parcels 3 and 4 as identified on the original Park North plan, to include 43 lots that include 117 units and 68 apartments, to be constructed in nine phases. This represents an amendment to the subdivision plan approved on Jan. 8, 2008, and a Modification to the Site Location of Development permit granted by the Maine DEP on Jan. 25, 2008; the latter will be submitted to and reviewed by the DEP.

More recently, Mr. Chamberlain sold Lots 6-15 off East View Parkway to the University of New England, for what may yet become a National Guard facility; see Site Law amendment approval, attached.

The current proposal is to amend Lot 18 of the overall plan by allowing the rear third of the parcel to be developed with multi-family housing. Much discussion was devoted in 2007/08 to the mix of commercial and residential uses that make up Park North, and the 2008 configuration looked like this: 290 residential units of multi-family dwellings and approximately 200,000 s.f. of commercial space. With the 2014 approval of a residential slice of the project, the number of residential units bumped up significantly. Little commercial development has taken place.

Elliott: As Bob stated in his memo, I would like to amend the contract zone to change the back third of Lots 18 and 19 to be residential, but keep the front of those parcels on Rte. One to stay commercial, and to take away the restriction of having both residential with commercial space on the first floor. He sees the market turning towards rental property.

This generation is different than when we were growing up, and wanting to own our own home. We are seeing people wanting to be renters by choice. There is more flexibility, and it fits their life style. I don't see the demand leveling off for some time, or in the foreseeable future. One of the bankers at Saco Biddeford Savings that they are working with on this project, were involved in a study that said in York and Cumberland County for the next 5 years that there will be a need for 6,000 units. So it will be a long time before you hit saturation.

If we stayed with the current rule and did a multi-family building and put commercial on the first floor, nobody will ever want to be there. It would really be empty space, and that's how it would stay. In 2 years, we would be coming back to the Board, saying please; please can we change it over to residential. Nobody large is going to want to go there, when they can easily go on Rte. One and be in a big building and have visibility to Rte. One. We are currently in talks with a Brewery. And the Gym is looking real good and seems like it's going to happen. We are seeing a lot of things happening with both residential and commercial.

I would certainly be willing to keeping that restriction to the back third according the proposal he presented tonight.

Rene: You would be subdividing Lots 18 and 19 and make strictly residential on the back third.

Don: Have we set too much aside? Are we giving away to much commercial space?

Elliott: currently we can only have residential on the upper floors, as long as there is commercial space on the first floor. That's crazy. I just want to take away the restriction to have commercial with residential.

Peter: PUD, Planned Unit Development, is not something new. That was talked about years ago. **Rene:** He would still like to see the small dentist, hair salon, the small community town feel.

Peter: Have you seen any commercial business that wants to be on Rte. One? **Elliott:** Yes

Don: We are giving away retail/commercial space. Council may take a closer look and ask the question, are we building too many residential units. **Elliott:** The demographics point to large groups of 55 and up. He is asking to change the restriction of having residential above the commercial use to change to residential on the back one third of lot.

Vangel: For full disclosure, even though this is just a workshop, he will refrain from any comments because he has a home by Chamberlain Construction.

Regular Meeting 6:00 pm

1. Minutes of May 3, 2016

Rene pointed out some minor grammatical errors. Peter: I move to approve the minutes of May 3, 2016 as amended, seconded by Rene. Motion passes 5-0.

2. Public Haring: proposed amendments to the Zoning Ordinance to add "Accessory sale of goods manufactured on the premises" and Light Industry" as conditional uses in the B-3 zone.

Bill Mann: He has someone who is interested in property along the waterfront, in the B-3 zone. We'd like to persuade them to come. In the workshop you were amendable to make it a Conditional Use.

Peter: This is rather awkward. We don't even know who this business is. **Bill:** It is not his point to make anyone uncomfortable, but until he has the liberty to divulge who it is, he will do it at the appropriate time.

Rene: Peter has a point. A company comes in for a year, and then moves out, and another one without the same integrity moves in. **Bill:** this is a Conditional Use, so they would be reviewed by the planning board. **Mike:** I don't want to know who it is. That would be favoritism. **Don:** We should be looking at the use in the B-3 zone. Who moves to this use is not our concern. Dick Lambert will be the one to determine if that client and/or use can move to that location. **Vangel:** It's like having blind faith, but he respects some confidentiality. **Mike:** I understand that the Comprehensive plan is being looked at? **Vangel:** there comes a point where we must take a leap of faith and trust Bill Mann. That he knows what is best. I have some comfort level about that.

Bill: In the B-3 zone, there are only 2 properties that are marine related and on the waterfront, that would fit this use. **Rene:** How about adding a square foot size on the facility? **Don:** I have faith these 7 members. It doesn't matter whether it is a small or large facility. **Mike:** B-3 zone is up river on both sides? **Bob** pointed out where it is.

Mike: Move to open the public hearing, seconded by Rene. Motion passes 5-0
No comments from the public

Mike: Move to close the public hearing, seconded by Rene. Motion passes 5-0.

Peter: I move to make a positive recommendation based on Bill Mann's June 3-2016 memo that Accessory Sale of Goods and Light Industrial be added to the B-3 zone. Vangel seconded. Motion passes 5-0.

3. Public Hearing: proposed amendments to the Zoning Ordinance to allow "Contractors" as a permitted use in the I-1 Zone, and to change "Contractors" from a permitted use in the I-3 Zone to a Conditional Use in the I-3 Zone.

Bill Mann: there is a contractors business who is interested in 71 Industrial Park Road as discussed in workshop. The request is to allow "Contractors" as a permitted use in the I-1 Zone, and to change "Contractors" from a permitted use in the I-3 Zone to a Conditional Use in the I-3 Zone.

Rene: I move to open the public hearing, seconded by Peter. Motion passes. 5-0
No comments from the public

Rene: I move to close the public hearing, seconded by Peter. Motion passes 5-0.

Mike: the I-3 zoned is relatively new. Makes perfect sense.

Rene: I move to make a positive recommendation to the city council, seconded by Peter. Motion passes. 5-0.

4. Public Hearing: review of a proposed contract zone that would allow U-Haul to construct a two-story self-storage building at 492 Mai Street. Applicant is U-Haul co. of Maine. Tax Map 40, Lot 33. Zoned B-2d and R-2.

Mike recused himself because a member of his firm is representing this applicant.

Hamblen: The applicant, U-Haul Company of New Hampshire and Maine, proposes a significant expansion that is complicated by zoning. Over half of the 3.68 acre parcel is in the B-2d zone. The westerly portion of the parcel is zoned R-2. The applicant proposes a 27,000 s.f. footprint building, two-story, for self-storage – not an allowed use in either zone – toward the rear (westerly) portion of the parcel. The proposed building is split evenly between the B-2d and R-2 zones by the existing boundary. Also proposed, a 2,550 s.f. building for warehouse use, which is viewed as an accessory building to the primary uses.

The existing 11,218 s.f. one-story building operates as both a retail business and self-storage. Project Engineer Bill Walsh notes in his letter of April 21 that the business is a grandfathered, legally nonconforming use. It may continue to operate in perpetuity, but the use may not be expanded. A contract zone would solve the problem for the applicant. The question will be, ‘can the standards for a contract zone be met,’ as set forth in Section 1403-6:

“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 is sufficient to meet the intent of this section.”

A. Discussion

The Board work shopped this proposal on May 5, 2015, with some of the points raised listed here:

- Thornton Academy asked that a buffer be installed along the shared property line, mentioning arborvitae as a possibility.
- There would be internal access to units in the building, as well as access via garage doors on the exterior. Climate controlled storage.
- Pervious pavement is planned.
- A 20 foot wide screen of trees has been retained, or will be installed, around the perimeter of the rear portion of the site. Fence to be installed around perimeter.
- Existing setback requirements would be maintained.
- Building height would be 30 feet at most. Metal siding.
- The Main Street Access Study calls for a right in/right out access point – no left turns either in or out.

The applicant held a public informational meeting on May 21, 2015, minutes included in the submittal.

B. Comp Plan

The City's 2011 Comp Plan addresses this stretch of Main Street in Chapter 6, Land Use Goals and Policies: "...most of the existing commercial area along both sides of Main Street from the Thornton Academy to Goosefare Brook." See the subsection on the Main Street Commercial Corridor.

Staff's thoughts on the standards in 1403-6. And, we preface with this caveat: the existing business is convenient and well maintained, and respected as a long-time member of the business community.

- A. The parcel holds an existing nonconforming use on a corner lot on busy Main Street – great visibility and access for this and many others types of uses. Unusual nature or location? The Board will need to determine whether the reasons put forth by the applicant in section IV.A of the draft agreement convince the reader that the land is unusual as to nature or location, but they seem a little weak to staff: "...has owned the subject property since the 1980s...", "...uniquely divided into two zoning district...", and "...it is unusual that the property remains divided..." are not strong statements as to unusual nature or location – witness the KOA campground some months back, with a zoning boundary resulting in the campground being in both the B-6 and I-1 zones.
- B. The Comp Plan generally offers support both for and against any given discussion on specific policies, and this one is no different. Subsections of the Plan that staff would point out for Board consideration:

Ch. 5. B. Local Economy the Route One Corridor from Thornton Academy north to the I-195 Spur functions as a community commercial center. **The City should work to improve the visual appearance of this area.** In addition, efforts should be made to upgrade traffic flow and to improve access to and from adjacent properties and neighborhoods. This effort should be guided by the access management principles endorsed by the City in the Main Street Access Study, February 2005.

G. Housing -- 4. To assure that existing in town neighborhoods outside of the Downtown area remain desirable places to live, the City should continue to restrict the construction of or conversion to multifamily housing in older neighborhoods that have a predominantly single and two family pattern of development. **In addition, the City should prohibit the encroachment of commercial or other incompatible uses into these established residential neighborhoods.**

Ch. 6 Land Use Goals and Policies

22. The City should also maintain the Route One Corridor from Thornton Academy north to the I-195 Spur as a commercial district recognizing the established pattern of commercial use in

this area. The City should continue its efforts in this area to improve visual attractiveness, traffic flow, vehicular access, and pedestrian safety.

Main Street Commercial Corridor (MSCC)

Area: The Main Street Commercial Corridor includes most of the existing commercial area along both sides of Main Street from the Thornton Academy to Goosefare Brook (See Figure 6.2).

Vision: The Main Street Commercial Corridor continues to be an attractive location for retail and service businesses that need a high volume of traffic. As development and redevelopment occurs, the character of the Main Street Corridor evolves from a suburban character with buildings set back from the street to a more urban character in which buildings are located closer to the street with limited parking between the buildings and the street. The visual environment of the corridor is enhanced – renovated and new buildings meet high standards of both building and site design while the public realm continues to be upgraded through ongoing streetscape improvements. Traffic flow on Main Street is improved through continued management of curb cuts and the interconnection of individual lots including additional access drive at the rear of the lots.

Allowed Uses: A wide range of retail, service, office, entertainment, recreational, and community uses should be allowed in the Main Street Commercial Corridor but automobile service uses including gas stations are not appropriate in this area. Residential uses should be allowed even though there is limited potential for residential use in the area. The following types of uses are generally appropriate in the Main Street Commercial Corridor as a permitted or conditional use:

- retail businesses
- personal and business services
- financial services
- business, professional, and government offices
- restaurants including drive-thru service
- community and government services
- recreation and entertainment uses
- cultural and educational uses
- small-scale inns and bed and breakfasts
- residential uses

Development Standards: The City's development standards including the zoning requirements and site plan and design standards, should require that significant alterations

or expansions of existing buildings as well as new/replacement buildings foster more of an urban development pattern. This should include:

- locating new or replacement buildings close to the street with a maximum of one row of parking between the building and the street while allowing larger buildings to be setback from the street as long as smaller buildings and/or pedestrian areas are developed close to the street to maintain the “urban character” of the street
- using the area of lot between the front of the building and the sidewalk as a pedestrian area where feasible and encouraging the creation of pedestrian and bicycle amenities
- orienting buildings to the street with the street wall treated as the front of the building with a pedestrian connection from the sidewalk to the building entrance
- creating a green space approximately 15 feet wide along the sidewalk to separate the building from the street
- generally providing off-street parking to the side or rear of buildings for buildings close to the street except for one row of parking between the building and the street
- continuing to manage curb cuts and vehicular access from Main Street
- continuing to provide for the interconnection of parking lots and the creation of rear access streets

Conclusion: while some support from the Plan is offered by the applicant, a competing view of managing development in the corridor is also found in the Plan.

- C. The existing self-storage portion of the business being a grandfathered nonconforming use, it's no surprise that self-storage is not “...consistent with...the existing uses and permitted uses within the original zone...” Of course, the “...but not limited to...” clause also applies.

Uses such as ‘Masonry supply yards’ and ‘Commercial recreation’ are allowed in the B-2d zone; uses that may not be all that pleasant for neighboring residential uses. Uses such as ‘Hospitals’ and ‘Churches’ are allowed, in terms of the scale of buildings that would house such uses, and even begin to approach the scale of the proposed self-storage building.

Bottom line is that the existing retail and rental, warehouse and self-storage are at a scale that functions well. Get your propane tank filled, rent a trailer, have a trailer hitch installed, etc. Staff's concern is that the proposed expansion, a two-story building with a 27,000 s.f. footprint, is not consistent with existing or permitted uses. Where do self-storage buildings work in Saco? In the I-2 zone off Industrial Park Road, or in the MU-3 zone off Portland Road.

- D. The conditions proposed by the applicant do address a few issues of interest. The existing Main Street entrance would become right in/right out, as recommended by the 2005 Main Street Access Study. Vegetated buffers along the northerly, southerly and easterly property lines are proposed. If this is the City's one opportunity to impact this site, this generation, then we might consider during this contract zone/site plan review process:
- Survey of the property so as to establish the edge of right of way/applicant's northerly property line. Currently pavement starts at the northerly wall of the existing

building and ends at the northerly edge of Hutchins Street. Should the City reclaim its ROW?

- Curb cut consolidation along Hutchins Street. U-Haul vehicles are parked along the north wall of the building, probably within the public right of way.
- No sidewalks exist along Hutchins Street. This is pretty much a 1950s version of a street connecting with a numbered highway, with sidewalk. Time to require?
- Much more intensive screening from Main Street.
- Rental vehicles not allowed with 15 feet of the Main Street or the Hutchins Avenue right of way.

Neil: If the contract zone is approved by the Council, the project will return to the Board for site plan review. **Vangel:** He is a Board member at TA. He could be objective, but I put it to the Board members. But he is also just 1 of 18 members. All parties agreed that Vangel could remain objective

Bill Walsh, Walsh Engineering: U-Haul has been at this site since the 80's. It is legally non-conforming. The lot is split by the R-2 and B-2d zones. The business currently offers rental and retail sales of moving equipment, propane tank filling service, and warehouse and self-storage rental units. The existing self-storage portion of the business is a grandfathered legal nonconforming use. The purpose of the proposed contract zone, will be to allow for the expansion of the site to construct a new 2-story self-storage building with a footprint of approximately 27,000 sq.ft. The new building will be no higher than 30ft. A vegetated buffer of 15 - 25ft wide will remain around the perimeter of the expansion site and a 15ft wide landscaped buffer will be provided at the front of the site, along Main Street and up to Thornton Academy. Landscaping and architectural improvement for the existing sign are proposed as well. The client is proposing the use of a pervious paver parking lot to control stormwater flow. All stormwater runoff will be treated, detained, and discharged to the municipal stormwater collection system in Main Street. The existing building will remain as is and will continue to house the retail and rental portion of the business. They will utilize both existing trees and will add evergreen all along the back of the property, as well as a wooden fence that abuts TA and residence.

The entrance at Hutchins would be closed off partially and will be redefined better. The Rte. One entrance will be a right in/right out and would be deferred to Hutchins entrance.

Security was mentioned at their neighborhood meeting, as well as the appearance and traffic.

Sandy Guay, Woodman Edmands, Danylik, and Austin, representative for the applicant: I'm not going to go over the contract zone, because that was in your packets, but I will go over the comments that Bob brought up. He mentions that this land is of an unusual nature, or location, and he points out that we are saying that this land is divided by 2 zones, and that's what makes the land unique. The reason why it is unique is that U-Haul has owned this property since before the zoning ordinance was enacted. They bought the property as commercial property. That zoning was changed, and that the back portion was changed to the R-2 zone, rather than a business zone. It

doesn't have to be in 2 zones to be unique. It doesn't have to be exclusive to be unique. It is, however, a unique situation to have a property that is in 2 zones, especially one this size. It's not like a campground that has acres and acres. This is a property that was bought for commercial use. There is no other use that this property has been used for. It has a dividing line through it. I think that makes it unique.

The current zoning ordinance allows for an intensive use, such as a restaurant, as well as a lot of other uses that are allowed in the B-2d zoned. So this is a much better use. They are not asking to allow a brand new use. The other thing that they could do is to ask to have that line extended 100ft into the R-2 zone, which would make that area even bigger for the possibility of a more intensive use.

Consistency: They have been a successful business since 1984, and have increased jobs and the tax base. They are putting controls on traffic by changing to a right in/right out. This has been an established commercial use. Main Street is a commercial corridor. The vehicles in the front along Main Street have always been there. The self-storage building will be well buffered. It meets the requirements of the Comprehensive Plan. Allowed uses vary such as, retail businesses. This is consistent with existing uses in that zone, in scale and size. The uses that are allowed in those 2 zones are more intense than this use. They are only looking to expand the existing use. They are not proposing a new use. It will beautify the Main Street corridor. They plan on adding significant landscaping. They are also planning on redoing the sign. It significantly adds controls on traffic by adding right in/right out. It's a low impact low traffic use, bordered entirely on one side by the Thornton Academy field, and well buffered on the other side where there is some residential homes. U-Haul is making significant improvements to improve this site and benefit the City.

This is not just an established residential neighborhood, but it is also an established commercial neighborhood as well. This parcel has always fronted along Rte. One, and has always been a commercial use.

The placement of the vehicles in front of the building that is used for show has been going on since the business started. Although the applicant is planning on adding a vegetated buffer to break it up. The self-storage building will be well buffered and will hardly be seen from Main St.

Peter: He disagrees with Sandy. They are trying to make this a business that is grandfathered, throughout the entire parcel that U-Haul owns. To me, there are 2 sections to this parcel. There is the B-2d zone and R-2 zone. The building that they are proposing is not a new business facility, but are looking to expand the existing facility that they have, and this new building straddles 2 zones. I don't think that they can do that in that zone, because it is grandfathered. There was nothing like that going on in the R-2 zone. That is a totally brand new project, a totally new facility, a totally new use for that land. It's not a continuation of something that already existed. You're going to be parking trucks right up against a residential use. That residential neighborhood has been there way before U-Haul was there. The U-Haul building was built in the 1940's and Brown Pontiac was on

that site. That building has been added onto over the years. That's what bothers me is to see those homes with those trucks backing up against that neighborhood.

Rene: Will the existing storage building be eliminated, and condensed into the new building, and the retail space expanded? **Sandy:** No, it will be kept there. **Vangel:** Where exactly will the propane tanks be placed? Will they still be enclosed in the existing cyclone fence area? **Don:** That would be discussed at site plan review. We need to determine whether this use fits the zone, and does it meet the test of the 4 standards.

Rene: I move to open the public hearing, seconded by Don. Motion passes 4-0

Melinda DeWolfe, 16 Hutchins St: Her house was built in 1925. There were only woods surrounding the area. Her neighbor at 14 Hutchins St. will lose her garden. Values will be affected. I don't want to see a 26ft building. She strongly opposes this project.

Bill Thompson, 12 Hutchins St: He remembers when that site was Brown Pontiac. He is not surprised. He always knew there would be something there. He is more interested in the Site plan. He is already exposed to the trucks. It is their property to do as they will, as long as it's done appealingly.

Bill Mann: to the applicant, your business is appreciated. I don't know how this will unfold. We want you know we appreciate your business, and Mr. Thompson, we appreciate your pragmatism.

Neil put the public hearing on hold.

Neil: When U-Haul opened back in the 80's, was there any stipulation that the parking be limited to the size of the building? **Owner:** He wasn't there then. **Neil:** It seems like it's become more non-conforming.

Sandy: Self storage is the component that is non-conforming, but Retail is permitted.

The Board discussed when the zone might have been changed, and whether it might have been zoned all commercial at one time. Bob brought out some old zoning maps, which indicated that the lot line had been there since the 1960's. **Don:** There may be a hinge if it was zoned commercial back then? Was there even anything in zoning that made self storage non-conforming? If there are any arguments on the parcel being a "unique use", he doesn't agree with Sandy that it's "unique" because of the two zone boundaries. **Peter:** Are you saying when this was bisected the use was grandfathered and dragged to this zone? **Don:** No. It would be unusual because of what the Zone use to be. I am sure the original applicant had every intent to develop that back lot that was in the R-2 zone. **Vangel:** Can they just level as many trees as they wish? **Bob:** Yes, but not grade it or black top it. **Rene:** This is a very old established neighborhood, so that makes it unusual because of where it is. **Vangel:** Why would this be R-2? **Bob:** It would be speculation, but might be to protect that cluster of homes. **Vangel:** that is his quandary. I don't feel comfortable or knowledgeable to make an informed decision. **Peter:** was it ever considered moving the self storage building to the B-2d zone? **Don:** If they wanted to add a self storage in the B-2d zone,

wouldn't that be just a Conditional Use? **Bob:** You can't expand a Non-Conforming Use. **Vangel:** Would it change things to move the parking to the back of the property? **Sandy:** It is consistent with the existing uses in that area. If U-Haul moves the parking to the back of the property, would that work? **Don:** He would feel better about the R-2 zone if you did that. **Neil:** It would move the impact to the neighbors. **Bill M:** Self Storage is mostly on the weekends. We want to be mindful of the neighbors. There would be beeping when trucks are backing up. It would be more of an impact moving the parking lot to the back of the property. **Peter:** the building fronting Main Street would need to be dressed up because the building would be closer to the street. **Vangel:** In comparison to other things, maybe it's not such a good idea to have the trucks out back. **Rene:** Why not move the lot line and make it all B-2d? **Bill Walsh:** There is a provision in the zoning ordinance to move lot lines. **Rene:** He agrees with keeping the parking where it is. **Vangel** also agreed. **Sandy:** For consistency, we could move the B-2d zone back 100ft. **Don:** the contract zone is not consistent with the R-2 zone. **Sandy:** they are not adding a use, just moving the B-2d lot line back and it would only leave a small area of R-2 zone.

- A. **Don:** "I move that the Board find that the contract zone application is for land with an unusual nature or location;" seconded by Rene.

Discussion: Neil, the only unusual nature is it backs up against 6 residential homes.
Motion is 3-2 (Peter, Neil)

- B. **Don:** "I move that the Board find that the proposed contract zone is consistent with the Comprehensive Plan; seconded by Rene. Motion passes 4-1 (Peter)
- C. **Don:** "I move that the Board find that the proposed contract zone is consistent with, but not limited to, the existing uses and permitted uses within the original zone; seconded by Rene.

Discussion: Vangel: Moving the use into the R-2 zoned would add to the consistency. Motion passes. 5-0

- D. **Don:** "I move that the Board find that the conditions proposed are sufficient to meet the intent of this section." Seconded by Vangel.

Discussion: Vangel: What does it mean the intent of this section? **Bob:** re: Sec. 1403-1 "PURPOSE" Motion passes 4-1 (Peter)

Don: "I move that the Board forward a positive (negative) recommendation to the City Council." Seconded by Rene. Motion passes 5-0.

Meeting adjourned at 9:45pm

Respectfully submitted by,

Maggie Edwards
Board Secretary