

Minutes
Planning Board
December 6, 2016

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

Workshop 5:00pm

- a. Review of a proposed Zoning Ordinance and Map amendment, so as to clarify which section of the I-1 zone Medical Marijuana uses are permitted.**

Bill Mann: The proposal is to remove the area of the Spring Hill Section of the Industrial Park from the I-1 Zone. And to create an I-1a Zone consisting of the parcels known as the Spring Hill Section. The City Council took action on September 19, 2016, to allow medical marijuana caregivers in the I-1 and I-2 zones. But the Declaration of Covenants for the Industrial Park – Springhill Section point out 2 areas of concern. 5.2 Prohibited Uses. The following operations and uses shall not be permitted on any property subject to this Declaration. G. Uses prohibited by federal, state, or local law, including applicable City of Saco Zoning Ordinance provisions and other uses deemed objectionable by the Economic Development Commission or City Council. So in order to allow Medical Marijuana in the Industrial Park, it is best to create a new I-1a district. The Board all agreed.

- b. Sketch plan discussion with Cutts Avenue, LLC re: the proposed 80-unit Multi-family Dwelling approved by the City Council on Dec. 21, 2016 for a Contract Zone.**

Frank Carr, applicant: they have met with architects on how best to make their design work. In order to obtain more parking spaces, they decided to put the nursing facility on the parking lot side, which will be part of Phase 3. Phase 1 will be the renovations of the Church, Phase 2 will be the Rectory space, and Phase 3, the parking lot. The parking garage will be under building 2 and 3. **Rene:** when stripping the church, is there any way you can incorporate the other buildings? **John Shields, architects.** Yes, absolutely. **Peter:** it needs to be done right. Right now, he would be a strong “no” on the design. Although he appreciates the applicant’s effort in seeking the public’s input.

- c. Discussion about proposed amendment to the B-7 zone.**

Bob Biggs: Introduced himself as the new Director of the Saco Main Street organization, and that he and his family purchased an historic home on Middle Street. There have been a lot of changes and additions over the last several months. The creamery on Main Street had the best season ever. We added the artfully painted Adirondack chairs to the downtown. He met with the people who own the CIA café in South Portland. They just purchased a building on Beach Street. They would like to open the same type of café as they have in South Portland, but eating establishments are not allowed in the B-7 district. He took the mayor, Kevin Sutherland, Bob and Bill Mann to look at their business in South Portland. They were impressed. The owners are Bill and Jeannie.

Regular Meeting 6:00 pm

1. Minutes of November 29, 2016

Peter: There was more said when he said “these types of projects.” (It was duly noted and those minutes of the 29th have been updated to reflect the additions). Vangel moved to approve the minutes with the additions seconded by Rene. Motion passes 5-0.

2. Public Hearing: preliminary plan review of a proposed 7-lot subdivision off Jenkins Road. Applicant is Sebago RE Investment LLC. Tax Map 91, Lot 3. Zoned C-1. Item was tabled at the Nov. 15 meeting.

Hamblen: This 7 lot subdivision was tabled by the Board at its meeting of Nov. 15, with this direction provided to the applicant:

- a) that street trees be subject to Joe Hirsch’s review and approval; *tree locations added to plan.*
- b) Utilities are underground to each lot; *see new Note 20.*
- c) That a note appears on the plan addressing water treatment filtration to be included with each lot; *nothing found on plan.*
- d) That the City Attorney weigh in on how best to prevent subdivision of the rear parcel while still allowing conveyances to abutters; *Tim is pondering options. And,*
- e) And the entire parcel shall be shown on the plan. *2nd sheet shows entire parcel.*

The updated plan also includes an improved radius on Lot 1 at the corner of Jenkins and Flag Pond Roads, and the location of a proposed fire cistern. Mr. Hollis has submitted information on well maintenance and contamination information, but nothing specific as to inclusion of a water filtration unit being included on each lot.

As previously reported: Applicant Paul Hollis has the 79.86 acre parcel under contract, and proposes to create six new lots fronting on Jenkins Road, while a 7th lot would include the existing farmhouse. The applicant would retain roughly 66 acres of land to the southwest of the proposed lots, and has mentioned conveying portions to abutters.

Lots would be served by private wells and septic systems, as no public sewer or water are within several hundred feet or more of the site. Lots would be serviced with underground electric, cable, and telephone.

Issues the Board should consider:

- Open space required is 2.5% of the overall parcel, or 86,967 s.f. No open space is proposed. The Parks and Rec Department has indicated it has no interest in open space being set aside as part of this project. Therefore, the applicant is subject to both the open space and the recreational facilities impact fees.
- Traffic generated by the project is about 60 trips per day, not enough for a traffic study to be required. Due to location on Jenkins Road, staff is recommending an impact fee of \$1,050 per lot, revenue that will bring a new signal at the intersection of Jenkins and Buxton Road that much closer to reality.
- The wetland delineation by Joseph Noel has been reviewed by a City consultant, and found acceptable.
- Joe Laverriere has asked for a couple of changes to the plan in his comments of Nov. 8, which assumedly we will see on the final plan.
- Deputy Chief Pendleton has asked that either sprinklers or a cistern be incorporated into the project.

The applicant has included a cistern on the newest plan.

On Nov. 15, the Board voted to waive 5.2.3(4) storm drainage arrangements, and 5.2.3(15) stormwater quality plan, then to find the application complete.

Per Section 10.8.10.1 of the Subdivision Regulations, the Board voted as follows on Nov. 15:

Mike: I move that the Board find that there will be no further subdivision of the subject parcel, and therefore Lots 1-3 and 5-7 may establish both frontage and access on Jenkins Road as shown on the plan, seconded by Rene, and voted 4-2 (Don, Neil). Hence, new lots/curb cuts are allowed on Jenkins Road, and, the applicant is prohibited from further subdivision of the parcel.

Paul Hollis, applicant: He submitted a list of changes to the plan.

1. Cistern Location has been moved away from intersection of Flag Pond Road and Jenkins Road, and added note...Easement area "To Be Paved" per city engineer's request.
2. Moved driveway on Lot #7 to other side of culvert as requested by city engineer.
3. Changed driveway culvert sizes on lots 1,2,3,6, and 7, to 18 inches and Lot #5 culvert size to 24 inches.
4. Added 10 street trees per Joe Hirsch's specific placement.
5. Added a second page plan showing remaining 66.3 acres.
6. Designated on Lot 1, 608 sq.ft. that will be deeded to the City of Saco. A legal description of the small piece has been provided and City Atty. Tim Murphy will be creating that deed for recording.
7. They have provided legal description of Metes and Bounds for the Cistern easement on Lot 1, which has been given to the City Atty. Murphy for recording.
8. Telephone poles along Jenkins Road and all street lights have been identified by pole number and put on the plan.
9. He will be submitting a plan showing language that all Utilities to the homes on lots 1, 2, 3, and 5, 6, and 7 be installed underground, which is noted at plan note #20.
10. A sample deed for the City Attorney's review for the backland and the restriction in perpetuity of No structures or buildings of any nature or description be allowed on the property. That deed is presently being created by the City's Attorney Murphy.
11. Information on Water Filtration Systems for each individual home has been provided. A letter from Nelson Analytical and the CDC has also been provided on how to deal with E-coli or present in your well on each lot that will be extracting ground water from 100 to 300 ft plus in depth. While we do not anticipate ecoli bacteria to be found in the ground water at any of those depths, as a precaution we are willing to add a note on the plan recommending water filtration systems for each home. The three water companies that he contacted said that the best way to resolve/treat water contamination of ecoli or Coliform would be for the home owner to use bleach chlorinate the wells every 12 to 18 months.

Peter: From the last meeting, E. coli was a concern. Are you suggesting that the home buyers be responsible for testing their wells? **Paul:** We need to start with full disclosure by adding it on the plan. The buyers will be responsible for drilling the wells, so they should be the ones responsible for treating it. **Peter:** The report doesn't say E. coli for certainty, but there is a low probability. A document needs to pledge their commitment and responsibility. **Vangel:** It should be more like acknowledge, not a pledge. **Rene:** If you are on a well, the bank will require a water test. We may be overstepping our bounds by forcing the home buyers to put in a

filtration system. He has a well and he had the choice to get a filtration system like his neighbors did, or treat it himself by using a bleach chlorinate, which is what he chose to do. He hasn't had an issue. **Vangel:** The bank process has checks and balances, regarding water testing. It's when the home buyer owns the home, whether they keep up with it. There should be full disclosure to have the applicant make the buyer aware. We should have Tim Murphy look at the applicant's notes for the language. **Paul:** I do not want to be held responsible for selling land that is contaminated. **Mike:** He agrees with Vangel. The affect on the ground water is not for the planning board to determine the water quality. That would be way beyond our responsibility. They should, however, be made aware. **Paul:** What if the Code Office gets a copy of the water testing before a building permit is issued? **Neil:** What about the remaining parcel. Will it remain undeveloped as we discussed at the last meeting? **Paul:** There are two abutters who want to purchase it. It will remain undeveloped. **Mike:** Did we find the application complete at the last meeting? **Bob:** Yes.

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

Ben Milliken, 288 Flag Pond Rd: Testing the well water should be the buyer's responsibility

Joel Tripp, 238 Flag Pond Rd: He is a licensed forester. To him it doesn't make sense to put cutting restrictions on that back parcel. It's common sense that the buyer who holds the right, title and interest to be able to make restrictions on the deed. You should talk to Tim Murphy. There has to be a mechanism in place. There has to be a deeded ROW. You can't land lock a parcel.

Larry Tripp, 242 Flag Pond Rd: Can provisions be put in a back lot? It will be the planning board's decision. There is an abutter across Jenkins Rd that has used his lot as a race track in the past. So in terms of the back parcel, could there possibly be some verbiage saying there will be no snowmobiles or racing allowed? Is there something about the parcels being so small? So that the character in that area can remain? Is there a way to lower the density for that parcel so that instead of 7 lots it can be 3 or 4? What of the esthetics of the houses, so they have a variance in color and style, to have more of a neighborhood feel. Add some character, and not just cookie cutter.

Paul: deed restrictions can be done to enforce strongly. It should be restricted. **Mike:** You can restrict, but who will enforce it? **Vangel:** Wouldn't that be a Dick Lambert call? **Neil:** We need to wait for Tim's guidance.

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

Peter: He is more comfortable than before. We don't want to over-restrict. He is ok with leaving the chlorine testing up to the homeowner. **Vangel:** In his view, the applicant has come back with remedies. I think the applicant has satisfied the well water issue. **Mike:** the comment from abutter regarding regulating siding, and style, is not our decision. This isn't site review. He doesn't feel this development is out of the realm of things in that area. **Peter:** anything we can do about the snowmobiles? **Bob:** We can't regulate recreational, but something more formal would need approval. **Larry Tripp:** He is just looking at open space. It seems to be getting less and less. **Vangel:** I don't think we can enforce that from someone.

Bob: No motorized vehicles allowed. He could dig up some language and run it by Tim Murphy. **Rene:** Joe Laverriere's Dec. 5 comments regarding impact fees of \$150 is already in there?

Peter: I move that the Board grant approval under the provisions of the Saco Subdivision

Regulations for the preliminary plan submitted for the seven lots Hilltop on Jenkins Road subdivision by Sebago Real Estate Investment, LLC based on the Findings of Fact and Conditions of Approval dated December 6, 2016, to include Joe Laverriere's Dec. 5 comments regarding the cistern, seconded by Rene.

Vangel: should include language from Tim Murphy to transfer restriction of the back lot property and to include the disclosure of the water quality in wells. Peter moved to amend motion as spoken by Vangel. Motion passes, 5-0.

Vangel had to leave meeting at 7:30 p.m.

3. Public Hearing: preliminary plan and Site Location of Development review of a proposed 11-lot amendment to the existing 6-lot Boynton Brook subdivision off Grant Road.

Hamblen: Applicant Nancy Moulton received approval on 11/12/13 for a seven lot subdivision called Boynton Brook. A single lot had been carved out of a roughly 75 acre parcel, and then five lots were proposed, plus a multi-acre remainder parcel, resulting in the subdivision proposal.

A new applicant, Mezoian Development LLC, returns with a proposal for the Libby's Landing subdivision. After some discussion, lawyers and the DEP have agreed that Landing is actually an amendment to the existing subdivision. Combined, the two are large enough to trigger the need for a Site Location of Development permit, being greater than 30 acres and more than 15 lots. Being in the C-1 zone, all lots must be 80,000 s.f. or larger, and each must have 200 feet of frontage or more – these requirements appear to be met.

The street has been revised in the wake of the Aug. 2 sketch plan review. It is now proposed as roughly a 1,000 foot dead-end ending in a cul de sac. A 50 foot ROW has been provided as a connector to the abutting Grant parcel. Aside from electricity, cable and phone, public utilities are not available or nearby, so lots would be serviced with private wells and septic systems.

A hydrogeologic assessment has been performed by Sweet Associates; we are waiting to hear back from a local firm that would review Sweet's findings on the City's behalf. The Morrill Estates subdivision was subject to a \$585 per lot fee for traffic impacts. Staff would recommend the same apply to the current proposal

Neither open space nor recreational facilities are proposed, so payment of an impact fee would be addressed in the Conditions of Approval, if the Board is agreeable. The land to be dedicated to the City is for the purpose of the detention pond and access to it.

Project engineer Steve Blake, BH2M, is representing Mr. Mezoian.

The applicant has included a request for the waiver of:

5.2.2(16)	sidewalks, curbs
11.11	roadway crown

Peter: He feels very strongly about having sidewalks. It is not safe for kids walking down the road. Rene: He is ok with no sidewalks on this project. If there is more developed on these roads in the future, maybe set aside a sidewalk with connectors to other developments.

Rene: I move that the Board waive the specified submission requirements and construction standard due to the circumstances of the lots proposed for subdivision, and in order to provide for a more practical and economical development, seconded by Mike. Motion passes, 3-1 (Peter)

Rene: I move to find the application for preliminary subdivision review to be complete, seconded by Peter. Motion passes, 4-0

Neither open space nor recreational facilities are proposed, so payment of an impact fee is addressed in the Conditions of Approval. Draft Conditions are provided for the Site Law permit, but would not be acted on until final plan review.

As this is written, Joe Laverriere has provided comments; the applicant proposes to respond via the final plan. We have not heard concerns expressed by neighbors. We believe that the plan and application are at the point that preliminary approval could be considered by the Board.

Steve Blake, BH2M: the moved the road down 40ft. Nitrite analysis is done. There are still some outstanding issues. **Mike:** Fire protection easement. Is the developer responsible need to put it in? **Bob:** Yes.

Peter: this development will be serviced by wells. He is concerned about the pesticides coming from the Grant Farm. The impact of the run-off. It could affect the aquafer going towards the ocean.

Rene: I move to open the public hearing, seconded by Peter. Motion passes, 4-0. No comments were made. Rene: I move to close the public hearing, seconded by Mike. Motion passes, 4-0.

Peter: I move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the preliminary plan submitted for the proposed Libby's Landing subdivision based on the attached Findings of Fact and Conditions of Approval dated December 6, 2016, seconded by Rene. Motion passes, 4-0.

- 4. Public Hearing: a request that the Planning Board evaluate alternatives for the disposition of the property at 90 Maple Street, as outlined in Chapter 81 of City Code. Tax Map 52, Lot 46-1.**

Hamblen: As outlined in Chapter 81 of City Code, consideration of the sale of City-owned property is referred to the Planning Board "...for evaluation and a report to the City Council." The property in this case is the parcel at 90 Maple Street, a two family home on an 11,325 s.f. (0.26 acre) lot. In the R-2 zone, 5,000 s.f. per unit is the minimum lot size for a two-family dwelling, so this is a conforming lot.

The City has come into ownership of the property due to failure to keep up with property taxes, and also sewer bills. The City foreclosed on the property in January, and now seeks to divest itself of the property. An e-mail from a relative of the owner, providing background and a request.

Per Chapter 81, several departments have been asked for comments. Chapter 81 lays out options. The Council "...may decide to retain the property", or may have "...an interest in selling a City-owned property." Again, Chapter 81: "If the Council decides to offer any City-owned property for sale...the Council shall determine the method of sale, whether by...:

- ...sealed bid,
- sealed request for proposals,
- auction,
- by negotiation with the previous owner
- Or by contract with a real estate broker at predetermined prices for such real estate and real estate interests."

An email from a Ms. Wolfson, who is the niece of the Tito family, gave a very sad description of a very bleak situation. Some of the details of the family were very personal.

Peter: He is afraid that the personal information noted will paint a picture of dysfunction on the family. It will bring attention to their dysfunction. **Rene asked** "how does the public know when a property is being disposed of? **Mike:** it is advertised via a legal notice.

Rene: what does the city do with the excess funds beyond the expenses? It would be good for the city to have a policy in place when they have property that they are looking to dispose of, to go to an organization such as Habitat for Humanity to find out what their needs are. We would be helping the community, and those in need.

Rene: I move to open the public hearing, seconded by Mike. Motion passes, 4-0. No comments from the public. Peter: I move to close the public hearing, seconded by Rene. Motion passes, 4-0.

Rene: I move that the Board recommend to the City Council that the property at 90 Maple Street be put up for sale via a Request for Proposal, seconded by Peter. Motion passes, 4-0.

Meeting adjourned at 8:30 p.m.

Respectfully submitted by, Maggie Edwards, Board Secretary