

## Minutes

### Planning Board Meeting

Tuesday, December 20, 2016

Members Present: Don Girouard, Acting Chairperson; Michael O'Toole , Vangel Cotsis, Marty Devlin, Peter Scontras, Joe Laverriere, city engineer, and Bob Hamblen, City Planner. Absent: Neil Schuster and Rene Ittenbach.

Workshop 5:00 p.m.

Sketch plan review of a proposed Multi-Family Dwelling project on the parcel identified as Tap Map 63, Lot 6-6, off Waterfall Drive at Park North. Applicant is Bernard J. Saulnier. Zoned MU-3 and contract zone.

#### 1. Minutes of Dec. 6, 2016

**No minutes were submitted**

#### 2. Public Hearing: Final 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.

**Hamblen:** The preliminary plan for this 7 lot subdivision was approved by the Board at its meeting of Dec. 6. Since that time, the applicant has corrected the signature block, added a cistern detail to Sheet 2, and added notes 21-26 to Sheet 1, re: waivers granted, fire cistern, water quality, substantial construction, street trees, and no further subdivision.

In the packet find draft deeds created by the City Attorney, one of which addresses the rear 66 acre parcel and limitations on it. The other is a deed from applicant to City, which conveys 608 s.f. at the corner of Jenkins and Flag Pond roads in order to improve the turning radius, and, creates an easement for the proposed fire cistern. The applicant has a copy of each. The draft Conditions of Approval require that each be executed by the applicant and returned to the City, for the City to record at the Registry.

The remaining two issues identified prior to the Dec. 6 meeting by Joe Laverriere have been addressed. The Fire Department, Parks and Rec, Code Office, and PD are all set, as is Planning.

**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 7<sup>th</sup> 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 has been added to 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. This is noted on the final plan, Note 21, and in the Findings of Fact, and addressed by the draft warranty deed from Tim Murphy.

**Peter:** He still has some concern about the back parcel being developed. Does the deed state to build or sell, or is it in perpetuity? **Bob:** In perpetuity. The deeds and tax map will be noted, "No Development". For one thing that parcel won't have any frontage. **Peter:** what if the existing house and barn are sold to someone's children. **Bob:** The existing house and barn will be part of the land sold to Paul Hollis.

**Mike: I move to find the application for the 7-lot subdivision off Jenkins road to be complete, seconded by Peter. Motion passes, 5-0.**

**Paul Hollis, applicant:** He added all the items to the plan that were discussed at the last meeting. Notes to be added to the plan are listed below.

20. All utilities serving Lots 1-3 and 5-7 will be underground. Lot 4 will have the right to maintain and replace the existing overhead utility lines.

21. On November 15<sup>th</sup>, the Board voted to waive 5.2.3(4) storm drainage arrangements, and 5.2.3. (15) Stormwater quality plan. The Board also voted on Nov. 15 to 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 Rd. as shown on plan.

22. The fire cistern tanks to be installed on Lot 1 of the plan and in accordance the Saco Fire Dept. standards.

23. The applicant performed water quality testing in October of 2016 on 5 surrounding private water supply wells. The test results indicated that two of the five wells had elevated levels of Total Coli form Bacteria and E. coli Bacteria. The lot owners of this subdivision are recommended to test the water quality of their private water supply on an annual basis and perform preventative measures as necessary to maintain a healthy water supply.

24. The failure to commence substantial construction of the subdivision within two years of the date of approval and signing of the plan shall render the plan null and void.

25. Up to 12 street trees of no less than 2 inch caliber will be installed and the species of those trees, as approved by the Director of Parks and Recreation, Joe Hirsch, prior to their installation.

26. There shall be no further subdivision of this parcel unless approved by the Planning Board. Conveyances from the rear 66 acre parcel may occur to abutters, but no dwellings or structures may be constructed on any portion of the rear 66.3 acres.

It is important for us to get final approval tonight and to get plans signed. There are 3 families that are involved in this sale.

**Peter:** I would like to see it written in the deeds, disclosing the E-coli. **Paul:** it will be part of the notes on the plan. **Peter:** Maybe so, but I would still like to see it written in the deeds. **Mike:** He has seen restrictions in deeds before, but to add to a deed that some of the water tests came out with E-coli is highly unusual. Nothing he has experienced. **Don:** The Bank is meticulous about those things. Future owners would be notified that a water test is required. It's not practical to add that to a deed. **Paul:** Refer to plan notes 21 thru 26. **Marty:** He is ok with the plan reference notes. **Paul:** He agrees to add the note.

**Mike: I move to open the public hearing, seconded by Marty. Motion passes, 5-0. No comments from the public were made. Mike: I move to close the public hearing, seconded by Marty. Motion passes, 5-0.**

**Mike:** He was concerned with how it could be enforced, but Tim came up with wording that works. I think this is good both for the City and the abutters. **Don:** He was upset when he heard about the water quality issue, and the results of E-coli. He thought, could it be the aquifer or was it coming from the wells? But he then had to assume with all the testing, that it was the wells and not the aquifer.

**Peter: I move that the Board grant approval under the provisions of the Saco Subdivision Regulations for the final plan submitted for the seven lot Hilltop on Jenkins Road subdivision by Sebago Real Estate Investment, LLC based on the Findings of Fact and Conditions of Approval dated December 20, 2016, with the conditions that notes 21 thru 26 be added to the subdivision plan on all lots 1 thru 6 as discussed in tonight's meeting, also approval subject to modification of the deed to reference plan notes, seconded by Vangel. Motion passes 5-0.**

3. **Public Hearing: Site plan review of a proposed 80-unit Multi-Family Dwelling at 16, 18, and 28 Cutts Avenue. Applicant is Cutts Avenue, LLC. Tax Map 38, Lots 105 and 106. Zoned B-3 and contract zone.**

**Hamblen:** This eighty unit Multi-Family Dwelling was reviewed as a sketch plan by the Board on Dec. 6. The project has been subject to a few public informational meetings, and two meetings with the Historic Preservation Commission. The Board also reviewed the contract zone proposed by the applicant at its meeting of Oct. 4, 2016, at which time a positive recommendation was voted and forwarded to the Council. The Council approved the contract zone on Nov. 21, with two primary revisions of lot and yard requirements, as addressed in Sec. I.i of the document:

- i. That the 1,500 square feet minimum lot area per dwelling unit in the B-3 District be reduced to 340 square feet minimum lot area per dwelling unit to permit up to eighty (80) dwelling units on the Subject Property.

ii. That the ten (10) foot minimum side and rear yard setback be reduced to five (5) feet.

Early on a third revision was also requested, but the applicant's closer look at what parking it can provide, and at Ordinance requirements, led to the determination that 44 spaces are required, and the applicant is able to proposed 46. That said, the evening of the approval an amendment was proposed and included in the vote: 25 off-site parking spaces shall be provided. This is not addressed in the current application, so, still to be resolved by the applicant. Also acceptable to the Council: they were willing to accept that a space reserved for a Zip car is equivalent to 8.3 parking spaces. So, three Zipcar spaces would meet the 25 space requirement, and may be what is proposed – but hasn't been yet.

Staff would suggest that this meeting will not be the only meeting on this project. Mike Tadema-Wielandt, project engineer, has not had time to respond to Joe Laverriere comments yet, traffic engineer Bill Bray mentions a complete traffic analysis that is to be submitted, the notion of possible off-site improvements bears discussion. We would expect to see this plan back in January.

**A. Finding of Completeness**

- Site Plan Review – Waivers are requested for:

Se. 1104-1.7 topo

-1.18 lighting plan

For the purpose of discussion, staff supports the waivers for this meeting, and would suggest that the soils map is not necessary in this location. Joe is interested in topo, and we should hear what kind of lighting is proposed before making a decision on whether a photometric plan should be required.

**Don:** regarding the non-conforming parking spaces. The Subdivision Regulations gives the Board a responsibility. If the spaces don't meet the requirement in the zoning ordinance, then it goes back to the applicant. **Bob:** referenced the soil map, which was responded to adequately, so the applicant is removing that waiver request. **Joe Laverriere, city engineer:** While he doesn't disagree with Michael TW, he does think that the Board should require a grading plan. There is a 5ft grade change from building to curb. The City should see those documents sooner rather than later. And to see how it will work and what it will look like. If they don't provide it, then you should make it a condition, if not now, at least before final approval. It is unusual not to see a grading/contour plan. He is concerned about the abutters and keeping the water from draining on their properties. Vangel: How is this process any different than any other process, regarding receiving a grading plan?

**Peter:** Why is the photometric plan missing? Why hasn't it been provided? **Bob:** they have provided cut sheets, but not a full photometric plan. **Joe L:** their fixtures aren't an issue. We just don't want light spilling onto the neighbors. **Marty:** a large scale plan like this one, a photometric plan should be provided. **Peter:** He is ready to table this tonight. This is an incomplete submission.

**Mike: I move that the Board waive submission items found in Sec. 1104- 1.7, and 1.18 for the purposes of discussion only, seconded by Vangel.**

**Don:** The applicant needs direction. **Mike withdrew his motion, and Vangel withdrew his second motion**

**Mike: I move that the Board waive submission items found in Sec. 1104- 1.7, and 1.18 on Site Plan for the purposes of discussion only, seconded by Marty. Motion passes 5-1 (Peter abstained)**

- Design Review

**Mike: I move to find the application for design review to be complete, seconded by Marty. Motion passes 5-1 (Peter abstained).**

**John Shields, architect for Hardypond:** they have had several meetings with different Boards, as well as neighborhood meetings. One of the many questions was, how can they relate the elements of the church to the area. They have made some changes to the plan implementing some of those comments. They have applied today's architecture (best practices).

They have added 3 bay windows in the front to make more appealing. The roof line was added to relate to the existing church. They have recessed part of the Phase 2 and 3 buildings, except for the first level, because of the parking garage.

**Peter:** You haven't addressed my concerns. You haven't applied the design elements of the church and to the other buildings. I don't see the relationship of the verticals. I like the French balconies on the back. Why not add them on the front? And where are the rear elevations?

**John Shields:** The side and rear elevations don't get the full view because of the surrounding buildings. They won't be seen. **Peter:** The back on Thornton Ave has a lot more traffic than Cutts Ave. I wouldn't dismiss the back. You should incorporate elements from the front to be added on the back as well. Building material is indicated as wood? Who will maintain it? **John S:** it is cement that will be painted. **Michael:** He pointed out that there are buildings between this project that will barely be visible.

**Vangel:** They have made a respectable effort on addressing the many concerns. Maybe you can add peaks to the other buildings. What are the materials on the garage doors? What is the functionality of the grates on the wall? **John S:** The grates are for venting the garages. The idea is to be able to look inside the garage door. Both Peter and Vangel mentioned that at the last meeting you were going to try and incorporate the church window into the other buildings.

**Michael Tadema-Wielandt, Terradyn Consultants:** There are sidewalks with granite curbs on both sides of the street. There are 5 public on-street parking spaces located in front of the church and rectory building. A water main is located on the far side of Cutts Ave. Sewer and storm drains are also located within the street, as is a 2" gas main. The existing church and rectory buildings are served by public water and sewer. The project includes renovating the existing church building, removing the attached rectory, and constructing two new 5-story residential buildings. The 3 buildings will contain 80 apartments between 700 and 800 square feet each.

Phase 1 will include renovations to the existing church structure to create 19 residential apartments on four stories. The exterior of the church will be restored, including removal of the vinyl siding, repair of rotted sections, and replacement of the asphalt shingle roof. The existing doors and windows will remain, including the large rose window on the Cutts Ave. elevation. The addition of several small dormers and skylights will be the only significant changes to the exterior of the church structure

Phase 2 will include removal of the existing rectory building and construction of a new 5-story building southeast of the church. The new building will be attached to the church and will feature parking on the ground floor and 28 one-bedroom market rate apartments on the four upper floors.

Phase 3 will include construction of another 5-story building with parking on the ground floor and apartments on the four upper levels. The phase 3 building will be located on the northwest side of the church building and will feature 33 one-bedroom apartments restricted to seniors.

The zoning ordinance requires that the project provide at least 44 off-street parking spaces. The proposed parking layout under the Phase 3 building features primarily 8' wide by 18' long parking spaces with 16' drive aisles. The applicant understands that space is limited under the building and plans to restrict parking to compact cars. The 2 on-street parking spaces in front of the Phase 3 building entry is proposed to be limited

to 15 minute parking for drop-off and pick-up activity. There are 5 on-street parking spaces in front of the project site.

The existing Cutts Avenue sidewalks on either side of this project are bituminous. They are concrete on Main Street. They would recommend the proposed brick sidewalks be replaced with concrete sidewalks and that the concrete sidewalk extends toward Main Street to connect to the existing concrete sidewalk and create a more uniform surface treatment. The applicant is willing to construct the remaining sidewalk along the site frontage with concrete, and is also willing to extend concrete sidewalk on the south side of Cutts Avenue from the project site to Main Street.

The sidewalk in front of the project site will be reconstructed with brick, and a bump out will be constructed to create a mid-block pedestrian crossing across Cutts Ave.

Existing granite curb and posts will be re-set or replaced. The brick sidewalk will be widened in several areas, and benches will be installed in front of the church and near the Phase 2 and 3 building entrances. A bike rack will also be provided between the church and Phase 3 building.

Shrub and tree plantings are proposed in front of the church building.

There will be pole-mounted lights, and lighting in the doorways, which is intended just to light a small area.

Discussion on Bump-out:

Peter wanted to know what the width of Cutts Ave was. He is not a fan of bump-outs. He thinks they are dangerous. What would prevent the snowplow from plowing into the curb? Joe L: We could add something on the leading edge of the bump-out for the plow to see.

Vangel: asked Joe about the width of the street. Joe L: The width of a street is 24ft. Cutts Street is 32 ft, which does not accommodate parking on both sides while maintaining two travel lanes. Section 708 has no controls on parking on streets.

Mike TW: the bump-out is 7ft. Parking 7 spaces with 2-15 minute limited spaces.

Peter: It would be nice to have one of those history panels in front of the church with the history of the church. That would be a good addition.

Joe L: A mid-block crosswalk really isn't necessary. Peter: He showed the crosswalk that crossed over to a plowed parking lot (City Hall). Joe L: He would prefer not to have the crosswalk. Peter: a lot of people coming to City Hall, the bump-out would be a desirable feature. Maybe the crosswalk could be moved further down away from the bump-out. The Board agreed.

Marty: lighting requirement. Hardypond: we will provide a photometric plan. There are no more than 7 lights on the whole project.

**Don:** Let's see what the Traffic Safety Committee says about the bump-out.

**Peter: I move to open the public hearing, seconded by Marty. Motion passes 5-0**

**Johanna Hoffman, Chairperson for the HPC, and owner/manager of the Saco Frame Center in Pepperell Square:** the HPC reviewed this application a couple of weeks ago and we were very impressed with this project. We were very fortunate that Chris Kloss of Maine Preservation, attended that meeting. He spoke very highly of this project and said that Saco is one of 19 Maine Street Main communities with Saco being the first with such a project, which encourages and created greater density in the downtown. They have done a great job with the visual improvements. This will bring people downtown. She strongly supports.

**A woman from the Ester Residence:** They own the easement. A snow storm will hide the 7 parking spaces on the Phase 3 side. They will not be usable.

**Another Ester Residence:** She was shocked at the picture in the paper. Esthetically, the face front is very different. Hardypond has a great reputation. Can the number of units be reduced? As well as the height of the building?

**Vangel: I move to close the public hearing, seconded by Marty. Motion passes, 5-0.**

**Peter:** His concern is how it looks from the outside on both the front and the back. This will be a focal point in the City, and with the city council encouraging tax incentives (TIF's), that will invite more projects to the downtown area. He is glad that the developer is keeping the church, but I understand they have to also make it profitable.

**Don:** He would like to see examples of the materials. Would like to see other architectural features of other buildings. **Peter:** He would like it if the developer would make the top 3 floors more esthetically pleasing.

Bob mentioned to the Board the Cutts Avenue connector. **Don:** That was to connect Main Street to the Shopping Center, to make an easy way for pedestrians, but I don't think we should make this developer responsible.

**Johanna Hoffman:** there are design standards for HPC in the zoning ordinance that would be helpful to the Board. You are not supposed to replicate an historic building. This can be provided to the planning board at the next meeting.

**Peter: I move that the Board table further review pending a response to staff comments, and other issues as identified during the meeting, seconded by Marty. Motion passes, 5-0.**

#### **4. Public Hearing: a proposed amendment to the B-7 zone that would allow Eating Establishments as a conditional use.**

**Hamblen:** This proposed Zoning Ordinance amendment would add Eating Establishments as a Permitted Use to the B-7 zone. There are about forty parcels in the B-7, which encompass both sides of Main Street from School Street north to Beach Street, then heads east along Beach Street to Winter Street, including two parcels on the south side of Beach up to the westerly side of James Street.

There is a specific, potential use that prompts this consideration. Saco Main Street Executive Director Rob Biggs is in discussion with the Saco couple that owns and runs the Cia Café in the Knightville neighborhood of South Portland. A quote from the Cia (Coffee, Ice cream, Art) website:

“Cia is in the historic village of Knightville, a neighborhood where you can walk (or skate) to everything: restaurants, shopping, walking trails, parks, marinas, lighthouses and downtown Portland.”

A real plus here is that Mr. Biggs isn't trying to drop a coffee shop or an art studio onto an auto-dominated section of Rte. 1, or a crossroads that is busy at peak hours but otherwise lightly traveled – he and the owners of the property at 9-11 Beach Street like the chances of such a business being located at the northerly end of the heart of Saco's downtown. The only circumstance that says “it can't be done” is the zoning.

In 2013, the owners at 319 Main Street, also in the B-7 zone, were approved for a contract zone that allows an Eating Establishment use; in that case, an ice cream stand. With the addition of a new sign this past season – built and installed by Mr. Biggs – Saco Bay Creamery doubled its business from year to year.

As defined by the Ordinance -- Eating Establishment: A business which sells prepared food, and which does not serve alcoholic beverages. No provisions shall be made for drive through service.

The 2011 Comp Plan says a few things about such a proposal:

## Chapter 5: Community Goals and Policies

### B. The Local Economy

4. Maintaining Downtown Saco as a prosperous core of the community will require that the City plan an active role in revitalizing this area. To accomplish this, the City, in conjunction with Downtown business and property owners and Saco Spirit should continue a comprehensive and coordinated program to revitalize Downtown Saco as a viable specialty retail and service center as set out in the 2008 Downtown Plan.

See also map and discussion of Downtown Limited Business Area from the Plan, attached.

### **410-9-B, B-7 LIMITED BUSINESS/ RESIDENTIAL DISTRICT**

#### **PERMITTED USES**

1. Single family dwellings
2. Two family dwellings
3. Multi-family dwellings
4. Elder/Disability Housing Facility  
Elder/Disability Housing Facility – Limited Service (Amended 5/21/12)
5. Adult day care center, Types 1 and 2
6. Bed and breakfast establishments
7. Home babysitting service, day care center, day care home
8. Home occupations
9. Personal services, except Laundromats and dry cleaners
10. Nursery schools
11. Public and private schools
12. Accessory uses
13. Municipal uses
14. Offices
15. Quasi-public uses
16. Artist and craftsperson Studios (Amended 1/17/85)
17. One accessory apartment in a single family dwelling (Amended 10/20/08)

#### **CONDITIONAL USES**

1. Funeral homes
2. Boarding houses
3. Community living uses
4. Elder/Disability Care Facility – Full Service (Amended 5/21/12)
5. Financial institutions
6. Retail businesses except alcohol sales (limited to 1,500 square feet.)
7. High Voltage Transmission Lines (Amended 12/15/08)



## 8. Eating Establishments

Staff views this as an opportunity to “stretch Main Street out,” to encourage what could become a community meeting spot, to provide a destination for residents, and a hands-on approach to nudging our historic downtown toward a 21<sup>st</sup> century sensibility.

**Peter:** He is concerned with what the CIA retail storefront will look like. It isn't what he envisioned for Beach Street. **Rob Biggs:** think about McDonald's in Freeport. The outside of the building isn't changing. **Don:** He likes the idea that it is walkable. It might initiate more business. This fits into what he calls “form based codes” where the building appearance is primary, and the use secondary. He is wondering if we should go to a contract zone. The use is ok, but keeps the building the same. Mike: don't we have control with a Conditional Use? **Don:** No, we don't. Only under Site Plan or Conditional Use. Eating Establishments are fine. Maybe we could re-word the definition for “eating establishments.” Allow eating establishments, but limited to not allow changes to alter character of building. Bob will work on the wording, based on the precedent established in Sec. 713. Offices in Residential Districts, and in Sec. 721. Home-Based Retail Use in Residential Districts.

**Vangel: I move to open the public hearing, seconded by Marty. Motion passes, 5-0.**

**Rob Biggs: as a neighbor, I'd like to see this change. A quaint coffee shop near existing neighborhoods would be a plus for all involved. Vangel: I move to close the public hearing, seconded by Marty. Motion passes 5-0.**

**Peter: I move that the Board forward a positive recommendation for the proposed amendment to the B-7 zone that would allow “Eating Establishments” as a conditional use, limited to existing structures so as to retain the residential character of the neighborhood, seconded by Marty. Motion passes 5-0.**

5. **Public Hearing: a proposed amendment to Section 401-11 of the Zoning Ordinance, and to the Zoning Map, so as to clarify where Medical Marijuana uses are permitted in the I-1 zone.**

**Hamblen:** The amendments are to create an I-1a zone consisting of the parcels/area identified as the Spring Hill Section of the Saco Industrial Park. As the Planning Board members are aware the Saco City Council took action on September 19, 2016, to allow medical marijuana caregivers in the I-1 and I-2 zones.

**Vangel: I move to open the public hearing, seconded by Marty. Motion passes, 5-0. No comments from the public. Vangel: I move to close the public hearing, seconded by Marty. Motion passes, 5-0.**

**Vangel: I move to make a positive recommendation to the city council for proposed amendments to the I-1 zone, and to create a new I-1a zone, and to amend the zoning map to create the I-1a zone, seconded by Marty. Motion passes, 5-0.**

Meeting adjourned at 9:30p.m.

Respectfully submitted by,

Maggie Edwards, Board Secretary