

Planning and Development
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**Saco Planning Board
Meeting Minutes
August 7, 2018**

WORKSHOP

City Hall Conference Room, 1st Floor, 6:00 PM

Review of a proposed draft Chapter 71. Blasting, intended to regulate blasting activity associated with development within Saco.

REGULAR MEETING

6:30 PM (or after Workshop is done)

Planning Board Members Present: Neil Schuster, Chair; Don Girouard, Alyssa Bouthot, Joyce Clark, Matt Provencal, Rene Ittenbach, Vice Chair; Peter Scontras

Staff Members Present: Joseph Laverriere, City Engineer; Zach Mosher, City Planner

NOTE: Meeting is audio recorded. These audio records will be posted on the City's website and available for public review within one week of the meeting.

Regular Meeting – 6:30 pm

1. Minutes of June 12 and June 19, 2018 minutes

Action: The June 12th minutes: Joyce moved to accept and seconded by Alyssa, and so voted 5-0, 1 abstention (Peter)

The June 19th minutes: Joyce made note of the inconsistency of her name in the minutes, and the fact that she should be called out as Joyce Leary Clark, especially on attendance. Joyce moved to accept the minutes as amended, seconded by Alyssa, and so voted 5-0, 1 abstention (Peter)

2. Public Hearing: Review of a proposed amendment to Section 230-410.6 of the Zoning Ordinance in order to add “Boarding Kennel” as a permitted use. Applicant is Kendall Beal dba Libra Enterprises, LLC. Tax Map 62, Lot 21. Zoned MU-3. This item was tabled at the June 5, 2018 meeting.

I. PROPOSAL – By petition, the applicant is requesting the City to consider adding the already defined use of "Boarding Kennel" to the Mixed Use 3 district (MU-3). The applicant is considering acquiring the property at 955 Portland Road with the goal of establishing such a use, and points to the recent closure of the Pawz-n-Around boarding kennel on the site of the Precious Hidden Estates subdivision as motivation to open a new business.

The zone text amendment can be accomplished via a simple amendment to Article 4, adding the proposed use to Section 230- 410.6, the list of uses for the MU-3 zone. There are other kennels that exist elsewhere along Rte. 1, albeit not in the MU-3 zone. There is a boarding kennel at 750 Portland Rd called Suntars Kennels.

Boarding Kennels are currently allowed as a permitted use in the B-2a, B-2b, B-6 and C-1 zones.

The amendment as proposed:

§ 230-410.6 MU-3 Planned Mixed-Use District.

Permitted uses:

(2) Boarding Kennels.

II. PLANNING BOARD ACTION – If the Board is in agreement and the public elicits no major concerns, the Planning Board is being asked to send a positive recommendation on the text amendment to the City Council.

III. STAFF RECOMMENDATION – Staff recommends the Planning Board send a recommendation of APPROVAL to the City Council for the text amendment with the following findings:

- a. Kennels in the MU-3 district is a reasonable permitted use given this classification is intended to support a wide range of residential and nonresidential uses.
- b. The City of Saco’s Comprehensive Plan says that in this area, “A wide range of retail, service, office, light industrial, entertainment, recreational, and community uses should be allowed...” (Chapter 6, 6-23)
- c.

Don Girouard: I think that this should be considered more of a Conditional Use, rather than a permitted use. At least the planning board would have more control as to the location of a use such as Kennels, taking into consideration the uses of any particular area.

Kendall Beal, applicant: With the closure of Paw-zn-Around, there aren’t a lot of places in the surrounding area to provide this use. It really has been a loss to the community.

Jeanne Labonte, owner of Paw-zn-Around: She has 15 years of experience with boarding kennels. She was in a residential area, and never did she receive any complaints. She has a list of customers who are waiting for daycare for dogs.

Joyce, PB member: is there agility training, and would that be inside or outside? **Mr. Beal:** It could be both, as long as there is 10,000 sq.ft. indoors.

Don, PB member: I move to open the public hearing, seconded by Peter, and so voted 6-0.

Resident on the Heath Road asked where the Kennel is proposed. Neil: 955 Portland Rd

Roger Gay, City Councilor, Ward 2: His daughter trained at Paw-zn-Around. It is a good use.

Don, PB member: I move to close the public hearing, seconded by Rene, and so voted 6-0.

Peter: I move that the planning board make a positive recommendation to the city council for the Boarding Kennel and be considered as a Conditional Use in the MU-3 district, seconded by Don, and so voted 6-0. Motion passes.

3. Preliminary subdivision review of a 3-lot subdivision on a 7.4 acre parcel. Applicant is Normand Berube aka BNO LLC. Tax Map 108, Lot 1-2. Zoned C-1.

I. PROPOSAL – Bill Thompson of BH2M consultants, on behalf of applicant Normand Berube, is seeking approval for a three-lot subdivision called Berube Estates. Mr. Berube has purchased a 7.4- acre parcel off of Heath Rd (Tax Map 108, Lot 1). That 7.4-acre parcel was originally part of a 22- acre parcel owned by Cole Krelley Coletro. The remaining land owned by Mr. Coletro is now approx. 15 acres. Since Mr. Berube is now proposing to split this 7.4-acre parcel and the original split from the 22-acre parcel was within the past 5 years, subdivision review has been triggered for the creation of three lots and requires Planning Board approval. The parcels in question are currently zoned in the Conservation District (C-1). The C-1 district requires a minimum lot size of 80,000 sf with 200 ft. of road frontage, a minimum of a 30 ft. front setback and minimums of 25 ft. for side and rear setbacks. Each lot is expected to be developed into a single-family residence which is a permitted use in the C-1 district.

The applicant is not proposing any new infrastructure to serve this subdivision and all lots will meet frontage requirements along Heath Rd. The applicant is also proposing private subsurface disposal systems and private wells to serve each lot.

These three lots do include wetlands which have been reviewed by Normandeau Associates, who agree with the applicant's wetland delineations. Approximately 500 sf of wetlands will be disturbed to create the driveway to Lot 1 of the subdivision.

Waiver Request – The applicant is requesting a waiver of Section 10.8.10 of the Subdivision Ordinance which prohibits driveways accessed directly from Heath Road. This waiver request is included in the application package. Engineering has voiced support for the applicant's waiver request.

II. DEPARTMENT REVIEW – The Preliminary Plan for Berube Estates subdivision was reviewed at staff’s PDRC meeting on July 24, 2018.

Police Department - No comment.

Fire Department – Fire Department indicated that fire protection had not been addressed. There is no cistern within 2,000 ft of this subdivision, so the options would be to either drop a cistern in the area or sprinkle these residences. The applicant has responded by indicating that these homes will be sprinkled.

Code Enforcement – Dick Lambert had a question about whether the 75 ft strip of land along the southwesterly boundary of Lot 1 was part of the subdivision. The applicant has indicated that the 75 ft strip of land was conveyed to a landowner just south of this proposed subdivision. Dick also made sure that the soil test pit logs that were submitted were of adequate depth.

Engineering Department / Planning Department - Engineering and Planning wanted to make sure the area of Lot 3 is being identified in the subdivision and that the overall total size of the subdivision is approx. 22 acres. While the original split was not subject to subdivision review, because the split was conducted within the past 5 years, this new split requires subdivision review. Engineering does not want to maintain any kind of short, dead end road in this area and is therefore supportive of the waiver request. Engineering wanted to make sure sight distances were adequate and that the wetlands have been mapped. The applicant has satisfied those requirements.

IV. PLANNING BOARD ACTION- The Planning Board is being asked to review this **Subdivision Plan** application using the Saco Subdivision Regulations. The Planning Board will consider the following criteria from the Subdivision Regulations before granting approval for the final plan:

A. Article 1. – Subdivision Purpose.

The purpose of these regulations shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end in approving subdivisions within the City of Saco Maine, or when adopting or amending these subdivision regulations, the Planning Board shall consider the following criteria and before granting approval, must determine that:

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely

developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

Staff finds that the Major Preliminary Subdivision Final Plan Application submitted for Berube Estates meets the criteria set forth in Article 1, 5, and 10 of the Saco Subdivision Regulations.

IV. STAFF RECOMMENDATION – The Staff recommends APPROVAL of the three-lot residential Preliminary Subdivision Plan with the finding that it meets the requirements of the Subdivision Regulations of the Saco Code of Ordinances.

Staff also recommends accepting the request for a waiver regarding access from Heath Rd if the Board finds it meets the requirements of Section 10.8.10.1 in the Saco Subdivision Regulations, which states that the Planning Board may grant a waiver if one of the following conditions are met:

A. There is too little road frontage to reasonable allow for the creation of a local street or private road; or

B. The shape or physical condition of the parcel does not permit access to or the creation of a local street or private road; or

C. There will be no further subdivision of the parcel.

Engineering has also stated that it does not want to maintain any kind of short, dead-end street in this area and is supportive of the waiver request.

Zach: He did not add a motion for “completeness” because he considers that once it goes to the planning board, it is “complete”. He understands that this is something that the planning board has not experienced in the past with Bob, so the Board can have a discussion about it.

Don, PB member: I move to find the application for the 3-lot preliminary subdivision by BNO LLC to be complete, seconded by Rene, and so voted 5-0, 1 abstention (Peter)

Board discussion: the waiver of the driveways on Heath Road, for site distance purposes, it works, as well as Public Works not being in favor of building another road. This way it has less impact than doing an internal roadway.

Rene: I move for a positive recommendation for the request for waiver of Section 10.8.10.1 of the Saco Subdivision Regulations, seconded by Peter, and so voted 6-0

Rene: I move for the approval of the Preliminary Subdivision of a 3-lot subdivision on the 7.4 acre parcel, called Berube Estates, proposed by Normand Berube, aka BNO LLC, to include the proposed conditions as outlined, and dated in packet 8-7-18, seconded by Peter, and so voted 6-0. Motion passes.

3. Final plan review of a proposed 15-lot residential subdivision at the corner of Flag Pond Road and Jenkins Road. Applicant is Lesley H. Leighton. Tax Map 91, Lot 6. Zoned C-1 and Resource Protection. This item was tabled from the June 12, 2018 meeting.

I. PROPOSAL – Michael Tadema-Wielandt of Terradyn Consultants, LLC, on behalf of applicant Les Leighton, is seeking final approval for a sixteen lot subdivision called Innes Landing on a 51-acre parcel on the southeasterly corner of the Jenkins Road/Flag Pond Road intersection. The Board granted approval for the preliminary plan on January 2, 2018.

The applicant is proposing to create a new street with a curb cut on Jenkins Road as well as a curb cut on Flag Pond Road to serve this subdivision. Said street would be designed to City specifications, and may in the future be offered to the City as a public way. Beside the new street, no new infrastructure is being proposed with this subdivision. The lots will be served with private wells and private subsurface disposal systems.

As the Board is aware, development along the Jenkins Road corridor is likely to exacerbate the traffic conditions at the Buxton Road intersection. Other subdivisions along Jenkins Road, most recently the Hilltop at Jenkins Road project approved on 12/20/16, have been subject to a \$1,050 per lot fee for traffic impacts. Staff would recommend the same apply to the current proposal.

The preliminary plan showed approx. 17 acres of open space. Recreational facilities are not proposed, so payment of an impact fee for the latter is addressed in the Conditions of Approval. The project also proposes wetland alterations of 6,581 sf. Anything over 4,300 sf of wetland disturbance necessitates a Natural Resources Protection Act (NRPA) Tier 1 permit and that application has been provided to Maine DEP by the applicant.

UPDATES: Since preliminary approval, the applicant has decided that the 17 acres of open space will be retained. The retained land now includes the area surrounding Cascade Brook and extends to include 200' of frontage on Jenkins Road. He has no current plans for developing it, but there is developable land on the south side of Cascade Brook. The land would not be accessed at this location in the future because of the brook, but it could be accessed through one of the existing lots along Jenkins Road. A "No Disturbance Buffer" is depicted for the areas surrounding the brook in order to protect its water quality.

The applicant is also requesting approval for 16 lots as it has been determined that 2 splits from this parcel have occurred within the last 5 years and therefore needs to be included in the subdivision. Innes Landing has always proposed the creation of 13 new lots, but 3 lots (lots 14-16) have been created from this same parcel within the last 5 years and therefore need to be included in the subdivision proposal. Lots 14-16 are existing individual lots, 2 lots have homes in varying degrees of completion and the third lot is under contract. All three are not being developed with the rest of Innes Landing subdivision.

Remaining Issues from Preliminary Approval: Sec. 10.21 of the Subdivision Regulations state that, *"Trees shall be planted, or retained along all new streets at intervals of no greater than 50 feet, at the edge of the right of way. The Parks and Recreation Department shall review and*

approve any existing trees to be retained in the right of way. Applicant is required to guarantee the survival of these trees for one year from the date of acceptance of the ways by the City. Coniferous tree are not acceptable as street trees. Trees should be no less than 30 feet from street intersections, 15 feet from driveways.

The applicant has stated that “Street trees will be provided in accordance with Section 10.21.”

Section 10.17.3, of the Subdivision Regulations states that, “*In areas without public water, dry hydrants shall be provided within 2000 feet of all proposed structures. The hydrant must have the capacity to yield 500 gallons per minute for 20 minutes. An easement shall be granted to the City granting access to and maintenance of the dry hydrants where necessary. The Planning Board may require additional water capacity for firefighting purposes on the advice of the Fire Chief. A fire flow test may be required to determine if the water supply is adequate.*”

The applicant is proposing to use an existing fire cistern in the area for fire protection for the 13 new residential lots. However, that cistern has yet to be accepted by the city and is not controlled by the applicant. The applicant is proposing a condition of approval that prohibits the issuance of building permits on the proposed lots until the cistern on Flag Pond Road has been accepted by the city.

WAIVER REQUEST: The applicant is requesting a waiver for fire protection for Lots 14-16 because they are existing lots under different ownership than the rest of the subdivision. They are being included in the subdivision because they were divided from this 51 acre parcel within the last 5 years.

The applicant is also requesting a waiver from Sec. 10.8.10 of the Subdivision Ordinance, which indicates that driveways to new residential lots that are a part of a subdivision are prohibited from accessing directly from Jenkins Road. The applicant has provided reasons for this waiver request in the materials.

II. DEPARTMENT REVIEW – Staff reviewed the Final Plan for Innes Landing at their July 24, 2018 PDRC meeting, and comments are in your packets

Police Department - No comment.

Fire Department – The Fire Department has indicated they have no issue with the Planning Board granting a waiver for fire protection for the existing lots of 14-16 only.

Public Works / Engineering Department – Engineering is adamant that the Planning Board needs to grant waivers for granting driveways proposed off of Jenkins Rd – they are maintaining that no subdivision lots can be accessed from Heath Rd.

Engineering also wanted it made clear that the recently installed fire cistern tank on Flag Pond Road has not yet been accepted by the City. Even though the cistern tank will eventually be accepted by the City, it is currently controlled by another developer and until such time as that does occur, the lots within this development are not located within 2,000’ of an operable fire cistern tank. The applicant has requested a condition of approval restricting the issuance of building permits until such time that the fire cistern tank is complete and accepted by the City.

Engineering is agreeable to that condition for lots 1 through 13, but it is unclear how the fire protection standard is being met for lots 14 through 16 as commented during the last Planning Board meeting.

Planning Department – Planning wanted to make sure that the waiver requests applied only to Lots 14-16 and not any of the proposed new Lots of 1-13.

Assessing – The Assessing Department wanted to make sure that the applicant is aware that Lot 3 is in the farmland protection zone. The applicant is aware of that fact and understands the penalty for removing land.

III. PLANNING BOARD ACTION

The Staff finds that the Final Subdivision Plan Application submitted for Innes Landing meets the criteria set forth in Article 1, 6, and 10 of the Saco Subdivision Ordinance.

D. WAIVER REQUEST: The applicant is requesting a waiver for fire protection for Lots 14-16 because they are existing lots under different ownership than the rest of the subdivision. They are being included in the subdivision because they were divided from this 51 acre parcel within the last 5 years. The board has the authority to grant waivers from certain provisions in Saco's Subdivision Regulations per Section 12.1.

The applicant is also requesting a waiver from Sec. 10.8.10 of the Subdivision Ordinance, which indicates that driveways to new residential lots that are a part of a subdivision are prohibited from accessing directly from Jenkins Road. This waiver refers only to the existing lots of 14-16. None of the proposed new 13 lots will be accessed from Jenkins Road. The applicant has provided reasons for this waiver request in the materials. The board may allow an access waiver per Section 10.8.10.1 of the Subdivision Ordinance which says one of the following must be met:

A. There is too little road frontage to reasonable allow for the creation of a local street or private road; or

B. The shape or physical condition of the parcel does not permit access to or the creation of a local street or private road; or

C. There will be no further subdivision of the parcel.

IV. STAFF RECOMMENDATION – The Staff recommends **APPROVAL** of the Final Subdivision Plan for 16 residential lots of Innes Landing with the finding that it meets the requirements of Sections 1, 6, and 10 of the Subdivision Regulations of the Saco Code of Ordinances and is based on the conditions of approval outlined below.

Staff also recommends accepting the waiver requests for 1) fire protection and 2) access off of Jenkins Rd for the existing lots 14-16. The Fire Department has indicated that it makes sense to waive the fire protection requirement for the existing lots because at the time of construction or time of purchase the owners of these lots were not aware they were to become part of a

subdivision. All three lots remain under different ownership and will not be developed with the rest of the subdivision.

Michael Tadema Wielandt, Terradyn Consultants: He will concur with what Zach stated, All the proposed lots will be within 2,000 ft. Only the 3-lots on Jenkins R d. are being requested a waiver. Those lots were transferred to family members under the 5 year period. They have discussed it with Code Enforcement.

Zach: The applicant is proposing a condition of approval for building permits for these new lots only, until such time the cistern is accepted by the City. Also Deputy Fire Chief, David Pendleton wrote a letter stating that the 3-lots would not be required sprinkler systems.

Motion for Waivers:

Joyce: I move to grant both waiver requests or the cistern and fire protection, and access drives off Jenkins Road as requested for lots 14, 15, and 16, seconded by Don, and so voted 6-0.

Discussion:

The land to be retained by applicant will now have frontage on Jenkins Road. There will be development restrictions around Cascade Brook about 100ft all around, otherwise the plan remains the same. There is no plan to develop the upland parcel.

Neil: we could possibly do what we did with the subdivision project across the street and put restrictions on the remaining parcel not to be subdivided.

Don to applicant: you have created a land locked piece of land. The frontage made has rendered that lot useless.

Mr. Leighton: If it pleases the Board you can stipulate that the parcel not be developed.

Peter: I move to open the public hearing seconded by Rene, and so voted 6-0

Steve Couture, 188 Flag Pond Rd, He knows the land. He was always told that that property would never be developed. He has a cracked foundation. He never received notice of any blasting on the development across the street. What is going to happen to the water supply with all this development? Who is going to give him some answers? What are you going to do about the crack in my foundation?

Mr. Leighton: He bought the property in 1992. He is not aware of what the previous owners might have said about any development.

Neil: A Traffic Impact Fee will be applied.

Motion for Approval:

Joyce: I move we add 2 additional conditions. That no building permits be issued for Lots 1 thru 13 until the fire cistern is complete and accepted by the city and that Lot 17 noted as no building permits be issued for Lots 1 thru 13 until the fire cistern is complete and accepted by the city and that Lot 17 noted as Land to be retained by owner” be labeled as: Lot 17, and that no development of that lot shall be undertaken until further review by the planning board, seconded by Peter, and so voted 6-0. Motion passes.

Discussion:

Question was asked: What if the cistern doesn't work or doesn't get installed? Don: The applicant is required to submit a Financial Guarantee, to insure that the Site infrastructure is completed to the cities satisfaction, and if not, the City has the right to take that money and use it to complete and stabilize that site.

Respectfully submitted by,

Maggie Edwards

Board Secretary