

Planning and Development

Saco City Hall
300 Main Street
Saco, Maine 04072-1538



Maggie Edwards

Administrative Assistant

MEdwards@sacomaine.org

Phone: (207) 282-3487 ext.353

Saco Planning Board

Meeting Minutes

October 16, 2018

City Hall Auditorium, 2nd Floor, 5:30 PM

WORKSHOP:

1. Contract Zone proposal for 506 Main St. Applicant is Mammoth Acquisitions, LLC. Tax Map 40, Lot 57. Zoned B2-c.

Natalie Burns, Esq., and Darrin Stairs, PE on behalf of applicant Mammoth Acquisitions, LLC is seeking to workshop a contract zone proposal that would result in the removal of the existing Rosa Linda's restaurant, and construction of a new building proposed for a "Hospital and Clinic for Humans," a permitted use in the B-2c zone. The new structure is proposed to be an urgent care facility, Convenient MD. The request for a CZ is to allow less parking spaces from the requested 52 down to 30 spaces. As well as reducing the front setback from 40ft to 15ft. Also requested is the height of the building from 35ft to 43ft. As well as more signage requested than what the ordinance states.

2. Sketch plan review of a proposed 6,000s.f. commercial building at the corner of Rt. 1 and Cascade Rd. Applicant is Nate Libby. Tax Map 62, Lot 1-2. Zoned R-3.

Walter Pelkey of BH2M Engineers LLC, on behalf of applicant Amari Holdings LLC (Mr. Nate Libby), requests feedback for a 6,000 sf retail building located at the corner of Rt 1 and Cascade Rd (Tax Map 62, Lot 1-2). The applicant proposes to construct a 6,000 sf commercial building (retail use) at the site of Evolution Gym, a 9,600 sf facility that was approved by the Planning Board in 2016. The parcel is zoned MU-3 and is also part of the Cascade Contract Zone. Retail uses are permitted in this contract zone.

No minutes were taken for the two workshop items. Although Board discussion of these items can be heard on the audio on the City's website.

REGULAR MEETING

6:00 PM

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

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.

NEW BUSINESS AND PUBLIC HEARING:

1. Minutes of October 2 and October 16, 2018

Because of the late submission of the October 2nd minutes, the Board decided to defer the review of the minutes to the next meeting.

2. Site Plan review for the construction of a Single-Family Residence at 15 Oceanside. Applicant is George and Nancy Driscoll. Tax Map 11, Lot 116-1. Zoned R-1c and Shoreland Overlay.

Don: brought to the Boards attention that he is an abutter to the Driscoll's and had recused himself at the meeting when the Driscoll's had applied for a contract zone just about a year ago, and he took the position as an abutter. So he asked the Board to consider whether he should participate as a Board member on this review.

Neither the Board or the applicant had any objection.

Zach Mosher: Dow and Coulombe, on behalf of applicant Nancy Driscoll, seeks site plan approval for a contract zone approved on November 20, 2017. The project is now subject to site plan review, the focus of which is the split of a residential parcel into two parcels, with the less-developed parcel proposed as the site of a new single-family dwelling.

Longer-serving Board members will recall that the primary purpose of the approved contract zone was to reconfigure the parcel identified as Tax Map 11, Lot 116 into two buildable parcels. The Driscoll's existing residence remains on Map 11, Lot 116. The remainder of the parcel is now identified as Map 11, Lot 116-1.

The existing Driscoll parcel (pre-contract zone) is 0.246 acre (10,743 s.f.), and as such is a conforming lot in terms of area in the R-1c district. It is also located in the Shoreland Overlay district. See the attached contract zone agreement for modifications to the lot and yard requirements that detail the area, frontage and width of each of the smaller lots resulting from the CZ-sanctioned lot split.

The proposal requires review by the Maine DEP, including a Natural Resources Protection Act (NRPA) Sand Dune permit. See attached letter from Mark Stebbins of the DEP, which also mentions the Permit by Rule application that was submitted by the applicant on July 6, 2018, for which permission was sought to remove an existing shed and patio from Lot 116-1. The Sand Dune permit has not yet been issued, and in the event that an eventual buyer may have their own ideas of an acceptable building design, the plan is for that

eventual buyer to obtain the Dune permit. The draft Conditions of Approval address this requirement. The structure is required to meet current Shoreland Zoning regulations and floodplain regulations, as the proposed structure is currently located mostly in the AO, and partly within the VE flood zones.

DEPARTMENT REVIEW –

Police Department – No comment.

Fire Department – No comment.

Code Enforcement – As Dick Lambert notes, the future buyers of Lot 116-1 will dictate the final design of the new dwelling. A 20' x 42' footprint is shown on the plan, but if the buyers prefer something different, they will be required to return to the Board for review.

Engineering Department / Planning Department – Planning wanted to make sure the applicant understand whether it was allowable to park cars above the proposed subsurface wastewater location.

PLANNING BOARD ACTION- The Planning Board is being asked to review the proposed **single- family dwelling at 15 Oceanside Drive** based in part on the contract zone approved between George and Nancy Driscoll and the City of Saco.

Mike Coulombe, Dow & Coulombe, representing the Driscoll's: As part of the Contract Zone Agreement that was approved between the Driscoll's and the City of Saco in 2017, the Driscoll's are required to apply for a site plan review to the Planning Board. This parcel is located within the R-1c and the Shoreland Zone Overlay. Per the CZA minimum lot and yard requirements were modified to accommodate the dimensions of the subject parcel. As Zach noted, this parcel is located mostly within an AO Zone on the Flood Maps, and partly within the VE Zone, therefore, the parcel will be serviced by public water and with on-site subsurface wastewater disposal system. The chamber system is designed to support the weight of vehicles parked over the system, as well as pavement. The building footprint proposed is 20ft by 42ft. The Driscoll's intend to sell the parcel without constructing a building, and therefore will leave a final building design to the discretion of the purchaser of the parcel.

Don: Whoever purchases this parcel, is going to have to meet the conventional setbacks of the zoning ordinance, because the contract doesn't make those provisions.

Peter moved to open the public hearing, seconded by Rene, and so moved 7-0

Neil: The Board received 2 emails from abutters. One from Laury Delham, and one from Dennis LeClair expressing their concerns.

Rene moved to close the public hearing, seconded by Peter, and so moved 7-0

WAIVERS – The applicant is requesting several waivers regarding site plan review as not applicable to this project due to its limited nature and scope. Specifically, the applicant is requesting waivers from the items in Sec. 230-1104: (4) (5) (6) (7) (9) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20) (22).

Staff is supportive of these waiver requests as they are not applicable to this site plan review.

STAFF RECOMMENDATION –

- A. Staff recommends that the Board consider accepting the waivers, pursuant to Sec. 230-1105, that are not particularly applicable to this project in Sec. 230-1104 for the above referenced submission items.

The Board discussed the waivers

Matt: Just because the Board is waiving these items, doesn't mean that we are waiving the requirements to DEP and Dick Lambert in the Code office.

Matt: "Move that Board grant waiver for the following items in Sec. 230-1104: (4) (5) (6) (7) (9) (11) (12) (13) (14) (15) (16) (17) (18) (19) (20)." Seconded by Rene, and so moved 7-0

- B. Staff recommends APPROVAL of the site plan application for a proposed single-family dwelling at 15 Oceanside Drive with the finding that it meets the standards found in Article XI of the Saco Zoning Ordinance.

Don: "Move to approve the request from applicant Nancy Driscoll for site plan review of a proposed single-family dwelling at 15 Oceanside Drive, subject to the Conditions of Approval dated October 16, 2018" with the added condition that the septic system design of risers and covers be installed to comply with applicable FEMA zoning, seconded by Rene, and so voted 7-0.

3. Fourth Subdivision Amendment proposal for Saco Factory West. Applicant is ROTM lofts, LLC. Tax Map 37, Lot 1.

Zach Mosher: Tom Federle, on behalf of applicant ROTM Lofts, LLC, proposes a subdivision amendment that would allow Building #7 on Saco Island and only the land directly underneath (smaller building behind Run of the Mill brew pub) to be conveyed to another owner, Ryan Fitzpatrick. Existing easements for this building will not change. The property will still have easements and other benefits including allowance for overhangs or other encroachments onto the land of ROTM Lofts, the current owner of this building and Run of the Mill Brew Pub. This proposed conveyance will create an additional lot; therefore, a subdivision amendment application reviewed by the Planning Board is required. No other exterior changes are proposed.

Except for a small portion of the building used by the brew pub as a seasonal kitchen, Building 7 is currently empty. The new owner will allow the kitchen to continue operation, as the current applicant is not proposing any interior or exterior changes at this time. Any interior revisions would be proposed by the next owner. As mentioned, the request now is to just separate ownership.

Under the original redevelopment plan for the island, site plan and subdivision approvals were granted for SI Development, LLC on Saco Island on July 17, 2007. The project included perhaps 2/3 of the island: portions of Building 1, Buildings 3, 4, and 7 on the west side of the island, and a proposal for thirty condominium units on the easterly side of the island/Main Street. The DEP reviewed and approved the Site Location of Development permits for the project – one for the east side, one for the west -- the Saco River Corridor Commission also issued an approval, as did the U.S. Army Corps of Engineers.

Tom Federle, lawyer on behalf of ROTM Lofts, LLC. As Zach has mentioned, this is the 4th amendment. We are separating the ownership of Building #7 and the land underneath the building. Nothing on the ground is changing. There are no setback requirements. There are easements around the perimeter of the building that will remain. The only thing that is changing is the ownership, which means we must create a lot, that will be conveyed into the new ownership. And by creating that new lot, means an amendment to the subdivision. No changes are being made to the plan. The only change is that the previous owner was Saco Island West, who sold it to ROTM Lofts, LLC, who in turn is selling Bldg. #7 to Ryan Fitzpatrick.

Matt moved to open the public hearing, seconded by Alyssa, and so moved 7-0

No comments from the public

Matt moved to closed the public hearing, seconded by Alyssa, and so moved 7-0

Determination of Completeness – The application for the subdivision amendment has been found to be complete.

Peter: “I move to find the application for the subdivision amendment complete.”, seconded by Matt, and so voted 7-0.

DEPARTMENT REVIEW

Police Department - No comment

Fire Department – No comment

Public Works / Engineering Department – No comment

Code Enforcement – Code Enforcement does not have any concerns with the amendment as proposed here.

STAFF RECOMMENDATION – The Staff recommends APPROVAL of the 4th Subdivision Amendment for Saco Island West with the finding that it meets the requirements of Articles 1 and 7 of the Subdivision Regulations and is based on the conditions of approval dated October 16, 2018.

Joyce: "I move that the Board approve the amended subdivision plan submitted by Tom Federle for the purpose of splitting Building 7 off from the remainder of Saco Island West to Ryan Fitzpatrick, based on the application submitted and on the Findings of Fact and Conditions of Approval dated July 17, 2007:

- 1) The application meets the requirements of Articles 1, and 7 of the Saco Subdivision regulations**
- 2) The applications meets the requirements of the Conditions of Approval below (dated October 2, 2018)**
- 3) The application recognizes that the original Conditions of Approval and Findings of Fact (July 17, 2007) remain as part of the record and in effect."**

Seconded by Rene, and so moved 7-0.

1. Contract Zone Review for a Wireless Telecommunications Facility (WTF) at 644 Main St. Applicant is L&M Properties. Tax Map 42, Lot 9-1. Zoned B-2B.

Zach Mosher: Michael Beale, on behalf of applicant Leon Foster, is proposing a contract zone for the construction of a 130' Wireless Telecommunications Facility (WTF) monopole tower on an undeveloped parcel. The site would be accessed from the parcel at 644 Main Street, and be installed on the parcel identified as Tax Map 42, Lot 9-1 – directly abutting 644 Main, and owned by L&M Properties, Inc. Each parcel is owned by Leon Foster, or a corporation through which Mr. Foster conducts business. The tower, or Wireless Telecommunication Facility as defined by the Zoning Ordinance, would operate within a fenced 100' x 100' area, much as others the Board has reviewed, and will provide for multiple carriers.

The applicant was approved for a contract zone (CZ) at this location for the construction of an identical wireless facility in May 2014. In January 2015, the applicant obtained site plan approval from the Planning Board. However, the applicant did not obtain necessary approvals and permits from the City within the allotted timeframe of the contract zone, which nullified the contract zone.

Current zoning does not allow cell towers. Cell towers are not an allowed use in the B-2b zone, though as the applicant points out, Radio or TV Transmission Towers are, as a conditional use. The company has identified the area as important to improving its coverage, and is willing to move forward with a proposed contract zone.

The draft CZ agreement is simple and straightforward, proposing only to amend Section 410-6B to allow a Wireless Telecommunication Facility on the subject property.

If the proposal succeeds with the Council, the applicant would return to the Board for site plan review and be subject to the standards found in Section 230-728.

When Sec. 728 was adopted by the Council in 2002, consideration was given to where the City zoned for cell towers. It was agreed that the Turnpike corridor made sense: Wireless Telecommunication Facilities are conditional uses in the I-1 and I-3 zones (Mill Brook Business Park). Elsewhere, such facilities would be

subject to contract zoning. Therefore, contract zoning is almost a routine route for cell tower approval in Saco.

DEPARTMENT REVIEW:

Police Department - No comment

Fire Department – No comment

Public Works / Engineering Department – No comment

Planning Department – Planning is supportive of the subdivision application.

Code Enforcement /City Attorney – The city attorney reviewed the contract zone on October 3rd 2018. His comments related to the fall down zone being more clearly defined as well as providing greater substance around the city's possible use of the tower. The applicant reviewed those comments and incorporated the information into the draft contract zone application in your packet.

PLANNING BOARD ACTION- The Planning Board is asked to review the proposed **contract zone** using Section 230-1405 of the Zoning Ordinance, and the following criteria to forward a recommendation to the City Council:

F. Recommendation. Before forwarding a recommendation on a contract zoning amendment to the City Council, the Planning Board shall make a finding on each of the four standards in this subsection. A favorable recommendation to the Council requires a positive finding on all four standards. If the Planning Board makes a negative finding on any of the standards, its recommendation shall be negative. The Planning Board shall base its recommendation on whether:

- (1)** The rezoning is for land with an unusual nature or location;
- (2)** The rezoning is consistent with the Comprehensive Plan;
- (3)** The rezoning is consistent with, but not limited to, the existing uses and permitted uses within the original zone; and
- (4)** The conditions proposed are sufficient to meet the intent of this section.

Michael Rogers, agent for the applicant: This property was approved for a cell tower back in 2014. The reason this did not get developed was that AT&T cut their program, and decided not to move forward. So Mr. Foster was left without a tenant. He now has a National carrier who would like to locate here, with a possible second carrier. So, Mr. Foster would like to move forward with an approval. There would be no changes to the Site plan. The current structure on the property has been locked up and should/will be demolished.

Board discussion

Peter: It speaks of any interruptions in frequency, but for some reason the tower gets destroyed. THE tower tells me it's just that tower. It really should say THAT TOWER OR SUBSEQUENT TOWERS should be replaced.

Don: If the tower is destroyed for some reason or technology changes, The City should have the privilege of having it there.

Also, should the vacant building be removed before any construction of the tower. Board decided that could be added as a condition at Site Plan review.

Don moved to open the public hearing, seconded by Peter, and so voted 7-0.

Roger Gay, City Councilor, Ward 2: asked how tall the cell tower would be?

The Board answered 130'.

Alyssa moved to close the public hearing, seconded by Peter, and so voted 7-0.

Determination of Completeness – The application has been found to be complete as per Section 1403-3.

Rene: "I move to find the application for the contract zone review to be complete.", seconded by Alyssa, and so moved 7-0

Rene: "I move that the Planning Board forward a positive recommendation to the City Council for the four criteria for the proposed contract zone that would allow a Wireless Telecommunication Facility to be installed and operate on the parcel at 642 and 644 Main Street.", seconded by Alyssa, and so moved 7-0.

Respectfully submitted by,

Maggie Edwards

Board Secretary