

Planning and Development

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Saco Planning Board
Meeting Minutes
November 6, 2018
City Hall Conference Room, 5:30 PM

WORKSHOP: 5:30PM

1. Zoning Ordinance Revision Update
Presentation by Denise Clavette, Planning & Development Director

REGULAR MEETING

6:00 PM

Planning Board Members Present: Neil Schuster, Chair, Alyssa Bouthot, Matt Provencal, Peter Scontras; Don Girouard
Planning Board Members Absent: Rene Ittenbach, Joyce Leary Clark
Staff Members Present: Denise Clavette, Planning & Development Director; 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**
The planning board did not receive the minutes, so there was no vote.
2. **Contract Zone proposal for 506 Main St. Applicant is Mammoth Acquisitions, LLC. Tax Map 40, Lot 57. Zoned B2-d.**

Zach: Natalie Burns, Esq., and Darrin Stairs, PE on behalf of applicant Mammoth Acquisitions, LLC is seeking review and approval under Section 230-1403 of the Zoning Ordinance for a contract zone agreement (CZA) for demolition 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. As mentioned, 506 Main St is the current site of Rosa Linda's restaurant (Tax Map 40, Lot 57). The parcel is approx. 26,000 sf in size with an

approx. 3,600 sf building. The applicant is proposing to demolish the existing restaurant to construct an approx. 5,000 sf building for the proposed business, ConvenientMD.

The applicant has applied for this contract zone (CZ) for the following reasons:

- The applicant seeks to reduce the front setback from 40ft to 15ft. due to the limitations of the site that does not allow new construction to meet the required setbacks and buffers, and required parking
- The applicant seeks to install three wall signs, and the ability to install a freestanding sign, which is more than the zoning ordinance currently allows.
- The applicant seeks to increase the Height of structure from 35ft to 43ft...for a better building design and configuration.

The parcel is 26,324 sf, and as such is a conforming lot in terms of area in the B-2c district. The parcel has 212.65 feet of frontage on Main Street, which exceeds the minimum requirement of 100 feet. The applicant has included language in the contract zone to specify that these zoning requirements are tied to the proposed use only. The Saco Valley Credit Union on the west side of the property has a setback that looks to be approx. 15-20 ft, while the former Psychic Reading business on the east side of the property has a setback of approx. 25-30 ft. The applicant has used the “professional office” use to calculate parking requirements.

The applicant workshopped this item at the Planning Board meeting on October 16, 2018. During that meeting, the Board asked if rear access could be obtained and the applicant responded that, despite best attempts to have a dialogue with representatives of the Credit Union and Kerrymen Pub, no rear access was imminent, yet the applicant remains open to the idea.

After that workshop, these revisions were made to the proposed CZA:

- In Section 5.D, the applicant has indicated that the site shall be generally developed in accordance with Exhibit A (Site Plan). The applicant has also clarified that the final site design will be determined by the Planning Board during the site plan review process. Previously, this section stated that the site would be substantially developed in accordance with the Exhibit and established a procedure for amendments. This revision clarifies that the Exhibit is illustrative and not binding. Also, the building design exhibit has been removed from the CZA and the language has been modified to recognize that the Planning Board will determine the final design as part of the site plan review for the project.
- Language has also been added to Section 5.D to clarify that the applicant agrees as a condition of the CZA to connect to any future rear access from abutting property. This provision recognizes that some parking spaces may need to be reviewed and establishes that this work can be approved by the City Planner as a minor revision. The applicant continues to pursue the rear connector and has contacted the Planning & Development Director about this matter.
- The applicant has also provided a trip generation analysis in the application materials highlighting the less intensive impact this proposed use would have at the location. Traffic concerns will be treated with more depth during site plan review.

DEPARTMENT REVIEW –

Police Department – No comment.

Fire Department – No comment.

Code Enforcement – These are the following questions and comments from Code Enforcement:

- The proposed number of signs and total signage area significantly exceed that allowed by the Ordinance. What's the public benefit, and is the Board prepared for other businesses to point to this as a precedent?
- Can the applicant seek an easement allowing vehicular traffic access to Horton Avenue?

Engineering Department – DPW provided the following comments:

- General concept plan follows the preferred plan discussed with City staff several weeks ago.
- Proposed changes to site access are consistent with Main Street Access Study (2005).
- Consideration for rear access to Horton Avenue and existing traffic signal at Hutchins?
- Technically, dumpster encroachment into parking drive aisle conflicts with parking design dimensional standards.
- Extent of pavement should maintain 5' clear setback to abutting properties.

Planning Department – Planning Staff offers the following comments:

- Required setbacks in the B-2c zone are 40 feet for the front and 20 feet for side and rear yards. The applicant seeks to reduce the front setback to 15 feet. This calls to mind the recent contract zone application for the parcel at 485 Main Street, which received a reduction in the front setback from 40 feet to 25 feet; an easy-to-support reduction, in staff's view.
- Sec. 230-708.C (9)(a) [6] states that "In the Main Street corridor from Saco Island to the I-195 connector, no more than one row of parking spaces or 25% of the total required number of parking spaces, whichever is greater, shall be located between the front of the building and the street; the remainder shall be located to the side and rear of the building." The applicant proposes only landscaping between the building and Main Street, together with building placement that establishes a desirable building wall that bears more resemblance to a downtown Main Street configuration than a Portland Road/Rte. One, parking-heavy, greater-than-required building setback environment.
- Note that the existing credit union building next door to the subject property has a front setback from Main Street of about 17.5 feet. In staff's opinion, if the section of Main Street between Fairfield Street and I-195 is to become more pedestrian-friendly and less auto-dominated, buildings must be brought up closer to the rights-of-way and parking lots de-emphasized, i.e., brought to the side or rear of buildings. This project presents an ideal opportunity to do so.
- Signage in the B-2c zone allows for up to two signs (§230-707.E), and provides for sign area (size) to be determined by the width of the building, or, as stated in Table 707: "Overall size allowance per premises per foot of width of principal structure (square feet)," up to a maximum of 150 sf The proposed building measures approximately 106 feet in length as it faces Main Street, and 2 sf of signage is allowed for each foot of building width. So, the maximum of 150 sf would apply. Further, Table 707 states that "2 signs, only 1 of which may be freestanding, plus 1 additional wall sign not exceeding 12 square feet" are allowed. The

applicant has submitted graphics calling for three 125 sf wall signs on the building's north, south and east-facing walls. The applicant also seeks the ability in the future to install a freestanding sign "...of no more than 40 square feet in sign area, located between the front of the building and Main Street."

- As Mr. Lambert notes in his comments, the number of signs requested is twice the allowed, and the overall signage area is 2.5 times the area allowed.
- Again, the applicant has used the "professional office" use to calculate parking requirements. If the applicant is satisfied that 30 spaces are adequate, staff is supportive of the reduced parking numbers.

PLANNING BOARD ACTION - The Planning Board is being asked to review the proposed contract zone for 506 Main St and ConvenientMD using Section 230-1405 of the Zoning Ordinance, and the following criteria to make 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.

Don: I move to open the public hearing, seconded by Alyssa, and so moved 5-0

Elliott Chamberlain, Developer: I think this is a great re-development of this property. For them to say they are cutting back from three existing curb cuts to one, doesn't do it justice. That is a big deal. If the back access happens, that will cut the traffic down even more. This use will have less traffic than the current use, and then to direct traffic to the light (if the rear access happens), will be even better. It will be just like they did across the street, by directing all traffic to the light on Smith Lane.

Resident on Smith Lane: He supports the project, but wanted to know if this building was going to be lit up all night?

Applicant: Just for security reasons, they would require a minimal amount of lighting around the building. Typical hours will be from 8am-8pm., so there wouldn't be any bright lights late at night.

Peter: I move to close the public hearing, seconded by Alyssa, and so moved 5-0.

After much discussion, the Board chose to make recommendations separately on each of the items requested in the contract zone.

The planning board's discussion of these 3 items, setback, height, and signage, can be heard on the audio recording.

Don: “Move to forward a positive recommendation to the City Council for the contract zone proposed by applicant Mammoth Acquisition Company, LLC that would modify setback requirements in the Zoning Ordinance, thereby allowing an urgent care facility to proceed to site plan review on the parcel at 506 Main Street.”, based on the fact that the application for the setback change meets all 4 standards Section 230-1405 of the contract zone, seconded by Peter, and so moved 5-0. Motion passes.

Alyssa: “Move to forward a positive recommendation to the City Council for the contract zone proposed by applicant Mammoth Acquisition Company, LLC that would modify signage requirements in the Zoning Ordinance, thereby allowing an urgent care facility to proceed to site plan review on the parcel at 506 Main Street.”, seconded by Matt, and so moved. 0-5. Motion fails. (Neil, Peter, Don)

Matt: “Move to forward a positive recommendation to the City Council for the contract zone proposed by applicant Mammoth Acquisition Company, LLC that would modify height requirements in the Zoning Ordinance, thereby allowing an urgent care facility to proceed to site plan review on the parcel at 506 Main Street.”, seconded by Alyssa, and so moved. 2-3. Motion fails. (Neil, Peter, Don)

3. Conditional use and Site plan review of the proposed construction of a multi-family dwelling at 92 Lincoln St. Applicant is KB Building Contractor, LLC. Tax Map 38, Lot 234. Zoned R-3.

Matt: Full disclosure. He received a notice, because he is an abutter to this project. He stated he could remain objective. The Board agreed to have him remain on the Board.

Zach: Paul Gadbois PE, on behalf of KB Building Contractors, LLC is seeking site plan and conditional use approval to construct a 3-unit residential building on a portion of Map 38, Lot 234. This new lot, addressed as 92 Lincoln St, has been deeded and recorded but does not yet have its own map and lot number (sold in June of 2018). This new lot is approx. 15,100 sq. ft. and is located within the R-3 and Saco River Overlay zoning districts. In the R-3 zoning district multifamily dwellings are a conditional use. The building footprint is proposed to be approx. 1,980 sf. A third unit results in a multi-family dwelling, which requires both a conditional use permit and site plan review. The proposed structure will be connected to public water and sewer.

There are also certain parking requirements to be met with multifamily residential structures. 7 spaces are required, and 7 spaces have been provided. The ordinance states that 2 spaces are required for each unit as well as a visitor's space for every 6, thereby requiring a total of 7 spaces.

The Saco River Corridor Commission has reviewed the project and issued a permit.

Conditional use permit – A waiver is requested from Sec. 901-B.1 (m) in the conditional use site plan requirements. Items (j) (n) and (o) are not applicable to the application. Outside of these items, the application is deemed to be complete.

Don: “I move that the Board grant the waiver for Sec. 901-B.1(j) (m) (n) and (o) as not applicable as part of conditional use requirements.”, seconded by Alyssa, and so voted 5-0. Motion passes.

Site plan review -- Waivers are requested from Section 230-1104: (6), (7), (11), (12), (13), (14), (15), (16), (18), (19) and (20). Staff opines that the elements listed here are outside the scope of the project.

Don: “I move that the Board grant waivers of submission requirements Sections 1104-1.2(b) and 1104-1.10. as being unnecessary due to the scope of this application.”, seconded by Peter, and so voted 5-0. Motion passes.

Determination of Completeness

Don: “I move to find the application for both conditional use, and site plan review to be complete.”, seconded by Alyssa, and so voted. 5-0. Motion passes.

Paul Gadbois, engineer representing KB Builders

DEPARTMENT REVIEW

Police Department – The Police Department indicated that it had no traffic safety concerns at this time.

Fire Department – Fire requires the residence to be sprinklered. However, after speaking with Paul Gadbois, it is no longer required to be sprinklered, as Mr. Gadbois indicated that this structure will be constructed with 2-hour fire separated walls.

Public Works / Engineering Department – The applicant will need to apply for a drive entry permit from DPW

Planning Department – Planning is supportive of the three-unit construction.

Code Enforcement – The Code Department has requested that all areas of vegetation be cleared were reviewed and marked clearly prior to the clearing occurring. Because the building in the floodplain, it will also need to be elevated 3 ft above the base flood elevation.

PLANNING BOARD ACTION- The Planning Board is asked to review this site plan application for the construction of a three-family residential structure at 92 Lincoln St using Articles 4, 9 and 11 of the Saco Zoning Ordinance.

STAFF RECOMMENDATION – The Staff recommends APPROVAL for a conditional use permit and site plan review for the construction of a three-unit multifamily residence at 92 Lincoln St with the finding that it meets the requirements of Articles 4, 9, and 11 of the Saco Zoning Ordinance and is based on the conditions of approval, dated November 6, 2018.

Don: I move to open the public hearing, seconded by Alyssa, and so moved 5-0

Don: I move to close the public hearing, seconded by Alyssa, and so moved 5-0.

Matt asked if this project requires Design review?

Zach: By the letter of the law, this application is subject to Design review.

Board discussed and reviewed Section 230-729 Design Standards of the zoning ordinance and all agreed that they were met.

Don: “Move that the Board grant a Conditional Use Permit, Design review approval , and Site Plan approval under the provisions of the Saco Zoning Ordinance for the application submitted by Paul Gadbois on behalf of applicant KB Building Contractors for the proposal to construct a three-family dwelling at 92 Lincoln Street, based on the Conditions of Approval dated November 6, 2018.”, and an added condition that applicant add low-level shrubbery between the parking lot, and sidewalk. Seconded by Matt, and so voted 5-0. Motion passes.

4. Review of proposed amendment to the Park North contract zone. Applicant is Park North Development, LLC. Tax Map 62, Lot 1. Zoned MU-3 and Contract Zone.

Zach: Park North Development LLC, is seeking review and a positive recommendation concerning an amendment to the Cascade contract zone that would allow “Lumber and Material Yards” to be a permitted use under Parcel 1 of the Cascade Contract Zone Agreement (CZA). The CZ divides the land into 4 parcels, each with their own regulations concerning uses, setbacks, lot coverages, and other dimensional regulations. This proposal is only concerned with adding the use “Lumber and Material Yards” to the list of permitted uses under Parcel 1, under the Cascade CZA.

The Cascade CZ was originally approved in June 2006 and the subdivision of the overall subdivision of Park North was originally approved on January 2008. Within a relatively short time the Rte. One sewer main had been extended to both the Cascade and Park North property with the aid of a TIF approved by the Council, and a road and utility network constructed.

The Cascade CZ has been amended prior to this proposal. In 2014 the applicant amended Parcel 1 of the Cascade CZ to include “Automobile Dealer” as a permitted use for Lot C1, a 14-acre parcel with frontage on Rte. 1. You’ll notice “Automobile Dealer” as use #31 in parcel 1 of the Cascade CZ.

Again, this proposed amendment concerns only Parcel 1 within the Cascade CZ; a draft copy of the contract zone has been included in the application materials outlining the lumber and materials use to be added as item #32.

DEPARTMENT REVIEW

Police Department - No comment.

Fire Department – No comment.

Public Works / Engineering Department – No comment.

Code Enforcement – Code Enforcement indicated that the site plan should include colors and labels to clearly demarcate the Park North Contract Zone and the parcels within the Cascade Contract Zone.

Planning – The Planning Department asked the applicant to supply an overall subdivision plan indicating what parcels of the overall Park North Subdivision plan apply to which contract zone and which parcel in that contract zone. That color-coded plan is included in the application materials. It is important to keep in mind that the overall Park North subdivision is under two contract zones (the Cascade CZA, and the Park North CZA) each further divided into 4 parcels, and each parcel containing specific uses and space and dimensional requirements.

PLANNING BOARD ACTION- The Planning Board is asked to review the proposed **contract zone amendment for the Cascade CZA** and forward a recommendation to the City Council. Staff opines that the criteria found in Sec. 230-1405 (F) of the Saco Zoning Ordinance have already been met during the approval process of the Cascade Contract Zone in 2006 and that this proposal is a relatively minor amendment that does not require a finding on the Sec. 230-1405 (F) standards. Staff finds that the both the Comp Plan and the Cascade CZA support and encourage more commercial uses within this part of the Park North Subdivision.

STAFF RECOMMENDATION – The Staff recommends the Planning Board send a positive recommendation for the Park North Development, LLC Contract Zone Agreement amendment to the City Council.

Elliott Chamberlain, applicant and developer: Zach has covered everything. We are just looking to add “Lumber and Material Yards” as a permitted Use to Parcel 1, which would make this Use #32.

Board discussion:

The Board discussed that it is consistent with the B-6 zone

Alyssa: I move to open the public hearing, seconded by Peter, and so moved 5-0

Roger Gay, city councilor, ward 2: The city council is looking forward to this.

Alyssa: I move to close the public hearing, seconded by Peter, and so moved 5-0

Matt: “I move that the Planning Board find that the proposed amendment to the Park North Development, LLC Contract Zone Agreement are consistent with findings made by the Board on June 6, 2006 and forward a positive recommendation to the Council for the proposed amendment to the Contract Zone titled “Contract Zone Agreement by and between Park North Development, LLC and the City of Saco” dated June 6, 2006”, seconded by Don, and so voted 5-0. Motion passes.

- 5. Review of proposed subdivision amendment to the Park North/Cascades subdivision plan. Applicant is Park North Development LLC. Tax Map 62, 63 and 64, Lot 1, 6, and 6-1. Zoned MU-3 and Contract Zone.**

Zach: Park North Development LLC, is seeking approval for an 8th amendment of the Park North and Cascades Subdivision. The Planning Board approved the original overall subdivision in January 2008. See the 10/23/18 letter from Rick Meek, P.E., Sebago Technics for details on lot consolidation, and re-subdivision of certain lots. As a reminder, this is a list of proposed amendments to the plan approved by the Board to date:

1st Amendment – Division of Lot C1, resulting in the creation of Lot C5 at the corner of Cascade Road and Rte. One, approved 1/22/08

2nd Amendment – Further division of Lot C1, resulting in the creation of Lot C6, approved 1/20/09. Applicant Wagner Drywall received site plan approval for the commercial building that now houses a day care and other uses.

3rd Amendment – Creation of Lots C4A, C4B and 22. The latter was carved out of the existing Lot 18 at the corner of Portland Road and Main Road (now Waterfall Drive) and is now occupied by the former Ocean Communities credit union building. Lots C4A and C4B were created from the existing parcel that lies between Cascade Road and Old Cascade Road. It is described in the parcel deed for the Cascade Inn as a separate parcel from the larger, former Inn property. Zones C4A and C4B have since been developed with single family dwellings.

4th Amendment – Easements associated with a force main and the pump station for Lots C1, C5 and C6 were created.

5th Amendment – Updating dimensional regulations in parcels 2, 3, and 4 of the contract zone agreement. The space and bulk regulations in Parcel 4 necessitated a change to the subdivision plan for Parcel 4.

6th Amendment – Modified the residential area of Lot 18.

7th Amendment –

- The 1st part proposes to alter phases 3 and 5 within the residential portion of the development which will consist of consolidating the proposed right-of-way of Bears Den Rd (not currently built), the previously proposed Open Space 1, lot C4 and lot CA-5 to accommodate 17 duplexes.
- The 2nd part proposes to subdivide lot 18 (at the corner of Waterfall Dr and Portland Rd) to create an approx. 6-acre parcel for future development of a 72-unit apartment building. (Condition of approval number 16 from the original approval stated in part that “development of individual parcels for residential or commercial buildings and uses shall be subject to site plan review by the Planning Board.” As such, a site plan application for the proposed apartment building will be submitted to the Board.

DEPARTMENT REVIEW

Police Department - No comment.

Fire Department – No comment

Public Works / Engineering Department – No comment.

Code Enforcement – No comment.

PLANNING BOARD ACTION the Planning Board is asked to review the proposed **8th amendment for the Park North/Cascades subdivision.** Revisions to approved plans are addressed in Article 7 of the Subdivision Regulations. Staff is following the procedures for preliminary and final plan inasmuch as Lots 2-4 along East View Parkway are proposed for further subdivision, into six lots, while acknowledging that 10 lots that were part of the 2008 approval are now proposed to be consolidated into one parcel, shown as Lot 9 on the proposed plan.

STAFF RECOMMENDATION – The Staff recommends the Planning Board support the proposed amendment to the Park North subdivision plan, for the following reasons:

- The applicant has recognized that demand for the larger lots originally proposed off East View Parkway is marginal. By proposing to subdivide Lots 2, 3 and 4 into six smaller lots, staff assumes that the applicant is responding to what the market is seeking, and foresees no adverse impact to the City, its residents, or abutters.
- Revisions to subdivision plans, particularly given the scale of Park North-Cascades, are both reasonable and to be reasonably anticipated.

After discussions with other staff, planning staff is comfortable moving forward with the Board determining these are minor amendments to the subdivision plan approving them as per the Contract Zone (CZ), pursuant to Article 3, Section 11. The City Administrator will be looking to inform the Council at a future workshop of all prior Planning Board amendments (including this one), as this article does not exist in other contract zones and contradicts the Zoning Ordinance.

Elliott Chamberlain, applicant and developer: They are not making any boundary changes, meaning the TIF district is not changing, and not increasing or decreasing in size. They are only moving interior lot lines.

Don: He isn't sure that these lot line changes aren't changing the contract zone. The city council originally approved this contract zone back in 2006. Now you are making changes to Parcel 2 and consolidating a bunch of lots into one, and changing some larger lots into smaller lots. To say that those lot line changes don't constitute a change in the contract zone is questionable.

Elliott: What is it different from adding a lot line, or moving a lot line?

Don: You have 8 parcels that are now being combined into one.

Zach: I think that is why he and Kevin met on this to determine if the sale of the parcel to the National Guard affected the contract zone. This is why the contract zone needs to be reviewed more closely, because it is vague in its wording. We have to determine whether these lot line changes the contract zone.

Don: How can we move on this when these amendments are being brought back to the council? Especially if all these approved amendments is a violation of the contract zone?

Denise: Nothing is going to be undone what has already happened.

Neil: My concern is that this is a tax-exempt property. Are we just fixing a problem that got created some other way? **Elliott:** whether the National Guard is tax-exempt or not, has no bearing on this proposal.

Elliott: I think that the planning board is within their jurisdiction to vote on lot line changes. Just like you did 7 times before. He and his attorney believe that the contract zone reads “that for interior lot line changes that you will go to the planning board” and that the planning board will approve or deny. The contract zone spells it out. If you do this you go to the planning board, if you do that you go to the council.

Don to Denise: Has that question specifically been posed to Tim Murphy? **Denise:** all these amendments will be reviewed by council. And the contract zone will be scrutinized to make the language clearer.

Elliott: Question is on whether just making interior lot line changes; does the planning board have the ability alone to make that decision, like they have in the last 7 amendments? Or when you make an actual contract zone change, like we just did a few minutes ago (use change), or changes in the boundary which is actually a contract zone change, and would need the city councils approval? **Neil:** read the language in the contract zone and it read the lot line changes could be approved by the planning board. His contention is that the contract zone was approved with the intention that the Rt. One parcel would be geared to commercial uses, and the back parcels would be residential. So he sees this proposal as a significant change in the contract zone. **Don:** This is not the deal that the City made with you on this project. It was supposed to be mixed use, with all commercial businesses on Rte. One.

Don: “I move to approve the proposed Eighth Amended Overall Subdivision plan amendments to the Park North/Cascades Subdivision submitted by Sebago Technics on behalf of Park North Development, LLC with the findings that it meets:

- 1) The application meets the requirements of Article 7 of the Saco Subdivision regulations
- 2) The application meets the requirements of the Conditions of Approval dated November 6, 2018
- 3) The application recognizes that the original Conditions of Approval and Findings of Fact (January 1, 2008) remain as part of the record and in effect.”

Seconded by Alyssa, and so voted 4-0 (Neil abstained). Motion passes.

Respectfully submitted by,

Maggie Edwards
Board Secretary