

**TOWN OF ORONO**  
**PLANNING BOARD MEETING**  
**Wednesday, September 21, 2016**  
**Minutes**

**Board Members Present:** Phil Ruck (Chairman), Judson McIntosh (Vice-Chairman), Lisa Buck, Christa Schwintzer, Jeremy Chubbuck, David Thompson, John Beckett, Michael Costello (Associate Member), Jason Charland (Associate Member)

**Staff Present:** Evan Richert (Town Planner)

Meeting called to order at 7:00PM by Chairman Phil Ruck

***Motion was made by Jeremy Chubbuck and seconded by Lisa Buck to accept the agenda. The motion passed by unanimous vote.***

***A motion was made by Christa Schwintzer and seconded by John Beckett to approve the minutes of the August 17, 2016 meetings as presented. The motion passed by unanimous vote.***

**Public Hearing**

- 1. A Preliminary Subdivision Plan application of M&M Truck Sales for an 8-lot subdivision on Union Street, on a portion of a 9.1 acre lot identified as Tax Map 31-2, Lot 1, to be known as Riverside Estates.**

Chairman Phil Ruck opened the public hearing and invited the applicant to present an updated summary of the application. Jim Kiser, representing M&M Truck Sales, acknowledged the company's owners, Mary and Maury Thayer, who were present and described the project as an 8-lot subdivision on the lower end of Union Street. The applicant owns approximately 9 acres in one parcel which will be subdivided into 8 lots with several acres left over that applicant will retain. The applicants also own an adjacent lot of approximately 26 acres. As required by Town ordinance, the applicant has submitted a concept plan for what may occur on the adjacent lot. He noted that there may be obstacles associated with developing this adjacent lot; but not in the area subject to the current subdivision plan application.

Chairman Ruck stated that the project before the Board is for an 8-lot subdivision. The Planning Board asked for a concept plan for insight as to development that may come next; however, it is not part of the application before the Board for consideration as part of this project. The Board can consider the concept that may or may not happen in terms of planning ahead.

Mr. Richert reviewed the project summary outlined in his report entitled Request for Planning Board Action M&M Trucking Sales – Riverside Estates (Attachment A). The 8 lots will be served by the public water supply line on Union Street for which the Orono-Veazie Water District and Orono Fire Department indicate adequate supply exists. Lot 1 will connect to the existing public sewer system; however the remaining lots are greater than 200 feet from the public sewer line and will by individual private septic

systems. Applicant has demonstrated right, title or interest in the property. Mr. Richert highlighted a technical detail regarding a 50ft right of way shown on the subdivision plan, and consistent with the applicants' deed, that is located on the west side of the lots between the main rail line and rail spur. Staff review of the chain of deeds related to the right of way does not confirm transfer of rights and Mr. Richert cautioned against memorializing ownership rights by recording a plan in the Registry of Deeds if the transfer cannot be confirmed.

Mr. Richert confirmed that Planning Board decisions at this date related to the approximately 30 acre concept plan would have no legal standing.

The property generally slopes from Union Street toward the railroad spur line. There is a wetland that occupies portions of four lots and eventually drains to Johnny Mack Brook. The application proposes building a drainage swale between lots 7 and 8, when they are developed, and granting the Town a 20 ft easement to maintain the infrastructure.

Union Street has a 40 foot right of way with approximately 18-20 ft maintained as a paved way; current ordinance requires new roads to have a minimum right of way of 50 feet with 24 ft maintained as paved travel way. The proposed plan indicates deeding five additional feet along the street adjacent to the subdivision. In view of the concept plan, the Town Engineer advises that the proposed 45 ft width may not be sufficient for the extension of sidewalk, utilities, etc. The Planning Board may consider requiring a total of ten additional feet to accommodate the type of infrastructure necessary to accommodate the scale of infrastructure proposed in the concept plan.

Mr. Richert stated that a key natural resource is the portion of wetland associated with four lots mentioned previously and related flow into Johnny Mack Brook. There are no vernal pools, no threatened or endangered species or botanicals, development is outside 100 year floodplain, and only a small corner of Lot 1 is in the Shoreland Zone. There are two eagles nests and, as mapped, the development for the 8-lot project touches only the fringe of the 660 ft management area that US Fish & Wildlife Service uses for an eagles nest.

There is currently no turn around at end of Union Street for public works and emergency vehicles. Applicant proposes to give a temporary access easement 30x100 ft. to accommodate the turnaround officially. This temporary easement is acceptable to Town staff, as a full cul-de-sac would be required in the event of development of the adjacent lot.

Union Street pre-existed the Town's ordinances and is not well interconnected. In the event that Union Street is extended, the Fire Department would see interconnectivity as critical.

The applicant has submitted language for a proposed deed covenant limiting development to single family homes only with a minimum size 1000-1200 sq ft with single car garage. The projected development falls well below the threshold to require a traffic impact analysis. Mr. Richert did a standard analysis of traffic flow based upon instituted transportation engineers manuals, compared it with existing traffic flow, and concluded that there would be a minimal impact on traffic.

Union Street is a very low volume street with no existing sidewalk. The closest sidewalk is on Island Avenue and ends near railroad tracks. The Planning Board can require sidewalk if it finds that it is need based upon pedestrian activity and public safety needs. Mr. Richert indicates that a sidewalk would likely be required if the adjacent lot is developed in accordance with the applicants' concept plan.

Chairman Ruck invited questions from the Planning Board:

Chairman Ruck asked the applicant to address the proposed right of way width. The applicant stated that they intended for the centerline of right of way and center of existing road remaining at the same point. As proposed, there would be 25 feet on their side of the road to accommodate future infrastructure improvements. The applicant indicated that the Town could pick up the additional five feet from the other side of the road for future road reconstruction. Chairman Ruck expressed concern about the lack of space from which to pick up additional easement width on the other side of the road.

Mr. Chubbuck sought clarification as to whether the Planning Board could go back and require additional right of way width and the construction of a sidewalk should the conceptual expansion occurs in the future. Mr. Richert concurred that such action would be within the Planning Board's authority.

Chairman Ruck indicated that the proposal is to use the existing wetland to mitigate impact of and additional flow associated with the development. The applicant concurred.

Chairman Ruck open the public hearing for public comment at 7:32PM. He reminded the public about the restrictions of the Planning Board's decision making related to the concept plan.

Sidney Sinclair (15 Brook Street) said that he likes to think ahead and asked if it may be recommended to put in a sewer line as opposed septic systems. He questioned whether septic systems could be put in the adjacent lot. He stated that the impact of traffic will be felt and suggested a traffic light at the intersection of Island and Main Street. He likes that the development will be limited to single family homes and pointed out vernal pools on the adjacent lot.

Roxanne Sinclair (15 Brook Street) stated that the property in this area sits on all ledge and is concerned that the developer will have to blast which may result in damage to neighboring foundations.

Chairman Ruck said that according to a licensed site evaluator, applicant has suitable soils for the 7 lots that will have septic systems.

Robert Klose (18 Union Street) said that Union Street is currently a remarkable pocket neighborhood. He expressed concerned that this plan is not planning, it is excavating good land. He said that that this is a neighborhood of modest means and "Estates" brings to mind exclusive, gated property. He asked the Planning Board to look at balance, impact and scale. He says that he thinks they will lose the character of the neighborhood and anticipates a division in the neighborhood. He said that the neighborhood has a very nice green space and questioned the benefit of the development. He said that he was concerned that this development will not be progress, rather destruction.

Glenn Koehler (360 Main Street) said that he was representing Bucky Owens from Orono Land Trust (OLT) with reference to the 8 lot subdivision and the trail system connection currently on the property. OLT asked to be in the loop and the trail system to be recognized and protected. He commented about the possible expansion and the tremendous opportunity for trail connection from Old Town, thru Orono, to Veazie and into Bangor along the river. The proposed conceptual development has significant river frontage and asked Planning Board to keep this in mind and work to ensure interconnectivity. Speaking as an individual, Mr. Koehler wants to keep continuity of the trails and try to keep in mind the riverfront trail goal. Looking at the corridor project on other side of the town, with coordination there could be a very nice destination loop.

Chairman Ruck stated that trail development is a priority in the recently adopted Comprehensive Plan and that the Planning Board considers when reviewing the proposed application.

Allen Nadeau (104 Union Street) presented a petition signed by neighbors (Attachment B). Concerns listed included traffic congestion; loss of pedestrian character; and impact on environmental resources.

Jamie Comstock (1 Brook Street) described history of the neighborhood and as a great place to live and raise kids. She said that she is struggling to see the value of the development especially considering the several vacant subdivisions in Orono currently. She said that the addition of 8-9 trip ends (during peak hour) will have a great impact in neighborhood and exacerbate the very tight traffic flow, especially during winter. She also expressed concern about the safety of construction traffic.

Paul Schroeder (13 Hamlin Street) said that he appreciated being able to wander in the area for the 27 years he has lived in Orono. He distributed panoramic photographs of the riverscape stating that the purpose of the photos is to show what is currently available to the public. He expressed concern about the viewshed of the river and asked if the Planning Board has any responsibility those in Bradley and Eddington. Shared pictures taken from the site of the proposed development and directly across the river of the proposed development. He asked about the degree of control the Town has to ensure public access. He stated that he wants public access to trail system and hopes it will be protected. He expressed concern that the gains from the River Restoration Project could be lost.

Eric Reardon (102 Union Street) summarized an email previously submitted into the record by his landlords (Margaret and Lloyd Wickett) related to requiring connection of all lots to the public sewer and road right of way width.

Julianne McGuire (38 Union Street) echoed concerns about traffic flow and said she was skeptical of the analysis performed by the Town Planner that concluded minimal traffic impact. She stated that, coming from a two car household, she feels there will be more trips than calculated and is concerned about pedestrian safety. She also commented on the historic public use of the land at the end of the road.

Allen Nadeau asked if sidewalk was put in at a later date, would it be the town or developer responsible for its construction.

Chairman Ruck said that if the sidewalk was needed as a result of the permitting of the concept plan, the developer would be responsible for its construction; however, in the absence of the extended development if the Town nevertheless decides would it be a great idea in the future, the Town would be responsible for the construction expense.

Glenn Koehler spoke again, as a member of the Orono Trails Committee, and said that if the development goes through, the lots would be worth a lot more if part of an integrated trails system.

With no further public comments, Chairman Ruck leaves public hearing open and invites comments from the Board:

Chairman Ruck said he does not see how the 5 ft of additional right of way width can come from the other side of the road. He said it is common and acceptable to shed stormwater into a wetland. The turnaround is acceptable to Town. The Board has heard the concerns about traffic issues and commented that the Town Planner used the standard manual to calculate the daily trip ends. He said that trying to turn left onto Rt. 2 during peak traffic times is difficult in Orono and doesn't see the 8 lots really impacting traffic on Rt. 2 as it is an existing traffic issue. He said that if the next phase comes through as conceptually provided, impacts to traffic and environment will definitely be an issue.

Mr. Chubbuck said that he heard concern of walking in the area and given that the applicant has provided a detailed concept plan for future, thinks that the Planning Board should consider requiring the applicant to install the sidewalk with the currently pending application.

Mr. Thompson said that if 5 feet can't realistically come from the river side of the road, then the Planning Board should require 10 feet from the developer.

Chairman Ruck noted that the subtraction of square footage for the additional 5 feet for the additional right of way width still allows for all lots proposed to be legal.

Ms. Buck questioned the legality of requiring the applicant to provide for public trails on their private property.

Chairman Ruck said that the Planning Board has required developers to provide easements for trails in the past.

Mr. Richert clarified that the trail system exists on private land, the Planning Board cannot (based on case law) require a private property owner to allow public use of the trails, and advised the Planning Board not to negotiate trails, as this would be outside of its regulatory responsibilities. This is not a cluster development, in which the Town may require public trails to be a consideration in permitting in return for greater development density.

The applicant stated that the additional 5 feet of right of way width won't impact the lots or housing on the lots and would not be concerned if the Planning Board prefers to expand the right of way to 50 feet with all 10 additional feet generated by the applicants' property.

Chairman Ruck stated that concerns have been raised about the sidewalk and whether it should be required for this phase. He questioned if constructing the sidewalk now would interfere with future road improvement.

Mr. Costello stated, and Mr. Beckett agreed, that constructing the sidewalk now would be a good idea especially for pedestrians during construction phases.

Mr. McIntosh stated that, if next phase were to happen, the developer would likely have to bring the road up to standard and asked if it made sense to require construction now if they will need to be ripped up when the road is brought to standard.

Chairman Ruck said he would like opinion from Director of Public Works about requiring the sidewalk now and asked if the Planning Board was interested in requiring a gravel base where the sidewalk will be to allow for pedestrians to get off the road now.

Mr. McIntosh and Mr. Chubbuck expressed a desire to remove the unknown and ensure pedestrian safety by requiring that the sidewalk be constructed now should the adjacent property be developed.

Ms. Schwinzer said that she felt it was appropriate to wait.

Ms. Buck expressed a desire to expand the width of the road prior to development of the adjacent lot and for the sidewalk to be in place with the development of the currently proposed subdivision.

Mr. Charland said that he would like to hear from the Director of Public Works as it doesn't seem to make sense to require the sidewalk at this point as long as it is assured that the sidewalk would be built in conjunction with future development.

Chairman Ruck asked if the Planning Board was okay with getting more information from staff regarding sidewalk before making a decision. He said the Board has heard concerns about environmental impacts; however, he was not sure that the issues are related to the 8-lot subdivision. The Planning Board expressed consensus about not needing further environmental or traffic analysis for the pending application.

Mr. Thompson said that he understood the concerns regarding traffic, but thought they were related to thru traffic and not impacted by an 8-lot subdivision.

Chairman Ruck said that he heard concerns about riverscape, but he thought that the riverscape, set backs, and trails are issues for consideration as part of proposed development on the adjacent lot. Planning Board members offered no concerns.

Chairman Ruck brought up the blasting concern and stated that State statutes regulate blasting and are aimed at putting safeguards in place to address the concern raised by the public.

Mr. Richert described results of soil survey and, based upon these results, it doesn't appear there will need to be blasting for septic systems, perhaps for foundations.

Chairman Ruck stated that the applicants have demonstrated the ability to construct septic for this project. Mr. Richert explained that if applicant connected the dwellings to public sewer they would be able to put in considerably more lots.

Ms. Buck asked Mr. Richert about the 100 year floodplain and whether, given climate change, the Town was concerned about the required setback. Mr. Richert stated that the 100 year floodplains are ones that are currently officially mapped and are the ones that the Planning Board should consider.

Paul Schroeder questioned the comment made by a Planning Board member that the proposal is consistent with the Comprehensive Plan's goal of providing affordable housing as he didn't see anything in the proposal that spoke to affordable housing. The applicant said that they are not addressing affordable housing, rather offering lots for sale to builders.

Mr. Schroeder asked if there was a maximum building size. Mr. Richert stated that the ordinance limited structures to 30% coverage of the lot. The applicant offered that the plan shows a footprint size 70 ft x 30 ft wide (with garage) with a total impervious area of approximately ½ acre on all 8 lots including driveways.

Sidney Sinclair asked what the selling price of the lots would be. Chairman Ruck said selling price is not something that Planning Board can legally consider.

Robert Klose said that years ago the former Bangor Hydro constructed the boat launch in order to "sweeten the deal" and asked if someone suggest that the developer give something to the neighborhood?

Mr. Richert said that the affective elements, which are important, are embodied and answered legislatively with earlier public hearings, Council decisions and comprehensive planning where the decision was made that, in general, this type of use was acceptable and of benefit to the Town. It would be up to private parties to discuss other options with the developer.

Mr. Klose said that he wants to work together and will approach the developer regarding goodwill gestures.

Glenn Koehler asked the developer to keep in mind that it would be easier to address trail access while the property was owned by one party as opposed to after the lots are sold to multiple owners.

Chairman Ruck closed the public hearing at 8:46PM and asked the Planning Board for any outstanding issues. He reminded the Board that this is preliminary hearing and there will be another opportunity to be heard.

Mr. Richert summarized his notes on possible conditions to a motion to approve the preliminary subdivision application:

- The proposed 5 foot addition the right of way width would be expanded to 10 foot

- Obtaining written or direct advice from about the timing of construction of a sidewalk in front of the proposed lots
- Legal documents need to be written and in final form and reviewed by the Town Attorney prior to final approval
- Either documentation of rights to the right of way shown or elimination of it from the subdivision plan

***A motion was made by Judson McIntosh, and seconded by David Thompson, to approve the preliminary subdivision plan by Riverside Estates at Union Street, Tax Map 32-2 Lot 1, which is zoned medium density residential with four recommendations:***

- 1. To require a total right of way width for Union Street of 50 feet, with the additional 10 feet deeded from the applicant to the Town;***
- 2. Written advice from the Director of Public Works on the sidewalk and how it would or would not affect future development;***
- 3. All right of way easements be delivered in proper form to the Town for legal review; and***
- 4. Documentation supporting the transfer of rights to the applicants of the right of way shown on the plan or removal of the right of way from the plan.***

***The motion passed by unanimous vote.***

**Old Business:**

- a. Members signed the approved subdivision recording plan for the amendment to the Eagle Crest Subdivision, Merritt Drive, as approved on July 27, 2016.

**New Business:** None

**Discussion:** The next meeting will be held on October 19, 2016 and will include an application for an additional use in the Village Commercial District. Mr. Richert provided an update on the Town Council's progress implementing the Comprehensive Plan approved by Council earlier this year.

A motion was made by John Beckett, and seconded by Christa Schwintzer, to adjourn the meeting at 8:55PM. Motion passed by unanimous vote.