

SAUNDERS MILL, LLC, et al.

v.

TOWN OF BRIDGTON et al.

Argued on December 8, 2021

Decided on January 13, 2022

Panel: STANFILL, C.J., and MEAD, GORMAN, JABAR, HUMPHREY, HORTON, and
CONNORS, JJ.

MEMORANDUM OF DECISION

Susan Hatch, Judy von Sicard, and Sigvard von Sicard (collectively, the Neighbors) appeal from a judgment of the Superior Court (Cumberland County, *McKeon, J.*) affirming the Town of Bridgton Planning Board's Supplemental Decision approving Saunders Mill's application to build a hotel on a site bordering Stevens Brook. The Neighbors argue that the Planning Board erred by approving a site plan that included "filling & earthmoving" in the Stream Protection District, a use that Bridgton's Shoreland Zoning Ordinance (SZO) prohibits.

Contrary to the Neighbors' contentions, the Bridgton Planning Board did not clearly err in characterizing the proposed installation of a stormwater management and phosphorous control system as "soil and water conservation practices."¹ A planning board's characterization of proposed uses in an application for a local land use permit presents a mixed question of law and

¹ We review the underlying administrative decision directly where the Superior Court acts as an intermediate appellate court. *H.E. Sargent, Inc. v. Town of Wells*, 676 A.2d 920, 923 (Me. 1996).

fact. *Fryeburg Tr. v. Town of Fryeburg*, 2016 ME 174, ¶ 5, 151 A.3d 933. Where, as here, the classification of a particular activity as part of a more comprehensive use is premised on a planning board's factual finding, we review the board's finding for clear error. *Id.* at ¶ 12. Because competent evidence existed to support its classification of the elements of the plan's design located in the Stream Protection District, the Planning Board did not clearly err. *See H.E. Sargent, Inc. v. Town of Wells*, 676 A.2d 920, 923 (Me. 1996) (explaining clear error).

Finally, the conflict-of-law provisions in Bridgton's SZO and Site Plan Review Ordinance are not implicated because competent evidence supports the finding that Saunders Mill's application included only land uses permitted in the SPD, and those uses are not inconsistent with the Site Plan Review Ordinance. *Cf. Logan v. City of Biddeford*, 2006 ME 102, ¶¶ 11-14, 905 A.2d 293 (analyzing a conflict of laws where unambiguously applicable provisions in two separate ordinances led to different results); *Two Lights Lobster Shack v. Town of Cape Elizabeth*, 1998 ME 153, ¶¶ 6-8, 712 A.2d 1061 (same).

The entry is:

Judgment affirmed.

David A. Lourie, Esq. (orally), Cape Elizabeth, for appellants Susan Hatch, Judy von Sicard, and Sigvard von Sicard

Mark A. Bower, Esq. (orally), and Benjamin T. McCall, Esq., Jensen Baird, Portland, for appellees Saunders Mill, LLC, et al.

Agnieszka A. Dixon, Esq., and Benjamin J. Plante, Esq. (orally), Drummond Woodsum, Portland, for appellee Town of Bridgton