

**Town of Eliot
REGULAR PLANNING BOARD MEETING MINUTES**

November 15th, 2011 7PM

ITEM 1 - ROLL CALL

Present: Present: Steve Beckert – Chairman, Jeff Duncan – Vice Chairman, Dennis Lentz, Larry Bouchard and Greg Whalen - Alternative.

Steve Beckert appointed Greg Whalen as a voting member for this meeting.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 - REVIEW AND APPROVE MINUTES AND INVOICES AS NEEDED

The Board agreed to review the minutes of the August 16th meeting at their next regularly scheduled meeting.

ITEM 5 - REVIEW OF "NOTICE OF DECISION" LETTERS, AS NEEDED

The Board reviewed the following notice of decision letters:

- Egelston/Francis – expansion of a nonconforming structure.
- Charles Anderson – amended site plan.

The letters were issued as written.

ITEM 6 - PUBLIC APPLICATIONS OR PLANNING BOARD BUSINESS TO BE CONSIDERED

- A. Public hearing – and continued review of an application for site plan review to establish an assembly place and restaurant known as the 403 Gentlemen's Club & Restaurant in the existing structure located at 403 H.L. Dow Highway. Applicant is Donald DeNunzio (mailing address: 403 H.L. Dow Highway, Eliot, ME 03903). Owner is DeNunzio Realty, LLC (mailing address: 403 H.L. Dow Highway, Eliot, ME 03903). Property can be identified as Map 45/Lot 4. (PB11-5)**

Steve Beckert explained that the Planning Board concerns themselves with land use issues only. Other licensing or permitting requirements that may be required of the applicant are not within the purview of the Planning Board and will not be discussed tonight. He stated that the Planning Board's job is to review the proposed use of the land, which would include things like lot size, setbacks, parking, landscaping, building height, lot coverage and the like. The Planning Board has no authority to regulate issues pertaining to live entertainment, nudity or alcohol and that if anyone had comments on such issues they should be made to the Board of Selectmen who is the Board responsible for permitting alcohol sales and the recently adopted special amusement ordinances. The Planning Board's job is to review the proposed use, which in this case is a restaurant and

assembly place. He explained the rules of the public hearing, noting that only comments pertaining to land use issues will be allowed. He noted that a police officer was present and that anyone who becomes unruly will be asked to leave. He asked the applicant to provide a summary of the application before opening the public hearing.

David Leasure of David D. Leasure Architectural Associates, Inc. represented the applicant. He stated that the property owner, Mr. Denunzio and his attorney, Tom Hallett were both present as well. Mr. Leasure explained that Mr. DeNunzio, is proposing to change the use of his building on Route 236 from a day care to a restaurant and assembly place. He stated that his most recent submission to the Planning Board included a stormwater management report prepared by Blais Civil Engineers and revised site plans. He stated that the stormwater report shows peak runoff flows reduced from pre and post development conditions for the 2, 10, and 25-year storm events. He explained that a dry detention basin is proposed to slow increased stormwater runoff created from the proposed expansion of the building and additional impervious areas. He stated that he also added details to the site plan about landscaping and project phasing, which the Board requested at the last meeting. He noted that discussions with MDOT determined that a Traffic Movement Permit would be required for the project and that the applicant would be agreeable to a condition of approval requiring that prior to permitting. He stated that he believed the application to be complete and all site plan requirements met. He stated that the applicant is seeking approval of the proposed use tonight.

Steve Beckert explained the rules of the public hearing once more.

Public hearing opened.

No comments.

Public hearing closed.

Jeff Duncan asked if the stormwater calculations for the 50-year storm event were forthcoming or if the Planning Board had waived that requirement.

David Leasure stated that the calculations for the 50-year storm event would be included in the final report. He stated that the applicant would be agreeable to a condition of approval stating such.

Jeff Duncan asked the applicant how the stormwater report factored in the mix of graveled and paved areas in terms of imperviousness and how that would affect the pre and post calculations.

David Leasure explained that for the purposes of the stormwater management report the engineers used pavement as the surface of the entire parking lot and that if anything, the stormwater plan is over designed.

Jeff Duncan asked Mr. Leasure to compare future conditions to current conditions to determine if the runoff was the same.

David Leasure stated that gravel is always less impervious than pavement, but in the winter when it's frozen it is considered as equally impervious to pavement. He stated that the grassed and forested areas of the site had all been taken into considering in the stormwater modeling. He explained that the soils on the site are poor quality in that they're substantially wet and comprised mostly of clay, resulting in very little absorption of water, which is why they opted to use an underground storage system.

Jeff Duncan stated that he was concerned that if the modeling assumed the existing conditions of the site was pavement and not gravel then the report may be overstating the runoff values.

David Leasure stated that a paved surface would export water at a higher rate than gravel so if a paved surface was used in the modeling for this site then the stormwater plan is designed to handle even more water.

Jeff Duncan stated that he understood what Mr. Leasure was saying, however, the Board has to be sure that post development flows don't exceed pre-development flows so when you artificially calculate a higher rate for pre-development flows by assuming the entire site is already paved, the net difference between pre and post development flows is reduced more than that it should be and can skew the results.

David Leasure explained that the State felt gravel and crushed stone are each considered impervious and that discussions with the stormwater engineer indicated that for at least 6 months of the year water from the site is exported at the same rate as pavement. He stated that he would seek clarification from the stormwater engineer and get back to the Board.

Steve Beckert asked if the Board had any remaining questions for the applicant.

The Board had no additional questions.

MOTION:

Jeff Duncan made the motion to approve the application for a restaurant and assembly place subject to the following conditions of approval:

1. The property may be developed and used only in accordance with the plans, documents, materials submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board.
2. Copies of approved permits from the Maine DEP and the US Army Corps of Engineers (if applicable) shall be provided to the Code Enforcement Officer prior to occupancy.
3. This permit is approved on the basis of information provided by the applicant in the record regarding his ownership of the property and boundary location. The applicant has the burden of ensuring that he has a legal right to use the property and that he is measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor

does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well advised to resolve any such title problems before expending money in reliance on this permit.

4. The applicant authorizes inspection of the premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
5. Prior to occupancy, the applicant shall provide to the Code Enforcement Officer a revised and updated stormwater management plan including calculations for a 50-year storm event to fully comply with the Eliot Code.
6. The Applicant shall provide a copy of an approved Traffic Movement Permit from the Maine Department of Transportation, if applicable, to the Code Enforcement Officer prior to occupancy.

Dennis Lentz seconded the motion.

Discussion:

Steve Beckert stated that any approvals granted tonight deals only with the land use ordinances the Planning Board is tasked with overseeing. He stated that other licensing or permits that may be required of the applicant are not within the purview of this Planning Board and must be sought separately from any approvals granted tonight. He asked the applicant

David Leasure, Tom Hallett and Donald Denunzio all stated they understood.

Vote: 4-0, Chair concurs.

Steve Beckert explained the 30-day appeal period to the applicant.

B. Continued review of an application for Site Plan Review to construct a 68-room hotel at the Eliot Commons. Owner/applicant is Sea Dog Realty, LLC (mailing address: 86 Newbury St., Portland, ME 04101). Property can be identified as Map 29/Lot 27 and is located in the C/I zoning district. (PB11-20)

Ed Brake of Attar Engineering represented the applicant. He explained that Sea Dog Realty is proposing to construct a 15,000 sq. ft., 68-room hotel on the site of the existing Eliot Commons. The hotel will be approximately 40' x 60', 3-story structure with a pool and outdoor tent site for events. He noted that at the last meeting the Planning Board had several issues, which he addressed in his November 2nd letter to the Board. He stated the Board wanted to know whether or not a Traffic Movement Permit would be required. He stated that according to MDOT rules, a permit would only be required if the project generated 100 or more trips per day during peak hours, which this project does not generate. He stated that the Fire Chief had asked if the building would be sprinkled for fire protection, which he confirmed would be installed. He stated that the Planning Board had some questions related to planting plans and stated that the project has been designed to improve the visual quality of the site with the addition of landscaped islands in the parking area and the planting of several new shade trees along the Route 236 boundary of the site. The islands will be designed with bio retention ponds with plantings for stormwater treatment, as well as shade trees. He stated that the owner of the Eliot Commons property would be responsible for the maintenance of any and all landscaped areas. He stated that

the site plan also now specifies areas for snow storage in the northwest corner of the parking lot. He stated that additional area is available for snow storage at the rear of the property near the pump station. He noted that a Site Location Development permit application had been filed with MDEP and that the project will be required to comply with the State of Maine Stormwater Management Law as well as the town's post-construction ordinances. He stated that a proposed maintenance agreement for the stormwater management facilities onsite had been included in the application. He stated that he also made the change to note 3 of the site plan to show the maximum building height in the Commercial/Industrial zone as 55'.

Jeff Duncan asked where stormwater runoff would go.

Ed Brake stated that the site has been designed to include 9 rain gardens and small detention basins around the parking lot as shown on the plans.

Dennis Lentz stated that he had concerns about the potential need for a traffic study of some sort. He stated that the hotel by itself may not trip the MDOT threshold of 100 trips per day during peak hours, but it may be possible that once the hotel is built, the combined traffic of all businesses in the Eliot Commons Plaza could produce that many trips during peak hours.

Ed Brake stated that it was his understanding that MDOT rules only look at the new, proposed development and not whether or not the proposal is part of a larger development plan.

Kate Pelletier stated that historically the Planning Board has made the requirement of obtaining a traffic movement permit, if applicable, a condition of approval and must be submitted prior to permitting. She stated that even if the Planning Board felt the proposal warranted a traffic study, the Planning Board would gain nothing from it as any improvements to 236 are regulated, approved and overseen by MDOT.

Dennis Lentz stated that he'd be satisfied if that was a condition of approval. He also stated that the Board received two memos from Public Works Director, Joel Moulton dated November 14th. He asked the applicant to address the concerns in the memo.

Ed Brake stated that regarding any existing odor issues he didn't believe there had been any complaints about the Eliot Commons site in particular, but stated that he would be meeting with the Sewer Committee to discuss capacity and would verify this with them. He stated that he would address each of Joel Moulton's comments in writing in his next submission to the Board.

Greg Whalen asked who drafted the November 10th letter regarding the forced main agreement.

Ed Brake stated that one of Attar's attorneys drafted the agreement but that they would welcome Town Counsel review of the document.

Greg Whalen asked where the existing sewer line was located.

Ed Brake stated that there is an existing pump station for the sewer line and pointed out the location of the manholes on the site plan.

Greg Whalen stated that Sheet #2 of the site plan did not show where the sewer line connected to the pump station and asked the applicant to include that information on the next plan revision. He asked where the sewer line goes from the pump station.

Ed Brake stated that the line goes in the direction of Bolt Hill Road.

Greg Whalen asked if the pump station was privately owned.

Ed Brake stated it was.

Greg Whalen asked if the pump station had a back-up generator.

Ed Brake stated that it did not but that he would talk to the sewer committee about that and report back to the Planning Board.

Jeff Duncan asked if all waste went to the sanitary sewer or if any onsite disposal was proposed.

Ed Brake stated that all waste goes to the sanitary sewer.

Larry Bouchard asked if any additional curb cuts were proposed to Route 236 or Beech Road.

Ed Brake stated that no additional curb cuts were proposed.

Larry Bouchard asked how and where the pool would be drained if necessary.

Ed Brake stated that he wasn't sure but would find out.

Jeff Duncan asked if the existing water line provided water to the businesses already located in the Eliot Commons.

Ed Brake stated that he believed the existing 8" line serviced all existing businesses but that he would confirm that.

Jeff Duncan stated that he would like to know if the existing line is sufficient to feed all existing and proposed businesses as well as fight fires.

Ed Brake stated that he would address that in his next submission to the Board.

Dennis Lentz stated that the Code Enforcement Officer had some concerns, which he addressed in a memo dated October 19th. He stated that the only item not addressed by the engineer so far was a concern about lot coverage.

Kate Pelletier stated that this is an existing non-conforming site and that the overall impervious area had been reduced as a result of the proposed hotel, which in turn reduced the overall nonconformity of the site.

The Board agreed.

Ed Brake requested that the Planning Board schedule the public hearing for this case at their next meeting.

The Board decided to delay scheduling the public hearing until the applicant had addressed all outstanding issues.

C. Application for a Request for Planning Board Action to amend a previously approved site plan by constructing a 2,800 sq. ft. building and associated parking at 11 Dixon Rd. for use by the Eliot Community Services Department. Owner/applicant is Town of Eliot (mailing address: 1333 State Rd., Eliot, ME 03903). Property can be identified as Map 21/Lot 6. (PB11-22)

Steve Beckert recused himself as Chair so that he could present the application for the proposed community services building on behalf of the Building Committee. Jeff Duncan acted as Chair for this application.

Steve Beckert, Building Committee Chairman, stated that he was presenting the application for the proposed community services department at the request and direction of the Board of Selectmen. The committee was tasked with looking at the space needs of the town and the community services building, in particular. He noted that the former site of the department had been demolished several years ago after it was determined the cost of remodeling/expanding the building would not be cost effective. He stated that he has submitted a sketch plan to the Planning Board which shows the site of the former building, the site of the proposed building, parking, wastewater disposal and setbacks. He stated that Michelle Shields Designs had designed the new building, which would include a large meeting/function room and office space for the Community Services Department.

Jeff Duncan stated that the site plan seemed to indicate that the town hall, fire station, police station and community services site were on three separate parcels.

Steve Beckert stated that boundary information for the Town property were not available when the sketch plan was prepared but that it was indeed one parcel consisting of approximately 18 acres. He stated that Attar Engineering was working on a boundary survey and would show the Town property as one contiguous parcel.

Greg Whalen asked if the parking spaces in phase II of the plan would remain gravel.

Steve Beckert stated that the plan is for those spaces to remain gravel during the first phase of construction but the Board of Selectmen may decide to pave them sooner depending on the cost. At this point the spaces aren't proposed to be paved until phase II of construction begins. He added that the site and building were designed to accommodate a full build out of the property including potential office space in the lower

level of the building. He noted that this space would be used for storage until such time the Selectmen decide to finish it.

Larry Bouchard asked if the site required a new septic system design.

Steve Beckert stated that it did.

Greg Whalen asked how water would be provided to the site.

Steve Beckert stated that the site will be served by the public line coming off State Road.

Jeff Duncan asked if the Board was ready to approve the sketch plan or if they would like more information before doing so.

Greg Whalen stated that he didn't think the plan met the requirements of a sketch plan at this point and lacked the proper boundary information and zoning districts. He stated that he would like to hold off approving the sketch plan until all requirements had been met.

The Board agreed and took no action on the sketch plan.

Steve Beckert resumed as Chair.

D. Review and approve 2012-2013 Planning Board budget.

Kate Pelletier stated that the proposed budget was exactly the same as last year's budget with the exception of a \$2,500 increase in consulting fees for assistance in implementing the recommendations of the comprehensive plan.

Steve Beckert noted that about 90% of the recommendations of the comprehensive plan are the responsibility of the Planning Board to implement.

The Planning Board approved the proposed budget for 2012/2013 by consensus.

ITEM 7 - ACTION ITEM LIST

ITEM 8 – CORRESPONDENCE, OTHER AS NEEDED

Jeff Duncan reminded the Board of the Randall Arendt workshop in Ogunquit on December 5th from 4-9 PM. He stated that the Conservation Commission voted to contribute up to \$200 so long as the Planning Board would split the cost. He stated that \$200 would get the town 7-8 registration spots. He asked Kate Pelletier if she had asked Norma Jean Spinney and Dan Blanchette about this.

Kate Pelletier stated that she discussed it with Norma Jean and Dan and that they indicated this was a permissible Planning Board expense.

MOTION:

Jeff Duncan made the motion to expend \$100 payable to the Great Works Regional Land Trust for the Randall Arendt workshop on December 5th.
Dennis Lentz seconded the motion.

Vote: 4-0, Chair concurs.

Kate Pelletier asked that anyone interested in attending let her know and that she would take care of the registration.

ITEM 9 - SET AGENDA AND DATE FOR NEXT MEETING

The next regular Planning Board meeting was scheduled for December 6th, 2011.

ITEM 10 – ADJOURN

MOTION:

Dennis Lentz made the motion to adjourn at 8:55 PM.

Greg Whalen seconded the motion.

Vote: 2-0, Chair concurs.


Stephen Beckert, Chairman

Date approved: 3-20-12

Respectfully submitted,


Kate Pelletier, Recording Secretary