

**City of Ellsworth
Planning Board
Minutes of June 1, 2016**

Chairman John Fink, Vice Chairman Darrell Wilson, member Mike Howie, and alternate members Jim Barkhouse and Barbara Hegenbart attended the regular meeting of the Ellsworth Planning Board. Jim Barkhouse and Barbara Hegenbart voted in place of Don Martin (resigned) and Roger Lessard (absent).

City Planner Michele Gagnon, Assistant to the City Planner Janna Newman, Fire Inspector Mike Hangge, and Code Enforcement Officer Dwight Tilton also attended.

Chairman Fink called the meeting to order at 7:00 PM.

He noted that Agenda Item #3, the **Preliminary Plan titled Hot House Den**, was withdrawn from the agenda by the applicant, and would therefore not be considered at tonight's meeting.

1. **Adoption of Minutes** from the May 4, 2016 meeting.

John Fink moved to adopt the minutes as written. Mike Howie seconded the motion and, with no discussion, the motion passed unanimously.

2. **Final Plan for a Major Use Site Development Plan & Major Subdivision titled A&J Rentals** for Ashley A. Andrews and Jacob Knowles. The proposal is to create two 9-unit apartment buildings on a 15.3 acre property at 431 Main Street (Tax Map/Lot: 35/8) in the Neighborhood Zone.

- a. PUBLIC HEARING, DELIBERATIONS, FINDINGS OF FACTS, AND CONCLUSIONS.

Andrew McCullough represented the applicant. He began by addressing the comments discussed at the Technical Review Team (TRT) meeting. In regard to the public water supply, Mr. McCullough stated that a revised letter from Larry Wilson referring to two 9-unit apartment buildings instead of one 9-unit building (as was previously submitted), was now included in the application before the Planning Board. Mr. McCullough stated that he had not revised the proposed Site Plan to include a note indicating that the newly installed fire hydrant will be in compliance with the City's code of ordinances, but that he is in agreement with the statement and will make this revision to the Plan. He also noted that a 5-foot easement surrounding the hydrant needs to be provided, but that he has not depicted this easement on the Plan because it is uncertain as to exactly where the hydrant will be installed. He suggested that rather than depicting the easement on the plan, that a note on the mylar indicating that the easement will be granted to the City could be included.

In regard to the road, Mr. McCullough explained the applicant's

Call to Order [7:00 PM]

**Adoption of minutes:
APPROVED.**

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proposal for surfacing, stating that the applicant is requesting approval from the Planning Board that the road remain a gravel surface, but be a paved surface before a Certificate of Occupancy is granted for the second apartment building. He noted that the applicant would first need to be granted a waiver by the City Council, but that pending this waiver, that the applicant is seeking Planning Board approval for this proposal. Chairman Fink inquired as to why the road needs to temporarily remain a gravel surface. Mr. McCullough explained two reasons for temporarily keeping the gravel surface – (1) to allow the applicant time to generate capital to pay for the paved surfacing, and (2) to not damage the paved road during the construction of the second apartment building.

Mr. McCullough addressed the need to provide a hard surface in the parking lot area. He explained that the parking lot area would be gravel, that compaction test results will be provided once the area has been constructed to demonstrate a hard surface, and that a qualified third party will inspect the parking lot area once annually to verify that the grade designed for proper stormwater runoff drainage is being maintained. Mr. McCullough also noted that he included inspecting and maintaining the grade of the gravel surface as part of the Stormwater Maintenance Plan, as suggested during the previous Planning Board meeting.

In regard to lighting, Mr. McCullough explained that he meets the ordinance's standard for minimum and maximum, but that he exceeds the average maximum. He attributed exceeding the average maximum on the walkways to a lighting fixture needed to meet the lighting standard near the active building entrance.

City Planner Michele Gagnon confirmed with Mr. McCullough that he would include notes on the plan in regard to the (1) road surfacing, including the waiver request from the City Council, (2) parking lot surfacing, including meeting 95% compaction, and (3) qualified third party grading inspections and maintenance per the stormwater management plan. Darrell Wilson confirmed that the first 30-feet of the road would also be paved.

Darrell Wilson remarked that the City's lighting standard for the "average maximum" has in the past and continues to cause applicants to request waivers for the Planning Board to review. He explained that the average maximum is used to measure contrast. Referring to the Dark Sky Society standards, Mr. Wilson explained that they utilize two ratios to ensure that lighting is in compliance. He noted that the first ratio is calculated between the maximum and the minimum amount of lighting

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within a zone, which has to be 20:1 or less, and stated that this measurement is already taken into account within the City's lighting ordinance. He noted that the second ratio is calculated between the average and the maximum amount of lighting within a zone, which has to be 4:1 or less. Given that the applicant's proposed lighting plan meets both the 20:1 and 4:1 standard, Mr. Wilson remarked that he was inclined to grant the lighting waiver as requested by the applicant. Mr. Wilson also suggested that the City take these ratios into consideration to simplify their lighting ordinance.

Mike Howie asked the applicant if there was an estimated start date for the construction of the second apartment building. William Andrews, the Applicant, responded that it would be within the next year or two.

Chairman Fink opened the Public Hearing at 7:25 PM. With no one coming forward, he immediately closed the Public Hearing.

Darrell Wilson moved in regard to the Final Plan for a Major Use Site Development Plan & Major Subdivision titled A&J Rentals for Ashley A. Andrews and Jacob Knowles, listed as Agenda Item #2, that the Board finds that it meets the standards and criteria governing site development plan review, the Subdivision ordinance, performance standards, street design and construction standards, stormwater management and parking standards, and that given the circumstances discussed previously, that the Board grants the requested lighting waiver, and that the Board adds conditions that the easement around the fire hydrant will be created when the hydrant is installed and will be recorded appropriately in the project documentation, that for the road and parking surface, that the Board agrees to recommend to the City Council that this will be a gravel surface with the condition that it will be paved before the occupancy permit for the occupancy of the second building is delivered, that the applicant will go before the City Council to have them agree to this, that the first 30-feet of the road will be paved now, that the surface of the gravel in the parking lot will be as specified a load sustaining surface, that the applicant agrees to prove it is load sustaining through testing, that the grades in the parking lot and on the road while it is gravel have to be maintained as part of the stormwater maintenance plan, and that this will be performed by a qualified third party who will be conducting inspections and maintenance annually, and that these conditions will be recorded on the plan, and that these are the conditions that the Board places on the approval.

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

**Final Plan for a Major
Use Site Development
Plan & Major
Subdivision titled A&J
Rentals:**

**APPROVED WITH
CONDITIONS.**

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Mike Howie seconded the motion. With no further discussion, the motion passed unanimously.

3. Location of the Medical Marijuana Dispensary. The proposal is to locate the Downeast District Medical Marijuana Dispensary, **Maine Organic Therapy**, in the Acadia Crossing Subdivision, Lot 7, at the intersection of Route 3 and Myrick Street (Tax Map/Lot: 17/47-7) in the Commercial Zone.

a. PUBLIC HEARING, DELIBERATIONS, FINDINGS OF FACTS, AND CONCLUSIONS.

Darrell Wilson recused himself from the Agenda Item.

Andrew McCullough represented the applicant, Joseph Lusardi, who was also present. Mr. McCullough explained that since the previous Planning Board meeting, proposed signage for the facility was submitted to the Board. He also noted that the Code Enforcement and the Fire Inspector had met with the applicant to discuss the proposed filtration and ventilation system.

Ms. Gagnon explained that during the previous meeting the Board had approved a motion that the dispensary was an allowed use in the Commercial Zone per Article 3, when formally it is an allowed use under Article 8. She suggested that the Board consider correcting the motion during this meeting.

Chairman Fink opened the Public Hearing at 7:34 PM.

Mr. Joseph Merkel of Gouldsboro, Maine came forward to voice his concerns. Mr. Merkel mentioned the following concerns regarding the proposed location of the medical marijuana dispensary at the intersection of Route 3 and Myrick Street: (1) a breach of privacy for medical marijuana users in the parking lot of the dispensary, (2) high-visibility to visitors traveling through to Acadia National Park, and (3) increased recreational use (pending State legislation) because of the more visible location. Mr. Merkel also noted that the move to a more visible location was not necessary because only patients who have prescriptions from their doctor can utilize the dispensary and therefore the dispensary would not be attracting more customers as a result of the move.

Chairman Fink closed the Public Hearing at 7:45 PM.

Chairman Fink moved in regard to the location of the Medical Marijuana Dispensary at Acadia Crossing Subdivision, Lot 7, at the

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

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intersection of Route 3 and Myrick Street, Tax Map 17, Lot 47-7, in the Commercial Zone, that at the last meeting the Planning Board found that the application was complete, that a motion was made which referenced the wrong part of the ordinance, and therefore, that the Planning Board approves this application, and that it is an allowed use under Article 817, and that the Board approves the transfer of location.

Barbara Hegenbart seconded the motion. With no further discussion, the motion passed unanimously.

4. **Final Plan for a Major Subdivision titled Hardwood Ridge** for Coastal Builders & Sons, LLC. The proposal is to create 7 lots and develop 7 residential buildings on a 10.76 acre property at 141 North Bend Road (Tax Map/Lot: 23/1) in the Rural Zone.

- a. PUBLIC HEARING, DELIBERATIONS, FINDINGS OF FACTS, AND CONCLUSIONS.

Darrell Wilson rejoined the Board.

Malcolm Harriman represented the applicant, Coastal Builders & Sons, LLC. Mr. Harriman explained that he submitted a final plan that includes notes regarding the road association and describing other conditions set forth during the previous meeting. He noted that he requested letters from three state agencies, but that he was still waiting for responses from two out of three. Mr. Harriman also stated that he included responses to the Technical Review Team memo with his final plan submittal.

Michele Gagnon explained that the ordinance allows for the Planning Board to grant a waiver for road surfacing in the case of the proposed project and that Mr. Harriman is requesting such a waiver. She further clarified that the road would be built to standard with the exception of the surfacing. Chairman Fink inquired if the City would take over a subdivision road if it is not paved and Ms. Gagnon responded that the City would not. Mr. Harriman added that he included a note on the plan that the City would not take over the road without paved surfacing and that if the road association wished to have it taken over, that they would have to bring it up to City standards.

Chairman Fink opened the Public Hearing at 7:50 PM. With no one coming forward, he immediately closed the Public Hearing.

Darrell Wilson inquired to the section of the ordinance that, in this circumstance, allows the Planning Board to waive the paved surface of

**Location of the Medical Marijuana Dispensary:
APPROVED.**

[Responses from State agencies should be provided to the Planning Office]

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

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the road. Ms. Gagnon referred to section 907.2.D.

Darrell Wilson moved in regard to the Final Plan for a Major Subdivision titled Hardwood Ridge for Coastal Builders & Sons, the proposal to create 7 lots and develop 7 residential buildings on a 10.76 acre property at 141 North Bend Road, that the Board grants the waiver for paving as requested, and that the Board finds that it meets the 607 Standards and Criteria, Article 8 Performance Standards, Article 9 Street Design and Construction Standards, Stormwater Management and Construction Standards, and the Subdivision Ordinance, and that the Board approves the project.

Barbara Hegenbart seconded the motion and, with no further discussion, the motion passed unanimously.

Mr. Harriman provided the Board with a mylar and paper copies of the Final Plan to be considered for signing by the Board later in the meeting.

- 5. Sketch Plan for a Major Use Site Development Plan titled Building 250 Ellsworth Expansion Project for The Jackson Laboratory. The proposal consists of a change of use from retail to laboratory, research, and development facility and the building of a 32,000 SF addition on a 17.71 acre property at 21 Kingsland Crossing (Tax Map/Lot: 16/2) in the Commercial Zone.**

- a. PUBLIC HEARING AND GENERAL DISCUSSION OF THE APPROVAL PROCESS.

John Fitzpatrick, Senior Director of Facilities for Jackson Laboratory, Sarah Nicholson of Woodard & Curran, and Norm Burdzel of Jackson Laboratory represented the applicant. Mr. Fitzpatrick noted that the proposed Ellsworth Jackson Laboratory location would be used primarily for mouse production and distribution. He explained Jackson Laboratory's "fast track" proposal that would allow for the lab to gain approval for their entire project by December 31, 2017. Mr. Fitzpatrick stated that for the first phase of the proposal, the lab would be seeking approval for the 32,000 SF building expansion. He mentioned that Jackson Laboratory held a public meeting in Ellsworth in April 2016 and that a second meeting will be held on June 7th in an effort to share plans with proposed abutters. Mr. Fitzpatrick also invited the Planning Board to visit the proposed Ellsworth location as well as the existing location in Bar Harbor. Chairman Fink cautioned Mr. Fitzpatrick that the visits would need to be advertised to the public and that the public would also need to be allowed access to such visits and Mr. Fitzpatrick

Final Plan for a Major Subdivision titled Hardwood Ridge:

APPROVED.

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noted that he understood these requirements.

Mr. Fitzpatrick stated that the lab is not looking for any special treatment with the Planning Board process and that what they are requesting is in line and in the spirit of the City's ordinance. He remarked that the lab wants to be transparent with their plans to both the Planning Board and the public. Mr. Fitzpatrick explained the lab would not be requesting waivers, but will ask for certain conditions be placed on the approval of their plan and that they fully intend to meet all the codes and standards outlined in the City's ordinance.

Sarah Nicholson explained that the intent is to provide the Planning Board with information on the full project proposal, but that the first phase that would come before the Planning Board would be for the building of the 32,000 SF addition, with no other changes proposed for the site. She further explained during the second phase, which would include the change of use for the existing building, that the details concerning the site would be addressed. Ms. Nicholson clarified that the lab would be asking for conditions to be placed on the plan during the first phase approval that would then be addressed during the second phase. She also asserted that the 32,000 SF addition would not alter existing conditions, including stormwater management, on the site. Chairman Fink inquired how the addition would not alter stormwater and Ms. Nicholson responded that what exists now and what is being proposed are both impervious.

Michele Gagnon clarified that the site is within the City's Urban Core area, and that the existing use is retail, and that the proposed use is laboratory, research, and development facility, both of which are allowed in the Commercial Zone per Article 3.

It was noted that the applicants are not looking for any decisions to be made by the Board at this meeting, but that they are looking for assurance that the proposed approach they have submitted to the Planning Board is one that the Board feels comfortable with. Darrell Wilson inquired as to why this approach was necessary and Ms. Nicholson replied that this approach allows the applicant to build the addition to the existing building and to address site conditions at a later date, which is a deviation from the timeline suggested in the City's ordinance. Mr. Fitzpatrick added that the reason that site conditions needed to be addressed at a later date is because they are being designed by another architecture firm using a different set of funds.

Darrell Wilson asserted his primary concern with a phased project is that there is the chance that the applicant may not see the project through to completion, potentially because of a change in financial

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status or a change in the economy, which would then make the site less desirable to other developers. Mr. Wilson suggested that the applicant provide the City with some type of financial security in the event that the proposed project is not seen through to completion and that the City then needs to bring the site up to standards, particularly in terms of lighting, security, and stormwater management and maintenance. Chairman Fink reminded the Board that the lab has proposed to assume financial risk should the project not be approved as proposed.

Mike Howie inquired as to when the applicant would be seeking approval for the second phase of the project. Mr. Fitzpatrick could not give a definite date, but asserted it would not be long after the third meeting [Final Plan for the 32,000 SF building expansion]. Mr. Howie inquired as to the intended use for the building expansion and it was noted that it would be used for office space and infrastructure (mechanical plant). Jim Barkhouse confirmed that the phase one expansion would be an enclosed structure, weather-tight, with no façade. It was concluded by Mr. Barkhouse and Mr. Wilson that type of structure would be less of a liability.

Chairman Fink opened the Public Hearing at 8:18 PM. With no one coming forward, he immediately closed the Public Hearing.

Mr. Fitzpatrick asked if the outlined proposed process is one that the Planning Board feels comfortable with and if it is one that the applicant should further pursue. Board members concurred that it is an acceptable process. Mr. Wilson inquired with City staff to confirm that they are in agreement with the proposed process. A brief discussion as to how the process may be enacted was had between the Board and City Staff. It was concluded that there were no foreseen issues with the proposed process and that it is within the confines of the ordinance.

Darrell Wilson asked the Board if they would want to schedule a site visit at this time and it was decided that it was too early in the process to do a site visit and that they would schedule a visit at a later date. Mr. Fitzpatrick provided a brief explanation of the topics discussed during Jackson Laboratory's neighborhood meetings held in Ellsworth.

6. Signing of Mylars & Adjournment

There were some issues (there were two waivers listed in the signature block that were not granted by the Board, and the subdivision plan that was being modified was never recorded in the Registry of Deeds and does not legally exist, and, therefore, there is no plan to supersede) found with the mylars and plans submitted by Ellsworth Investments, LLC and it was determined by the Board to not sign the mylars and plans for their project at

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

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this meeting until further clarification is provided.

It was decided that the mylar and plans submitted by Coastal Builders and Sons, LLC in regard to the approved Hardwood Ridge subdivision were ready to be signed.

Darrell Wilson made a motion to sign the Coastal Builders and Sons, LLC mylar and plans for the approved Hardwood Ridge subdivision and adjourn the meeting, Mike Howie seconded the motion, and it passed unanimously. The meeting was adjourned at 8:45 PM.

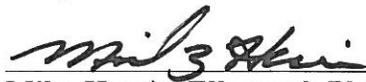
**Meeting Adjourned
[8:45 PM].**

Minutes prepared by: Janna Newman, Assistant to the City Planner.

Minutes approved by:

7-8-16

Date



Mike Howie, Ellsworth Planning Board Secretary

NOTE: For agendas and minutes, see:
ellsworthmaine.gov

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