

**City of Ellsworth
Planning Board
Minutes of May 4, 2016**

Chairman John Fink, Vice Chairman Darrell Wilson, member Roger Lessard, 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 Mike Howie (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.

**Call to Order [7:00
PM]**

1. Adoption of Minutes from the April 6, 2016 meeting.

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

**Adoption of minutes:
APPROVED.**

2. Modification to an approved, but lapsed, Major Use Site Development Plan & Modification to an approved Minor Subdivision titled Store Modificiation [2016] for Ellsworth Investments, LLC. The proposal is to have the proposed 9,000 SF addition detached from, instead of attached to, the existing Marden's/Tractor Supply building on an 18.7 acre property at 461 High Street (Tax Map/Lot: 11/4) in the Commercial Zone.

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

City Planner Michele Gagnon provided the Planning Board with a brief explanation of the Agenda Item, noting that the Site Plan was approved, but lapsed, so the applicant is currently unable to pull a building permit. The approved 1992 Site Plan (Walmart) was modified by Mardens in 2012, with the proposed addition detached from, instead of attached to, the existing building. She further explained that the previous approval also included an approved subdivision, which has not lapsed and is still valid.

Jeanna DeTour of Carpenter Associates represented the applicant, Ellsworth Investments, LLC. Ms. DeTour referred to the Site Plan that was signed and approved in May 2012 that portrays the proposed addition attached to the existing Marden's building. She explained that the future tenants found it difficult to blend the existing building's façade with the proposed addition and requested that the proposed building become a free-standing structure. Ms. DeTour noted that there is ample parking and impervious space to carry out the request. She also demonstrated that vehicle access to the site will continue to be

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through the entrance off of High Street, but that the existing entrance will be named "Marden's Way". Ms. DeTour stated the proposed Site Plan includes a means for pedestrian circulation throughout the site, as well as required parking spaces for all uses on the site. She indicated that no changes have been proposed in regard to stormwater management and drainage and that no significant wildlife or botanical features have been documented on the site. She further explained that any landscaping that is removed will be relocated on site, there is no hazardous waste located on site, and that the project is not located within the Shoreland Zone or a floodplain. In terms of lighting, Ms. DeTour noted there will be additional wall pack lights added to the exterior of the building. She concluded that the proposed Site Plan before the Board is the same as the plan that was submitted in 2012 with the exception of the proposed building being detached.

Roger Lessard confirmed that the proposed addition would be a pad site, placed directly on the pavement. Barbara Hegenbart inquired what the new building would be used for and it was asserted the building would be used for retail. Darrell Wilson noted that the letters included in the application from State agencies, in particular from the DEP, were dated (2011), and inquired if the letters were still valid. It was concluded that while the previously approved Site Plan had lapsed, that the letters were still suitable for the newly proposed Site Plan. Mr. Wilson noted that the applicant is requesting two waivers, one for stormwater and one for lighting. He remarked that he understood the request for the stormwater waiver since there were no major changes in that regard, but that in regard to the lighting plan, the Board would like to see the lighting measurements surrounding the proposed addition and a table presenting the proposed lighting measurements with the City's requirements to ensure it meets the City's ordinance.

Randy Bragg from Carpenter Associates joined his colleague to represent the applicant. He proposed that they provide a plan showing the foot-candle measurements surrounding the proposed building to the Code Enforcement Officer in order to demonstrate that the proposed lighting plan is in accordance with the City's requirements. Ms. Gagnon remarked that in addition to providing the plan to the Code Enforcement Officer, that she would also like the plan to be part of the Planning Board record. She stated a lighting plan as well as a table showing the proposed lighting measurements in comparison to the City's standards should both be submitted. Mr. Wilson stated that a lighting plan for the entire parcel was not necessary and that the applicant should submit a lighting plan and comparison table within a "reasonable distance" from the proposed building. He noted that 150 feet seemed reasonable. Chairman Fink confirmed that Dwight Tilton,

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the Code Enforcement Officer, was comfortable with the arrangement. It was also clarified that as a condition, the applicant would not be issued a building permit until they are able to demonstrate that the lighting plan meets the ordinance.

Chairman Fink opened the Public Hearing at 7:20 PM. With no one coming forward, he immediately closed the Public Hearing.

Darrell Wilson moved in regard to the modification to an approved, but lapsed, Major Use Site Development Plan and modification to an approved Minor Subdivision entitled Store Modifications [2016], listed as Agenda Item 2, that the Board approve the modification with the condition that the applicant provide a depiction of lighting within a reasonable distance of the new building for the Code Enforcement Officer to review in order to make sure it meets the standards, and that the stormwater waiver be granted, and that it meets all of the criteria and standards in the ordinances, and that the Board approves the project.

Roger Lessard seconded the motion.

Darrell Wilson amended the motion to also include that the stormwater waiver approval and lighting plan condition both need to be documented on the plan. Roger Lessard seconded the amended motion. With no further discussion, the motion passed unanimously.

- 3. Preliminary Plan for a Major Subdivision titled Hardwood Ridge for Coastal Builders & Sons, LLC. The proposal is to create 8+ lots (1 to adjoiner) and develop 8 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 & DETERMINATION OF COMPLETENESS.

Malcolm Harriman represented the applicant, Coastal Builders & Sons, LLC. Chairman Fink questioned as to whether or not the Planning Board had previously approved this subdivision. Ms. Gagnon explained that the subdivision had been approved, but was never recorded in the Registry of Deeds because the Board imposed several conditions to approval regarding a "right-of-way" matter, which was never clarified. Ms. Gagnon noted that the subdivision had been redesigned, but that the right-of-way matter still exists. Mr. Harriman noted the right-of-way matter and stated that he would address it during his discussion with the Board.

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

Modification to an approved, but lapsed, Major Use Site Development Plan & Modification to an approved Minor Subdivision titled Store Modification [2016]:

**APPROVED WITH
CONDITIONS.**

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Mr. Harriman confirmed that he had redesigned the subdivision to include an additional lot on the western side of the road. He stated that the road remains in the same physical location as in the previously submitted subdivision plan, but that a new set of engineering plans in regard to, but not limited to, the road, stormwater, phosphorus load, and erosion and sedimentation, as well as a new traffic study, were now included.

Jeff Buzzell, representing the Buzzell family, came forward to discuss the right-of-way matter pertaining to his family's land, which abuts the proposed subdivision. Mr. Buzzell noted that during the 2008 Planning Board approval, there were three conditions imposed in regard to the right-of-way matter that the applicant and the Buzzell family had agreed upon and that these conditions are still relevant. Mr. Buzzell stated that the applicant agreed to document these conditions on the current proposed subdivision plan being reviewed by the Board. The purpose of the conditions is to allow the Buzzell family to utilize the subdivision road to access their land so that two side-by-side curb cuts, and hence two access roads, will not be necessary in the future.

Darrell Wilson confirmed that the stormwater wooded buffer and level spreader are located on one of the subdivision lots. Mr. Harriman added that in the final plan, he will include a note stating that the subject lot (Lot 2) is encumbered and a note to this regard will also be included in the subject lot deed. Mr. Wilson confirmed that the buffer and level spreader do not encroach upon the right-of-way, which is 50 feet wide. He also confirmed that the subdivision is not within the Shoreland Zone. Mr. Wilson also wanted to clarify that the right-of-way begins at the entrance to the road. In regard to test sites suitable for subsurface wastewater treatment and disposal, Mr. Harriman noted that he requested that three test sites be made available to accommodate each lot.

Ms. Gagnon stated that the pre- and post-phosphorus budget was missing from the application. She also asked the Board to review the City's road standards as they apply to this subdivision and noted that the road may need to be paved. Mr. Harriman remarked that he was in discussion with the applicant in regard to paving the road.

Chairman Fink opened the Public Hearing at 7:44 PM. With no one coming forward, he immediately closed the Public Hearing.

Mr. Harriman stated that he put in a request and is in the process of updating the letters from the State agencies, which he will include in the final plan application. He also noted he will make changes to the Road

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

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Association covenants as requested during the Technical Review Team meeting. Mr. Wilson confirmed with Fire Inspector Hangge that the concerns he had regarding fire suppression tank access and maintenance have been addressed. Jim Barkhouse asked if there was any intent to extend the proposed road in the future and Mr. Harriman responded there was not. It was clarified that given the specifications of the proposed subdivision, the applicant may not need to pave the road.

Darrell Wilson moved in regard to the Preliminary Plan for a Major Subdivision entitled Hardwood Ridge by Coastal Builders & Sons, a proposal to create 8+ lots (1 to adjoiner) and develop 8 residential buildings on a 10.76 acre property at 141 North Bend Road, the Board finds that it is an allowed use in this zone, and that the application is complete in terms of submission materials per the ordinance, and that the Board finds the application is complete. Jim Barkhouse seconded the motion and with no discussion, it passed unanimously.

Preliminary Plan for a Major Subdivision titled Hardwood Ridge:

COMPLETE.

4. **Preliminary 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 & DETERMINATION OF COMPLETENESS.

Andrew McCullough represented the applicant. He noted that the applicant is proposing to build two 9-unit, 2-bedroom apartment buildings, which will be served by City water and a subsurface wastewater disposal system. Mr. McCullough explained that the proposed 500-foot access road from Main Street to the buildings has been named "Willy's Way" and that the entrance provides adequate site distance. He noted that there is some impact to wetlands, but the total amount of disturbed wetlands is below 4,300 square feet and therefore does not require a permit.

In regard to utilities, Mr. McCullough explained that a hydrant has been added along the access road in a location that allows all units to be within 500 feet of the hydrant. He also noted that a stormwater management plan has been submitted that addresses both quality and quantity, reducing peak flows between pre- and post-development, and that allows for treatment of 95% of the impervious area and 80% of the overall developed area. He elaborated that the stormwater management system consists of two underdrain soil filters. He further noted that the location of a screened dumpster has been provided, as well as a wetlands inventory map and landscaping plan that includes an island in the parking area. Mr.

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McCullough noted that the proposed development is buffered from abutting properties and the road by existing trees that will remain.

Mr. McCullough described how he incorporated comments from the Technical Review Team meeting into the proposed plan. He stated that he will speak further with Fire Inspector Hangge about emergency vehicle access through the site. He described his proposed lighting plan and stated he would clarify the table as well as place the lighting table on the Lighting Plan. Mr. McCullough also noted he is missing a letter from the Water Department and that he would include that in the final application. Fire Inspector Hangge indicated that the buildings need to have sprinklers, but it was clarified that the City's Water Department only needs to address the ability to provide a domestic water supply in their letter, and that ensuring an adequate water supply for fire suppression will be done in conjunction with the sprinkler company prior to obtaining a building permit.

Darrell Wilson inquired if the proposed development was to be constructed in phases and Mr. McCullough responded that 9-units would be constructed first along with the road and parking. As an aside, Chairman Fink indicated that he did see elevation reference points on the plan and Mr. McCullough noted they would be on the final plan.

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

Ms. Gagnon wished to make clear that the road and parking area are not intended to be paved. Mr. McCullough noted that it is the intent of the applicant to pave the road and parking area in the future. Dwight Tilton noted that if the parking area and road is not to be paved, that they would need to be re-graded so as to not alter stormwater drainage. Darrell Wilson suggested adding re-grading as part of the stormwater maintenance plan.

Darrell Wilson moved in regard to the Preliminary Plan for a Major Use Site Development Plan and Major Subdivision titled A&J Rentals for Ashley Andrews and Jacob Knowles, the proposal to create two 9-unit apartment buildings on a 15.3 acre property at 431 Main Street in the Neighborhood Zone, the Board finds that this is an allowed use in this zone, and that the Board finds that the application is complete in terms of the submission materials for the Site Development Review and the Subdivision Ordinance, with the condition that the letter from the Water Department be obtained showing adequate water supply to the project and that the lighting table be clarified and depicted on the plan, and that would make the application complete.

Roger Lessard seconded the motion and with no discussion, the motion

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

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passed unanimously.

5. **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 & DETERMINATION OF COMPLETENESS.

Darrell Wilson recused himself and left to sit with the public.

Andrew McCullough and Joseph Lusardi represented the applicant Maine Organic Therapy.

Mr. McCullough explained that he modified the Acadia Crossing Subdivision plan that was approved by the Board to reflect existing conditions, including the current number of parking spaces. He noted that the applicant is proposing to lease a portion of the building, approximately 4,000 square feet. Mr. McCullough stated that two other items were submitted to the Board as part of this application: 1) a traffic study estimating trip generation for the facility, and 2) a parking needs assessment for the facility. He explained that these numbers were based on information provided by the applicant for the current facility and were then scaled up to reflect the larger size of the proposed location. Mr. McCullough added that he also took information from uses similar to a medical marijuana dispensary into consideration when forming his calculations. He concluded that there was adequate parking at the proposed location for all three tenants and found that the new location could generate 240 trips per day or 30 trips during a peak hour. As an aside, he recalled that Global Beverage Warehouse also had a trip generation of 30 trips during a peak hour, and asserted that the dispensary would not cause an increase in peak hour trips.

Referencing the Technical Review Team meeting, Mr. McCullough noted that Mr. Lusardi had sent an email addressing the concerns regarding signage, ventilation and security, which were discussed at the meeting. Ms. Gagnon acknowledged receiving the email and noted that regulations regarding signage and ventilation are within the land use ordinance, and that while security is not within the purview of the ordinance, it is part of the dispensary's re-licensing process. Mr. Lusardi explained that cultivation

**Preliminary Plan for a
Major Use Site
Development Plan &
Major Subdivision
titled A&J Rentals:
COMPLETE WITH
CONDITIONS.**

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does not and will not take place in the facility, which he asserted causes the majority of the odor.

Chairman Fink opened the Public Hearing at 8:36 PM. With no one coming forward, he immediately closed the Public Hearing.

Chairman Fink moved in regard to the location of the medical marijuana dispensary at 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, the Board find that it is an allowed use under Article 3, it meets the performance standards under Article 8, and that the preliminary application is complete. Roger Lessard seconded and with no discussion the motion passed unanimously.

- 6. Proposed amendment to the Ellsworth Code of Ordinances Chapter 33 Floodplain Management Ordinance.** The proposal is to review the amendments to the Floodplain Management Ordinance and Flood Insurance Rate maps recommended by the Maine Department of Agriculture, Conservation, & Forestry Floodplain Management Program and make recommendations to the City Council.

- a. DISCUSSION OF PROPOSED AMENDMENT.
- b. PUBLIC HEARING.
- c. RECOMMENDATION TO CITY COUNCIL.

Darrell Wilson rejoined the other Planning Board members. Code Enforcement Officer Dwight Tilton explained that the floodplain ordinance and maps are reviewed approximately every 10 years. One of the major changes to the new draft flood maps, Mr. Tilton explained, is that the building footprints (structures) are depicted on the maps. He noted that the maps are available in the Code Enforcement Office, as well as on CDs and will be placed on the City's website when they are finally approved. Mr. Tilton explained that those residents who hold a Letter of Map Amendment (LOMA) from FEMA were in the process of being notified by the City that their LOMA may not longer be effective given the new maps.

Darrell Wilson inquired how the public is notified of the changes to the ordinance and the maps and Mr. Tilton stated that notification for the Planning Board Public Hearing was published in the local newspaper [Ellsworth American] and that further newspaper notification would be conducted prior to the Agenda Item's consideration at the next City Council meeting. It was clarified that the current ordinance would be repealed and that the proposed new ordinance would be adopted to ensure compliance with state and federal standards.

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

**Location of the Medical
Marijuana Dispensary
Maine Organic
Therapy:**

COMPLETE.

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Chairman Fink opened the Public Hearing at 8:48 PM. With no one coming forward, he immediately closed the Public Hearing.

Darrell Wilson moved that the Planning Board makes a favorable recommendation to the City Council. Jim Barkhouse seconded and with no discussion the motion passed unanimously.

**Public Hearing:
OPENED.**

**Public Hearing:
CLOSED.**

**Recommendation to
City Council:**

FAVORABLE.

7. Adjournment & Signing of Mylars.

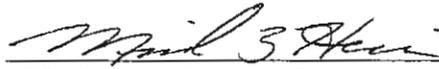
Darrell Wilson made a motion to adjourn the meeting and sign the mylars, Barbara Hegenbart seconded the motion, and it passed unanimously. The meeting was adjourned at 8:53 PM.

**Meeting Adjourned
[8:53 PM]**

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

Minutes approved by:

6-14-16
Date


Mike Howie, Ellsworth Planning Board Secretary

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