

City of Ellsworth, Maine  
PLANNING BOARD MEETING  
NOVEMBER 1, 2017  
MINUTES

Vice-chair Darrell Wilson, Secretary Mike Howie, Roger Lessard, Jim Barkhouse and alternate member John DeLeo attended the regular meeting of the Ellsworth Planning Board. As John Fink was absent, Vice-chair Darrell Wilson chaired the meeting. Alternate member John DeLeo voted.

City Planner Michele Gagnon, Fire Inspector Mike Hange, and Code Enforcement Officer Dwight Tilton also attended the meeting.

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

Call to order @  
7:00 PM.

**1. Adoption of Minutes from October 4, 2017.**

Planning Board (PB) member DeLeo moved to approve the minutes. Darrell Wilson suggested a revision on page 5 to read ~~(*The Fire Department seems to be on board with that [14-foot ROW] the pending some flows information that will be provided later*)~~, *grants* ... Seeing no other comments. Mike Howie motioned to approve the minutes with the suggested change. John DeLeo seconded the motion and it passed unanimously.

Minutes approved  
with amendments.

**UNFINISHED BUSINESS**

- 2. Final Plan for a Modification to an Approved Subdivision Plan, and the creation of a Minor Subdivision Plan and of a Major Use Site Development Plan titled Our Way Development/Holt Industrial Park Amendment for Danny J. and Theresa M. Quinlan. The proposal is: a) to split a 2.65-acre parcel off the Bucksport Road (Tax Map/Lot: 26/2) into two lots both including one residential structure and add two apartment units to the existing duplex; and b) to split a 3.72-acre parcel accessed off Our Way (Tax Map/Lot: 26/2-4) into two lots both including a residential structure, in the Urban Zone.**
- a. PUBLIC HEARING, DELIBERATION, FINDING OF FACTS AND CONCLUSION.

Stephen Salsbury represented the applicant. Mr. Salsbury explained that revised plans were submitted to the Planning Board showing the existing and proposed water lines.

PB member Barkhouse verified that the easement to Ms. Meeks, as depicted on the plan, corresponds to what is described in the easement agreement. PB member Lessard asked if the Quinlan/Meeks easement agreement was signed.

Mr. Salsbury responded that it had not. PB member DeLeo asked to hear from Ms. Meeks.

**Public hearing  
opened @ 7:05  
PM.**

Chairman Wilson opened the public hearing at 7:05 PM.

Ms. Meeks explained that the proposed easement description, as prepared by attorney Allison King from the Acadia Law Group and laid out by Mr. Salsbury, crosses over two lots. Ms. Meeks informed the PB that what had to be discovered was that the Quinlan have two lenders: Katahdin Trust and Dan McClellan. Katahdin Trust has agreed to the proposed easement change but Mr. McClellan has not. There may be two reasons for that. The first reason may be that the Quinlan had not informed their attorney Allison King about the McClellan mortgage. Ms. Meeks' attorney, Christopher Austin from Rudman & Winchell, told Ms. King. The second reason may be that attorney Allison King did not follow up on getting Mr. McClellan's approval for the new easement. Hiring an attorney has cost Ms. Meeks considerable time and money. Ms. Meeks remarked that she should not have to bare such expense because the Quinlans want to subdivide their property, which may interfere with her right-of-way (ROW), so they can sell portions of it. If the PB approves the project, Ms. Meeks feels that she will not be left "whole" until the impediments to the new easement are resolved.

Chairman Wilson said that the Board was provided with an easement agreement. Ms. Meeks explained that the easement agreement would work if Mr. McClellan signs off and the issue of the fence is added.

**Public hearing  
closed  
@ 7:10 PM.**

PB member Darrell Wilson closed the public hearing at 7:10 PM.

City Planner Gagnon explained that the only remaining issue was the easement agreement with Ms. Meeks. She explained that the previous version of the plan had a note stating the "Existing ROW to Meeks will be extinguished in favor of new easement." When that note was on the plan it would have been difficult for the PB to proceed without having a Quinlan/Meeks executed easement agreement since the applicant could not unilaterally extinguish Ms. Meeks easement. However, since the applicant has no obligation to amend the deed to specify the location of the Meeks easement to comply with the ordinance, and since the applicant has removed the note from the plan that is in front of the PB, there is no need for the easement agreement to be executed prior to PB approval. The Planner remarked that Ms. Meeks may not have embarked in such a process and spend money on a lawyer if the plan note had not been on the plan to begin with. The Planner added that Ms. Meeks had expressed fear of being let down by the process.

Mr. Salsbury said that he believed that the agreement will eventually be executed and whether it is or it is not executed, Ms. Meeks has rights to her property.

PB member Barkhouse asked Mr. Salsbury about the fence that Ms. Meeks spoke about. Mr. Salsbury informed the PB that Ms. Meeks' fence, located on the applicant's land, was shown on the plan. Ms. Meeks said she wants the fence to be recognized in the easement agreement along with the location of the driveway. Mr. Salsbury confirmed that the applicant has agreed to include the fence matter in the easement agreement.

Chairman Wilson read from the ordinance [UDO 606.8.T] "For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development." Mr. Wilson asked the members of the PB how to get to that point. PB member Lessard advanced that the Board could not make it a condition because Mr. McClellan, the mortgage holder, could refuse to sign off and that it was not the job of the PB to find out if Mr. McClellan was going to sign off or not. Chairman Wilson stated that the details of the easement agreement were less of a concern to him than making sure the agreement would be executed. PB member Howie remarked that the PB does not have an executed easement or a document saying that it is going to be approved. He added that at the last meeting the PB had made it clear that the executed easement agreement would be a condition for final approval. A discussion ensued about approving with condition or tabling the project.

The City Planner explained that the existing easement and fence are correctly depicted on the plan and the fact that Ms. Meeks fence is not on her property is not material to this review. It is a civil matter. Moreover, that because the plan note pertaining to the extinguishment of the Meeks ROW was removed, the PB could move ahead with the approval.

CEO Tilton added that if there is any doubt in the Board's mind about what to do, then the project should be tabled. Approving with condition will not result in the issuance of any permits until the easement agreement is executed and that would take a while. Mr. Tilton added that tabling the project would put teeth in the process.

Chairman Wilson re-opened the public hearing at 7:25 PM.

Mr. Meeks commented that this was like a Solomon litmus test. She explained that the problem is the second mortgage holder Mr. McClellan.

Jeffery Dyer, owner of the abutting Forest Ridge Campground, informed the PB that Mr. McClellan, the previous owner of the entire property as well as the campground, stayed at the campground for two nights in the summer of 2017. Mr. McClellan expressed high interest in the Quinlan's sale of the property. Mr. Dyer explained that the Quinlan bought the property as one parcel with four buildings. The four buildings have two mortgages: Katahdin Trust and owner (McClellan) financing. Mr. McClellan told Mr. Dyer that the balloon payment for

Public hearing  
opened @ 7:25  
PM.

the owner financing is coming due in the spring of 2018. Technically Mr. McClellan could foreclose on the property if the Quinlan do not come up with the balloon payment. Mr. Dyer reinforced the importance for the Board to get Mr. McClellan's to sign off on the easement matter because the McClellan's have a high stake in the property.

Public Hearing closed @ 7:28 PM.

The public hearing was closed at 7:28 PM.

**PB member John DeLeo motioned that the Board tables it [Our Way Development/Holt Industrial Park Amendment] until they get the signatures. Roger Lessard seconded the motion. Under discussion, the Planner asked for clarification to what exactly was the motion. PB member DeLeo asked for Planner input. The Planner recommended, "Until the agreement with Ms. Meeks is executed" and it was added to the motion. The motion passed unanimously.**

Final Plan for Our Way Development/Holt Industrial Park Amendment tabled until executed easement agreement.

- 3. Review Condition of Approved Major Subdivision Titled The Village for Roy Lietz.**
  - a. Review Sight Distance Condition.

Chairman Wilson said that the discussion is pertaining to the sight distance condition and the turn around.

Stephen Salsbury from Herrick & Salsbury represented the applicant.

Mr. Salsbury referred to the October 23, 2107, City Planner memo and remarked that the applicant agrees to meeting the 275 feet sight distance by moving the road.

Chairman Wilson mentioned that the Board had received revised drawings. Mr. Salsbury explained that the plan showed the length of the road to be reduced as requested by the Maine Department of Environmental Protection (MDEP) during the Stormwater Permit review. Fire Inspector Hangge remarked that the road turn around change was fine.

Planner Gagnon explained that the applicant had not addressed the clearance and maintenance of vegetation at the corner of Atlantic Highway and the Bucksport Road and that it could be a condition of approval. Chairman Wilson asked if the emails between the Maine Department of Transportation (MDOT) and City could be shared.

Request to share emails between State and City.

CEO Tilton explained that his office could request the vegetation clearance agreement between the MDOT and applicant be executed before issuing the road entrance permit.

PB member DeLeo said that MDOT Bruce Mattson was very helpful.

Chairman Wilson opened the public hearing at 7:40 PM.

Nadine Lewis asked about the project location. It was explained that the project was located off Atlantic Highway.

The public hearing was closed at 7:42 PM.

**PB member Barkhouse motioned to approve the Final Plan that Steve [Salsbury] supplied us with the new turn around at the end of the road, a new sight distance of the 275 [feet], and that the permit by the town [City] for the access road to include the clearing along the public road and that we approve The Village Subdivision. Mike Howie seconded the motion and seeing no discussion the motion passed unanimously.**

#### **NEW BUSINESS**

- 4. Sketch Plan for a Major Use Site Development Plan and Major Subdivision Plan for Atlantic Landscape Construction. The proposed concept is to build five self-storage buildings to include a total of about 300 storage units and to construct four residential duplexes (total of eight units) at 124 Bangor Road (formerly New Land Nursery & Landscaping) located on a 9.5-acre parcel (Tax Map/Lot: 50/68), in the Urban Zone.**
  - a. PUBLIC HEARING AND GENERAL ADVISORY DISCUSSION.

Stephen Salsbury, PLS, from Herrick & Salsbury represented the applicant.

Mr. Salsbury proceeded to give a general overview of project location and proposed activities. The property contains 9.5 acres. There will be five storage buildings encompassing about 300 lockers and four duplexes for a total of eight residential units. Public water and sewer will be provided for the residential units via Route 1A.

Chairman Wilson asked if the applicant intended to reduce the amount of curb cuts. Mr. Salsbury said that the most northerly curb cut would be moved south toward the top of the hill, about 50-60 feet, to improve visibility. The middle curb cut, the primary entrance when the site was used as a landscape business, will be gated. The most southerly entrance will be retained as the primary access point. The entrance behind the existing office/house will be retained for maintenance purposes. The storage units will have security fencing and lighting. The residential units will be using the northern entrance so they is no mingling with the traffic from the storage units. PB DeLeo asked about the future use of the house/office and if it was possible to access the house/office via the southernmost entrance and reduce the total amount of curb cuts. Mr. Salsbury said that he

Public hearing  
opened @ 7:40  
PM.

Public hearing  
closed @ 7:42 PM.

Final Plan The  
Village Subdivision  
approved with  
conditions:

- 275 sight distance
- Vegetation clearing agreement

Access  
management  
discussion.

would discuss this with the owner. He also said that he did not think that the ordinance included such requirement.

PB member Mike Howie asked why the duplexes were tucked away so far from the road and near Gilpatrick Brook. He also said that he would like to see a note on the plan to ensure that the 75' foot buffer is maintained. Mr. Salsbury responded that the location provides privacy and that he feels that the stormwater management plan would most likely call for the preservation of the wooded buffer.

PB member Wilson asked if the storage units would be buffered from the residential units. Mr. Salsbury mentioned that there is a few trees between the two uses. He added that the applicant plans to provide landscaping along the road.

PB member Barkhouse asked the City Planner for confirmation that the storage units are an allowed use in the Urban Zone. The Planner explained that she compares the proposed use to listed uses such as warehousing, commercial use, and personal use, which have similar impacts than the proposed use.

Chairman Wilson opened the public hearing at 7:55 PM.

Nadine Lewis asked about the total number of entrances. Mr. Salsbury responded that there will two primary entrances and one auxiliary entrance. Ms. Lewis asked if the applicant would do a traffic study. The Planner explained that the applicant would provide a traffic count for the proposed uses based on the Institute for Traffic Engineers (ITE) manual and that from there it will be decided if a traffic study is needed.

Ms. Lewis asked the distance between wetland and the dwelling units. She remarked that the proximity of the wetland to the proposed residential structure was very close and that was a "bad" idea.

The public hearing was closed at 7:57 PM.

Mr. Salsbury asked if the Board was interested in scheduling a site visit. It was agreed that a site visit would be helpful and the City Planner would take care of it later.

- 5. Modification to a September 5, 2012 approved and recorded Major Subdivision Plan and re-approval of a non-established/lapsed Major Use Site Development Plan titled Beckwith Pines for Down East Maine Property Management. The approved plan consists of two four-unit apartment buildings and the proposed modification is for four two-unit apartment**

**Delineate buffer on plan with corresponding note.**

**Public hearing opened @ 7:55 PM.**

**Public hearing closed @ 7:57 PM.**

**City Planner to schedule site visit.**

buildings on a 2.3-acre parcel off Route 3/ High Street via Beckwith Court (Tax Map/Lot: 16/47-3), in the Commercial Zone.

a. PUBLIC HEARING AND DETERMINATION OF APPLICATION COMPLETENESS.

Mac Harriman, PLS, represented the applicant.

Mr. Harriman explained that the project is an amendment to a 2012 project. The original project had two buildings with four units in each building while the proposed project has four buildings with two units in each building. The footprint is similar to the original project. Mr. Harriman presented the information that differs from the original application: application form; purchase and sale agreement; corporate registration papers; financial capacity; traffic counts; stormwater management plan; soil erosion and sedimentation control; letters from the water, sewer, and fire departments although some of them are still in the works finalizing what will be on the final plan; stormwater application permit was submitted to the State; and association covenants which are still being updated.

Chairman Wilson remarked that there are many changes. City Planner Gagnon explained that because the project presented significant changes compared to the 2012 approved project that it was listed like a preliminary plan review where the Board is first considering application completeness.

PB Member DeLeo asked why the applicant was going from two 4-unit buildings to four 2-unit buildings. The owner responded that he was getting pre-fabricated structures.

CEO Tilton asked the applicant his intent about the sewer easement as the width shown is still only 10 feet and for the City to take it over we needed 30 feet minimum. The applicant responded that this was being negotiated.

Fire Inspector Mike Hangge asked for demonstration that the applicant has the right to connect into the private water line. Mr. Harriman explained that the easement language gives the applicant the right to use the water line and that he is working with the owners of the access road to get a maintenance agreement.

The City Planner asked that a note be placed on the plan requiring that the applicant to provide booster pumps for domestic water and that the type of pump(s) to be installed will be approved by the Water Department prior to installation. She also asked for 5'x5' easements around the valves.

PB DeLeo remarked that the snow storage area seems to encroach over the property line (onto Beckwith Court).

Chairman Wilson opened and closed the public hearing at 8:16 PM as no one came forward to comment.

Need final letters from Water, Sewer, and Fire Depts. and association covenants.

Negotiate sewer easement.

Demonstrate right to connect into private water line.

Note on plan re. Water Dept. approved booster pumps and valve easement.

Redraw snow storage area.

Public hearing opened and closed @ 8:16 PM.

The City Planner remarked that the applicant has requested lighting waiver and she asked for clarification on the nature of the waiver. Mr. Harriman explained that he was not sure what the nature of the waiver was. Planner Gagnon said that this would need to be clarified prior to final approval.

Clarify the nature of lighting waiver request.

Alina Watt, P.E., for Hedefine Engineering presented the stormwater management plan. She explained that the plan met the City's general and flooding standards by means of a centrally located vegetated under-drained soil filter and roof dripline filtration along each side of the buildings. She added that the plan provides treatment for 97% of the site impervious area and for more than 88% of the total developed areas, which meets the MDEP and City ordinances as stormwater treatment is concerned and there will be no net increased in runoff from the property.

The Planner asked for clarification about the "pervious parking spaces." Ms. Watt explained that these pervious spaces would only be built if parking were an issue.

**Mike Howie motioned to approve the Modification to a September 5, 2012 approved and recorded Major Subdivision Plan and re-approval of a non-established/lapsed Major Use Site Development Plan titled Beckwith Pines for completeness. Roger Lessard seconded the motion and with no discussion, the motion passed unanimously.**

Beckwith Pines  
Completeness  
Review approved.

**Chairman Wilson moved to adjourn once the mylars [for The Village Subdivision] are signed. Roger Lessard seconded the motion and with no discussion, it passed unanimously.**

Mylars  
The Village

**The meeting was adjourn at 8:25 PM.**

Adjourn @ 8:25  
PM.

Minutes prepared by: Michele Gagnon, City Planner.  
Minutes approved by:

1-12-18   
Date Mike Howie, Ellsworth Planning Board, Secretary