

City of Ellsworth  
Planning Board Workshop Minutes  
Wednesday, April 5, 2023 5:30 PM

Chair John DeLeo, Vice-Chair Rick Lyles, Member Molly Friedland, and Alternate Members Patrick Lyons and Mike Hangge attended the regular meeting of the Ellsworth Planning Board. Secretary Nelson Geel and Member Marc Rich were absent.

**Five board members present**

City Planner Matthew Williams, Code Enforcement Officer (“CEO”) Lori Roberts, and Assistant City Planner Elizabeth Littlefield attended the meeting. Fire & Life Safety Inspector Tom Canavan was absent.

**Three staff members present**

**1.) Call to Order**

Chair DeLeo called the meeting to order at 5:30 PM.

**Call to Order**

**2.) Adoption of Minutes** from the March 1, 2023 regular meeting.

**Adoption of minutes**

Alternate Member Lyons moved to adopt the minutes, Member Friedland seconded the motion. **The motion to adopt the minutes from the March 1, 2023 regular meeting was UNANIMOUS (5-0).**

**APPROVED**

**3.) Preliminary Plan Review of a Minor Subdivision entitled Washington Luxe/3 Ruger Way for Applicant/Owner Ruger Properties, LLC.** The proposal is to split an existing multi-family residential subdivision existing on one lot into two lots. No other development or changes to the property will occur. The subject property is an approximately 1.19-acre lot located at 3 Ruger Way (Tax Map 130, Lot 26) in the Downtown (DT) Zoning District.

**Washington Luxe/3 Ruger Way**

Steve Salisbury was present as representation for the applicant/owner. Mr. Salisbury said that this project will only add a division line to the property, with one building being sold to a family member and the other one being retained by the owner. The second lot will have a 30-foot right of way over the road to Washington Street and there will be a shared driveway. There will be a road maintenance agreement which will be completed and presented for final plan review. Mr. Salisbury confirmed that the use of the land will not change, only the ownership of the buildings.

**Introduction**

Chair DeLeo asked if the access and maintenance information for the right of way will be on the deed. Mr. Salisbury confirmed that the language will be included in the deed. DeLeo then asked about the utilities. Salisbury said that the water and sewer are shared, while the electricity is separate. DeLeo said that there should be provisions regarding the sharing of utilities on the final plan. Salisbury said that will be provided for final. Vice-Chair Lyles asked if “maintenance” will be defined in the deed. Salisbury said that the specific language of what “maintenance” means will be included. City Planner Williams pointed out that there is a note on the site plan referring to the road maintenance agreement, however the actual agreement was not drafted in time to present to the Board.

**Deliberation**

Chair DeLeo opened the public hearing at 5:34. No members of the public wished to make a comment. DeLeo closed the public hearing at 5:34.

**Public Hearing Opened and Closed**

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Vice-Chair Lyles made a motion to find the preliminary application complete. Alternate Member Lyons seconded the motion. **The motion to find the Preliminary Plan of a Minor Subdivision entitled Washington Luxe/3 Ruger Way for Applicant/Owner Ruger Properties, LLC complete was UNANIMOUS (5-0).**

**Preliminary Plan  
COMPLETE**

**4.) Preliminary Plan Review of a Minor Subdivision entitled Langley/Rayeless LLC for Owner/Applicant Brian Langley.** The proposal is to create a tri-plex structure creating a three dwelling unit structure subdivision. The subject property is an approximately 1.2-acre lot located at 19 South Street (Tax Map 134, Lot 214-1) in the Neighborhood Zoning District (N).

**Langley/Rayeless  
LLC**

Owner Brian Langley and Developer Nick Wood were present representing the project. Mr. Wood gave an introduction to the project. This project will put a tri-plex structure on the property, each dwelling unit will contain two bedrooms and two bathrooms, each being two stories. The original plan was to put a well on the property and connect to public sewer, as the existing wastewater connection is already on the property. There will be 6 parking spots at the site, 2 for each dwelling unit. There will be a front and rear egress for each dwelling unit. Trash removal will be provided via a dumpster in the back of the building next to the propane tanks which will be used for heating and hot water. Snow removal will be put on the portion of the lot that is on an incline. Mr. Wood also said that they plan to put riprap and some catch basins to mitigate any stormwater issues.

**Introduction**

Chair DeLeo asked about the letter to the Water Department Superintendent since Mr. Wood said they wanted to use a well. Mr. Wood said during the TRT meeting, it was revealed that the shut-off of the water main was closer to the building than previously believed. Wood said that the shut-off was 335 feet from the building. DeLeo asked Code Enforcement Officer Lori Roberts what the requirements were for a water connection on this parcel. City Planner Williams replied that there are no requirements since this is a structure subdivision. Williams said that the Board can request that they connect to City water, but it is not a requirement in the situation. Williams also said that the Public Works Director and the Water Superintendent are okay with the water plan for this project, noting that all of the surrounding properties have wells. DeLeo then asked about the discrepancy in the numbers given in the Water Department letter versus the numbers given in the Wastewater Department letter. Mr. Wood said that the Wastewater Superintendent provided the numbers in the Wastewater letter. Williams also said that those numbers were provided by City Staff and used for estimation purposes only.

**Deliberation**

Vice-Chair Lyles asked if there were any plans to subdivide this lot. Mr. Wood said that there are not, as one portion of the property is, in his opinion, not usable for development since it is on a high slope. Lyles then asked if the property was forested, specifically asking what types of trees are there and if there are any plans to cut them down. Mr. Wood said that there are oak trees and some pine trees on the property. Wood also said that he plans on keeping as many trees as possible. Lyles also asked if the trees currently block the siteline from the driveway. Mr. Wood said that they do not. Lyles asked if the trees could be shown on the plan.

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Vice-Chair Lyles asked if there will be a catch basin in the parking lot for the stormwater runoff. Mr. Wood said they were hoping to put in a swale and some riprap to lead the stormwater into the stream that runs by the property. Mr. Wood also noted that they have already obtained a Permit by Rule from the Maine DEP to allow for this. Alternate Member Lyons asked if the stream was year-round. City Planner Williams said that it was, as it is primarily made up of stormwater runoff.

City Planner Williams said that all of the neighboring properties have culverts for stormwater mitigation. Williams said that was because all of the surrounding streets' stormwater runoff goes over that property and into the nearby brook. Williams mentioned that the Public Works Director would like a study on the stormwater impacts of the development to determine what size culverts will be needed for this project. Vice-Chair Lyles asked where the stormwater goes after it goes through the culverts. Mr. Langley said that it goes under South Street and to the Union River. Chair DeLeo asked Mr. Wood to show the stormwater flow and topography on the plans when they come back for final. City Planner Williams asked the Board if they would require the stormwater study as the Public Works Director requested, Vice-Chair Lyles said that they would like to see the study done to determine the size of the culverts.

Member Friedland asked if these units will be long-term or short-term rentals. Mr. Langley said that these would be long-term rentals, explaining that he has some employees at his restaurant who are looking for housing, and he plans to offer it to them first.

Alternate Member Hangge asked where the closest hydrant was to the property. Mr. Wood said that it was 800 feet to the northeast of the property. Hangge said that according to the Fire Prevention Ordinance, Article 4, Section 7.3, if the structure is within 800 feet of the City water, the development is required to connect to it. Mr. Wood said he would work with City Staff to determine if they are required to connect to the water. Hangge then asked about the High-Challenge Firewall which is required to be put into the structure. Mr. Wood said that the details of the firewall will be provided on the final plan. Hangge asked if Wood was aware of the requirements surrounding the firewalls, Wood said that he was. Hangge asked about the lack of a letter from the fire inspector. City Planner Williams said that there has been some disagreement between the Fire Inspector and the third party working for the developer. Williams said that the State Fire Marshall was brought in to explain the situation. Williams said by the final plan, there will be a letter from the Fire Inspector. Hangge then went on to explain that there are two different codes which developers have to follow in Ellsworth, which can sometimes lead to some confusion, which is that the situation here.

City Planner Williams said that the well will have to be shown on the final plan. Williams also asked if a propane truck would have to use one of the parking spaces to access the storage tank. Mr. Wood said that there will be a gap for the trucks to get to the back of the building. Williams requested that this be shown on the final plan. Chair DeLeo asked about snow storage, asking if there was enough space for snow to be stored without impacting the parking spaces. Mr. Wood said that they do not anticipate this being an issue, and the snow can be pushed up the embankment if there is more snow than expected. Chair DeLeo

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asked if the elevation of the ground was high enough that retaining walls would be needed. Wood said that they are trying to avoid putting in any retaining walls. DeLeo asked if they do decide to put some walls in that they be shown on the plan. Alternate Member Lyons asked who would bear the cost of the connection to the public water if it was required. Williams said that it would be on the developer. Lyons asked who would do the work, Williams replied that it would be the developer. Lyons then asked who would give the permission to start the work, Code Enforcement Officer Roberts said that her office would supply a road opening permit for the work to begin within the public right of way.

Chair DeLeo opened the Public Hearing at 5:55.

**Public Hearing  
Opened**

Kathy Young, an Ellsworth resident and abutter to this property, gave comments. Ms. Young asked if the development does end up using a well, if that would impact the groundwater supply. Chair DeLeo said that if they are using a well, they would have to get a letter from a hydrologist or a well-digger stating that there was enough groundwater supply to handle the addition of a well. Mr. Wood said that they have already obtained this letter. Ms. Young then asked if the parking area would be paved or not. Wood said that they will be using a finished gravel surface, not pavement. Young said that this area is a very wet area, she herself has two culverts on her property. Vice-Chair Lyles asked if she was upstream or downstream from the development. Ms. Young said that she was upstream.

Ms. Young asked if there would be any fencing for wildlife or anything like that. Mr. Langley said that he was planning on using the trees as a natural barrier and he did not want to use any artificial fencing if he could help it. Young then asked if there was going to be any lighting in the parking area. Langley said that his plan is to have just normal residential lighting, there will be no lighting in the parking area. Young then asked if a dump truck would come to empty the dumpster. Langley said that there would be and the space for the truck will be built into the plan. Young asked about the firewall and what that would look like. Alternate Member Hangge explained that firewalls are all internal and will not be visible from the outside.

Young then went on to ask about noise mitigation. Young said that she has spoken with the Code Enforcement Officer and now knows that she is allowed to alert the police if there is a lot of noise after 10pm. Langley said that he does not plan to rent this out for short-term rentals and he and his wife plan to move into one of the units in the future. Langley said that they will monitor the noise and if there are any issues they will be addressed. Young finally asked about snow removal and if it would push any snow onto her property. Langley said that they plan on using a snowblower to push the snow uphill. Alternate Member Hangge asked if they would be allowed to move the snow onto a different property. City Planner Williams said that this was allowed and they could transport the snow if it was needed.

Sarah Hessler, another Ellsworth resident and an abutter, was also present for comment. Ms. Hessler said that her major concern was the stream and stormwater runoff. Hessler said that there is a culvert at the bottom of South Street fails quite frequently and it floods

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the area. Vice-Chair Lyles asked how frequently the culvert fails. Ms. Hessler said not all the time, but it does happen sometimes in the spring. Chair DeLeo mentioned that he would like to see the water flow on the site plan and the addition of the City culverts on the plan. Mr. Langley said that the City did repair the culvert in question a few years ago and the issue has improved significantly. Vice-Chair Lyles asked who maintains the culvert, Langley replied that the City maintains it. Vice-Chair Lyles said that the Public Works Director should get involved and look at the public culvert. Chair DeLeo asked where the public culvert was located. Langley said that it was between his two properties. Alternate Member Lyons said that Langley has an interest in not adding more stormwater runoff, since all of the runoff would flow into the parking lot for his own restaurant. Langley said that he does and will be monitoring it very closely.

Ms. Hessler then asked for confirmation that these units will not be used for Air BNBs. Mr. Langley said that he plans on renting them out to employees and traveling nurses primarily.

Chair DeLeo closed the public hearing at 6:09pm.

Vice-Chair Lyles moved to find the preliminary application complete subject to the hydrologist study regarding stormwater. Alternate Member Hangege seconded the motion. **The motion to find the Preliminary Plan of the Minor Subdivision entitled Langley/Rayeless LLC for Applicant/Owner Brian Langley as complete SUBJECT TO a hydrologist study regarding the stormwater runoff was UNANIMOUS (5-0).**

### 5.) Staff Comments

City Planner Williams gave an update on the Comprehensive Plan process. The City Council approved BerryDunn as the consultant for this project. City Staff and BerryDunn are currently in the process of negotiating the contact, and Williams hoped to get the agreement signed by the end of this week. The Steering Committee is beginning the subcommittee process. The Steering Committee wants to hold an expo to kick-off the process and will then hold meetings with interested parties. Chair DeLeo said that two Steering Committee members will be a part of each subcommittee. Alternate member Lyons asked if those two members would act as the heads of those subcommittees. Williams said that they will not be the head of the committee, but they will help facilitate the meeting and report back to the full Steering Committee. Lyons asked when the subcommittees would start. Williams said that he was hoping to hold the expo in May and then the meetings will start after that.

Williams then gave an update on LD2003, which is new legislation that was passed allowing more accessory dwelling units on properties and allow for more density in affordable housing developments. Originally, the law was going to begin to be enforced in the beginning of July, but there are some discussions in the legislature where they will potentially be expanding the time-frame for another two years. Williams said that Ellsworth's ordinance does not need to be changed all that much, so the Planning Office will begin that process to get ahead of the enforcement date.

**Public Hearing  
Closed**

**Preliminary Plan  
COMPLETE W/  
CONDITIONS**

Staff Comments

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Chair DeLeo asked if Williams would go over the issue of the approval of paving waivers, which came up at a meeting a few months ago. Williams said that in most instances, the City Council approves waivers, however there are some where the Planning Board can approve it. Williams said that this is one of those situations. Alternate Member Hangge said that the Fire Chief also approves the waiver under the Fire Prevention Ordinance. Williams said that the ordinance does not explicitly say that the Fire Chief needs to approve the waiver, and the Planning Board ordinance says that it is the purview of the Planning Board. Chair DeLeo said that the Fire Chief can request a waiver or object to it, but the final decision is up to the Planning Board. Alternate Member Hangge said that the Fire Department needs to be consulted on paving waivers. Williams said that the Fire Chief of his deputy comes to all TRT meetings and is involved in the process. Hangge said that there should be an approval letter from the Fire Chief whenever a paving waiver is requested. Williams said this is something that the Board can start requiring, but that would be up to the Board. Williams also said that City Staff is involved in the waiver process, so the Public Works Director and the Fire Chief get some input before the waiver request comes to the Board.

Vice-Chair Lyles gave an update from the Local Roads Committee meeting, talking about all of the studies which the Public Works Director wants to conduct. DeLeo asked if the City is in the process of applying for grants regarding the roads. Williams said that they are not currently, however the DOT will be working on High Street in 2024/2025. DeLeo said that there needs to be studies done on the pedestrian circulation and safety through the City.


**6.) Adjournment**

**Vice-Chair Lyles moved to adjourn, Alternate Member Lyons seconded the motion. The vote to adjourn was unanimous (5-0).**

**Vote to adjourn at  
6:31 PM**

Minutes prepared by: Elizabeth Littlefield, Assistant City Planner.

*Agendas and minutes  
posted on the City of  
Ellsworth's website:  
[ellsworthmaine.gov](http://ellsworthmaine.gov)  
A video transcript of  
this meeting is also  
available on  
YouTube.*

5/3/23   
Date Nelson Geel, Secretary  
Ellsworth Planning Board