

MINUTES
PLANNING BOARD
TOWN OF DAMARISCOTTA
APRIL 2, 2018
6:00 PM

MEMBERS PRESENT: Jonathan Eaton, Adam Maltese, Shari Sage, Neil Genthner, and Wilder Hunt. Alternate members Dana Orenstein and Jenny Begin were also present.

STAFF PRESENT: Anthony Dater, Town Planner; Matt Lutkus, Town Manager.

PUBLIC PRESENT: Travis Pryor, Wright Pierce Engineering; Ann Pinkham, Citizen; Ann Jackson, LUAC/PAC/Citizen; Seth Hagar, Citizen; Josh Pinkham, Citizen/Concerned Group Member; Ellen Hunt, Citizen; Charlie Utter, Citizen; Chris Roberts, Citizen; Ronn Orenstein, Selectman; Lucy Harrington, Citizen; Dick McLean, Citizen; Ron Simmons, Puffin Nest Owner; Jean Simmons, Puffin Nest Owner; Jessica Picard, LCN.

CALL TO ORDER: Chairman Eaton called the public hearing to order at 6:02 pm.

PUBLIC HEARING:

1. **DRAFT SITE PLAN FOR INSTALLATION OF PUBLIC RESTROOMS ON OR ADJACENT TO THE MUNICIPAL PARKING LOT AT THE HARBOR PARKING AREA.**

Travis Pryor, Engineer with Wright Pierce and Project Manager and Matt Lutkus, Town Manager for Town of Damariscotta were present to represent this project.

Lutkus told the Board that voters at the special Town Meeting approved the changes to the Shoreland Zoning Ordinance that had previously been presented to the Planning Board and the purchase of the barbershop property for the proposed restrooms site.

The application & plan before the Planning Board is contingent on the final purchase of the barbershop property.

Lutkus told the Board that they are seeking approval of the Site Plan Review application as well the Shoreland Zoning Application, as required. The footprint of the restroom building is similar to what currently exists as the barbershop, plus an additional 850 square foot parcel surrounding the existing building.

Travis Pryor handed out the newest plan just prior to this meeting. He explained to the Board that a previous plan showed an office space for the Harbor Master, that has been eliminated, as well as the center corridor. Previously they had planned for 4 separate, lockable, unisex bathroom areas on either side of a center corridor – that plan has been replaced with a more traditional bathroom set up – 2 handicapped accessible rooms (Men & Women) with 2 -3 stalls and 2 sinks on the Women's side and 1-2 stalls, 1 urinal, and 2 sinks on the Men's side. Pryor stated that if it can be fit in, they've talked about having a small shower for transient boaters that come to town. Pryor pointed out that there will be baby changing stations in both. He told the Board that the property includes space to move the existing utility pole, if necessary for the ramp access. It is a significant expense due to the transformer and it serves 5-6 buildings, so if they don't have to move it, they will not.

Dater asked Pryor if the access ramp will be covered by a roof in case of rain.

Pryor told him that just the last leg of the ramp, up near the building is planned to be under cover. Because of the floodplain requirements, covering the entire ramp will

make for a roof line that is too high and may block the view of the surrounding buildings, something they plan to do as little as possible.

Pryor then explained how the building would be flood proofed in accordance with the ordinance changes previously approved by the voters.

Lutkus told the Board that there has been a change to the initial drawings, making the building slightly smaller and lowering the overall roof line. They've talked to the architect about placing a Town Seal where the window was for the Harbor Master Office space. He went on to say that he thinks there will be some additional greenspace as result of the changes and that is where they plan to put a visitor's kiosk with a "you are here" kind of map.

Dater clarified that the plan is to place a Town Seal on both the North and South side.

Lutkus told him they still have to price out those types of details.

Begin asked if there were any natural light in the restrooms.

Pryor told her there were small windows planned for the building and doors. He pointed out the location on the plans. He told her they would be up high and appropriately frosted so people couldn't see in from outside, for privacy.

Begin stated that windows were cheaper than concrete & a Town Seal.

Sage suggested that the You Are Here map be on one side, instead of 2 Town Seals.

Lutkus told her that they had talked about that originally, but when they freed up some of the additional greenspace, they decided to make the visitor's kiosk 2-sided for ease in viewing.

Pryor added that depending on space & cost they may even do a triangular kiosk but that's yet to be determined.

Sage asked if a stand-alone kiosk would add to winter maintenance.

Lutkus told her that this area was not planned to be used in the winter, so there would not be any effort to make that area accessible in the winter.

Begin asked if there parking spaces purchased with this area.

Lutkus told her there were not.

Hunt clarified that the existing building is in the commercial district and does not require any additional setbacks.

He then asked what the property lines were for that area.

Pryor told him that he is correct with the setbacks not being required and the property lines are basically the building footprint.

Lutkus told Hunt that the property lines for what the Town will own is highlighted in yellow on the site plan before the Board.

Hunt suggested that the design process remember that it typically takes more stalls to accommodate women than it does for the men. The women's public restroom lines are typically longer.

Lutkus & Pryor stated that that had been discussed and that's why there are currently 2 stalls on the women's side. Lutkus stated that ideally, they would be able to fit 3 stalls, and are currently talking with the architect about it.

Ann Pinkham asked if there were to be ADA stalls.

Pryor told her that there were currently 1 planned on each side. The baby changing stations are located within those stalls.

Dater stated that within the shoreland zone there is a 25' setback from the high-water mark. This building is considerably further back than the 25' so it meets that requirement.

An audience member asked for an explanation on the lighting, both interior & exterior.

Pryor stated that there were windows planned for natural lighting. The interior lighting would be efficient LED, motion sensing lights, so that they are only on when someone enters. They will be pricing out options for the Town to be able to remotely lock the building and an option to provide public WiFi access.

Bruce Rockwood asked about external lighting around the building.

Pryor told him that they are still planning the external lighting – potentially up under the overhang for safety, but not to shine on surrounding property. They are not planning for the building to be open all night.

Lutkus stated that they were thinking it would be closed at 10PM, depending on if there is some special event or activity going on, but those details are still being discussed.

Begin stated that she liked the brick because it ties in with the existing buildings downtown.

Pryor stated that they are still determining how far up to bring the granite – they may bring the brick down further on the sides for that very reason.

Josh Pinkham asked about the plans for fire suppression / monitoring / materials.

Pryor told him the materials planned were CMU, brick and concrete. The stalls will be stainless steel. The building is not required by code to be sprinkled. There would also be access to fire extinguisher(s).

Another audience member stated that he thought the location was an excellent choice and gave kudos to the Town for saving parking spaces.

Seeing no further public comments, Chairman Eaton closed this portion of the public hearing at approximately 6:25 PM.

Dater told Eaton that he could take up the regular meeting, old business on this same topic before moving on to the next public hearing topic, to allow the applicants to be done all at once.

Eaton agreed to this option.

Chairman Eaton opened the next public hearing on the Site Plan Review Ordinance proposed amendments at approximately 6: 31 PM.

2. PROPOSED AMENDMENT TO THE DAMARISCOTTA SITE PLAN REVIEW ORDINANCE TO CLARIFY PROCEDURES ON MULTI-PHASED PROPOSALS AND ON A REQUIREMENT FOR A FULLY COMPLIANT SITE PLAN APPLICATION BEFORE AN ALTERNATIVE SITE PLAN WITH WAIVER REQUESTS MAY BE PRESENTED. ALSO, IS PROPOSED TIGHTENING OF REGULATIONS ON OUTDOOR LIGHTING, PROVISION OF SIDEWALKS ALONG MAIN STREET, PARKING IN FRONT OF LARGER BUILDINGS AND STORMWATER MANAGEMENT.

Dater reviewed the history for the room. He stated that the Selectmen appointed & charged the Land Use Advisory Committee (LUAC) with making recommendations for amendments to the Site Plan Review Ordinance. Land Use ordinance changes need to go through a process for approval that starts with the Planning Board and a public hearing before a recommendation for inclusion on a Town Meeting Warrant for public vote.

Dater told the Board that the LUAC has worked diligently on this and asked that the Chairman of the LUAC, Bruce Rockwood, come forward to present the major points of the proposed amendments to the Planning Board. (copy of Rockwood's handout is attached for informational purposes)

Rockwood asked members of the LUAC present to stand to identify themselves for the Planning Board.

Rockwood told the Board that the LUAC has worked on the ordinance since January 2018. The LUAC is working on the ordinance as a whole, but wanted to get the specific changes they were charged with doing on the Town Warrant for June, which is why they have a partial list of amendments before the Planning Board at this meeting. They felt that the section 11 changes were particularly important.

Rockwood read aloud, from his handout, the proposed changes to section 10.B:

- 1) Prior to submitting an application for approval of the proposed use of construction the applicant may meet informally with the Board at a regular meeting to present a sketch plan and generally discuss the proposal and to obtain guidance in development of the plan and suggestions how to ensure it conforms to town ordinances. The sketch plan may be a freehand drawing and show:...
- 2) Upon written request by the applicant, the Board may at its discretion excuse the submission requirements specified in section 10. E. 3d and j, and 4, 5 due to the nature or size of the project. There shall be a presumption against such waivers.

Hunt asked isn't this exactly what the Planning Board does now, and has been doing all along, for at least the last 20 years or so?

Rockwood told Hunt that the LUAC was not saying that this was not what the Planning Board currently does, after multiple appeals, the intent was to add some language into the existing ordinance to clarify the Town's expectations that the applicants will come before the Planning Board prepared to meet the ordinances as written.

Hunt told Rockwood that his answer confused him. The current typical procedure of this Board is that an applicant comes in for a pre-application meeting, and they can also come see the planner & CEO for a

pre pre-application meeting if they feel the need. Then if the applicant is serious, they come before the Board with a sketch plan to discuss. The Board can require a public hearing to get public input.

Rockwood stated that he had just sat on the BOA for an appeal the past week, and one of their issues was the sequence that the Planning Board did things. One of the things the LUAC will talk about is having a check list for the procedure in the future.

Maltese stated that he didn't see any downside to the suggested amendments. As a previous applicant, any additional language to clarify things for the applicant should be very helpful.

Hunt stated that he recognizes that the LUAC has put in a tremendous amount of time into this, but in his opinion the Planning Board operates accurately and effectively now.

Jenny Begin stated that the most recent applications that came through the Town came to the Board with their plan established. The Planning Board made suggestions for extremely minor changes; an additional tree or a small berm. There was no opportunity for the Board to really weigh in at the beginning at their planning process. While this additional language may not change that dynamic, it does put developers on notice that the Board plans to be at the front of the process rather than the end.

Hunt stated that he thought she was confusing some things. He doesn't believe it has ever happened in the past that an application was allowed to become complete without a public hearing. The Planning Board values the public's input on projects before them. Every application has come to them in a preliminary state, they have a public hearing, and adjustments get made based on those conversations. Sometimes there are second and third public hearings to ensure that the applicant, the public, and the Planning Board are on the same page. He thinks it is an excellent system and they should keep it the way it is.

Rockwood stated that in addition to the suggested amendments, the LUAC feels it is important to have an informational flyer made available to those in the Town so that the process is better understood by all.

Hunt stated that it was a tremendous amount of material to review for changes.

Rockwood went on to section 11. PERFORMANCE STANDARDS. He stated that the LUAC felt that their charge from the beginning was to address the waivers in a way that would discourage them, or encourage applicants to be in compliance in the first place. He read aloud from the highlighted section of the handout:

"As a requirement for being approved by the Board as a complete application and thus a preliminary plan, the applicant shall submit a plan that fully meets all the requirements of all the Section 11 Performance Standards. The applicant may also submit an accompanying separate plan that sets out any proposed waivers from Section 11 Performance Standards accompanied by a written statement(s) explaining why the applicant believes the waivers would still accomplish the purpose of the performance standard so proposed to be altered...."

Rockwood stated in other words, if a project wants to have parking, show that parking at the rear of the building first so that all the options can be considered by developers. They believe it would be more likely that they would try harder to meet the standards, instead of work so hard to get around the requirement.

Hunt stated that the waivers are a critical part of the ordinance. One reason is because every lot is different, every project is different with different needs. Waivers are granted all the time for valid reasons. In his opinion, waivers are a strength in the ordinance.

Rockwood told him that was part of the problem in the view of the LUAC.

Begin told Eaton to take control of this meeting.

Rockwood stated that granting waivers all the time is called spot zoning, and that is no longer legal. If there is an ordinance, it has to be stuck to period. If waivers are continually given, the Town might as well repeal the ordinance.

Hunt stated that the ordinance could be changed so that waivers aren't needed.

Rockwood stated that the Town has a comprehensive plan and a site plan review ordinance. While the ordinance allows for waivers, they feel that the expectation should be that a project will meet the ordinance standards. The LUAC is not recommending that they do away with waivers all together. They are recommending that the Board insist on a fully compliant plan before considering waivers. For the large commercial developer, like 435 Main, they have the resources to do it correctly and the Board should require that.

Hunt stated that he does not agree.

Rockwood told the Board that the LUAC is in place because people were upset about the Dollar General/Sherwin Williams development and they were VERY upset about the 435 Main development.

Dater stated that the suggested wording in the paragraph Rockwood read aloud is a procedural change, it doesn't do away with waivers. Waivers are an important part of the process because they allow flexibility within the ordinance and it makes sense for a Planning Board to have that flexibility. This change will not affect the little guy, they will be able to comply, it's about the big guys, who should come with a more organized approach.

Eaton stated that in his opinion, sometimes it boils down to whether the Town wants to have a successful business here or not.

Maltese stated that it sounds like it's about encouraging good behavior.

Rockwood stated that he did not think the changes would be an additional burden to the Planning Board. Applicants should be coming better prepared, thus making the Board's job easier.

Hunt stated that in his opinion, the present system is more people oriented, this seems to be more rule oriented.

Rockwood told him that the LUAC had an attorney advising them on the legalities involved and there were changes they wanted to make, but were not allowed to. They felt that there would be better results by tweaking the procedural rules.

Rockwood told the Board that there were other changes involved concerning parking, landscaping and storm water run off that they will not have ready for the June Town Meeting. They will be looking to address those at another time, perhaps the November elections, after getting the Planning Board's feedback on the entire document. Tonight, he is asking the Board to seriously consider supporting the changes in language so that they can forward it to the Selectmen for consideration on the June ballot.

Rockwood asked the other members of the LUAC present if they had anything to add.

Begin stated that she would like to see if any members of the public had anything since this is a public hearing. She believes it is on this agenda for the Planning Board, so they can weigh in on it later.

Rockwood agreed, adding that there were additional changes on his handout addressing off-street parking lot placement, most of which is in the existing ordinance, but they are suggesting bold-facing some language to call attention to it. They did add stricter language on a waiver of this requirement.

He went on to say that he noticed a significant lack of evidence presented to the Planning Board by the 435 Main applicant on their parking waiver. The LUAC feels there needs to be clear and convincing evidence presented, not just a statement, for a waiver.

Hunt asked Rockwood if he has been to places of business that currently have parking at the rear.

Begin and another member of LUAC told him all of the downtown businesses have parking at the rear.

Hunt stated that he was under the impression that this discussion was on the C2 district and asked for clarification on what they were talking about.

Begin then suggested Rising Tide, the Cheney Insurance Building as examples of successful businesses with parking at the side vs. out front.

Hunt stated that it sounds to him that what the LUAC is suggesting makes almost every existing business in the C2 district non-conforming. It makes no sense to him to make a change to an ordinance that makes something more non-conforming that it currently is.

Rockwood stated that the proposed changes will not affect existing businesses, unless they tear down & replace a building, then they will have to meet the ordinance.

Hunt stated that it sounds like common sense has been lost.

Maltese added Supplies Unlimited and Clark Farm stand to Begin's list of existing businesses with parking at the side or rear.

Chris Roberts stated from the audience that the Rising Tide parking lot configuration was already there before they took over.

Begin told him that didn't matter.

Josh Pinkham spoke from the audience. He identified himself as a member of an informal, currently unnamed organization and asked if there was more to the changes presented tonight. He got a version from Matt Lutkus & Tony Dater that looked a lot different than what he's reading here and that's confusing.

Dater told him this was just an extraction of what the committee feels are the most important pieces at this time. It does not include all the proposed changes.

Pinkham said he was trying to get straight exactly what they were talking about changing tonight vs what was in the document he received and has reviewed.

Rockwood explained that the Planning Board's public hearing was scheduled without consulting the LUAC first. It seems clear that the Board had their own plans on revising the ordinance. The LUAC was charged with the task, by the Selectmen, in January and are currently working on revising the entire document, but they don't feel there is time to complete the process and have adequate public hearings between now and the June Town Meeting so they are asking the Board to focus on some of the specific items brought up by the Selectmen in that charge and get those items (section 11) before the Townspeople at the June meeting. They are trying to give the Town Ordinances some teeth going forward.

Pinkham asked why was the setback changed from 15 feet to 30 feet?

Eaton told him that they hadn't really gotten to that section yet, but asked Dater if he could answer the question.

Dater stated that the current 15-foot set back is very small. By example, the new Sherwin Williams building sits right on the road with it's 15 foot set back. 30 feet is 10 yards and just seemed to be a little more reasonable. This change is just in C2.

Pinkham asked him if there had been any written complaints from any Damariscotta residents on the set back change.

Dater told him that he hasn't seen any, but they haven't seen the changes yet either.

Pinkham asked if the usual procedure on ordinance changes is to get feedback from the residents?

Begin told him tonight was the beginning of that feedback process.

Dater agreed, stating that this was the public hearing portion.

Pinkham stated that usually there is documentation to go along with proposed ordinance changes, but right now there doesn't seem to be any documentation.

Rockwood told him that they are using the Comprehensive Plan as a guide and ordinances from other communities. This is the process of the discussion, and now Josh is a part of that.

Pinkham stated that he is fully aware of how the process is supposed to work.

Rockwood went on to the section on appearance – section 11.V (Page 2 of his handout) The wording in bold-face is in the existing ordinance, only the bold-face font is new to call more attention to it. They added “hipped and gabled” as a better description of pitched in reference to the roof. In paragraph 2 they are proposing removing the word may and replace it with are in reference to the 5/12 pitch requirement.

Dater stated that the underlined text in paragraph 1 on waivers is new proposed language.

Rockwood agreed and read aloud:

“Waivers of these requirements are not permitted and all proposals coming before the Planning Board must meet these requirements to be considered for Planning Board Approval.”

He told the Board this change was in response to suggestions to the LUAC based on the appearance of the Dollar General and Sherwin Williams buildings.

Hunt stated that he recalled that the ordinance used to say, in reference to appearance, that the buildings had to have similar appearance to those in the surrounding area – which in his opinion means in Damariscotta, not New England.

Begin told him that it currently says “traditional New England building”.

Hunt said that it must have been changed before, because it used to say “Damariscotta”.

Rockwood stated that one of the arguments for waiver presented by the 435 applicant was that the Planning Board has previously given a waiver to the Sherwin Williams project so 435 should get that same consideration. That is something the LUAC is looking to prevent. That should not be a valid argument for a waiver.

Pinkham stated that the waiver is there to give the Town some flexibility because not all lots are created equal and public safety and protection need to also be considered. The ability to grant a waiver allows the Board to consider all options. There should be just cause to grant a waiver. There should be a written document explaining the reasoning for the waiver request.

Rockwood told Pinkham that was exactly what the LUAC are asking for with the wording proposed. In the past applicants have mentioned public safety and fire but provide no evidence presented. The Board should require more than the assertion of need, they should require the evidence for the record.

Pinkham also expressed concern about requiring an applicant to spend the extra time and money to come up with several plans that may not be the approved plan, if granted a waiver.

Rockwood stated that the applicant doesn't know that they will be granted a waiver. If they can come up with and present a compliant plan then they don't need to ask for a waiver. Who is the burden really on? When a plan is approved with a waiver, the Town is stuck with that for the next 50 – 100 years. At the very least the applicant needs to justify the request. The hope is

that by requiring a fully compliant plan before allowing a waiver request it makes the applicant think a little bit harder about what they want to do and maybe find out that they don't really need the waiver after all.

Pinkham told him that the Planning Board has the ability to deny the waiver if they don't think it is warranted. It could actually be part of the pre-hearing process.

Eaton agreed that it could.

Rockwood told him that the LUAC came to the conclusion that that was not happening.

Begin stated that the problem is that the Planning Board has said at past meetings that we can grant waivers so we should. That's the presumption of the Planning Board on waivers. This language simply sets up an additional hoop for the developers to have to go through.

Pinkham stated that it seems like a huge waste of time.

Rockwood stated that instead of being the Town's expense of hiring an independent consultant to go over the plan and come up with alternatives, it's on the applicant. That protects the Town.

Pinkham stated that the ordinance currently requires the applicant to put money into an escrow account for that purpose. So, it's not an expense to the Town.

Rockwood stated that that requires the Planning Board to use that tool. There's a tendency to rely on the applicant and the Code Enforcement Officer and that led to concerns that the town was not paying attention to the language of the ordinance.

There are not very many people in town happy with the appearance of the Dollar General & Sherwin Williams and because of that we now have the advisory committee. People are not happy about the 435 Main approval which is why there are these recommendations.

Pinkham told him that there needed to be a common-sense approach to the way Damariscotta operates.

Rockwood agreed. Common sense entails working within the ordinance the Town says they want.

Pinkham agreed and stated that the current ordinance is a common-sense approach.

Rockwood stated that if that were true, people wouldn't be so unhappy.

An unidentified audience member stated that it's really only the vocal ones that are unhappy.

Begin told her that they don't know how someone feels if they don't speak.

Pinkham stated that there were more than just the 2 recent developments that needed addressing in Town. For example, all the ordinances should read alike. The Land Use Ordinance, the Site Plan Review Ordinance, and the Appeals Ordinance all have different information regarding appeals. There should also be accurate definitions within the ordinances and if you are going to use a Notice of Decision document, there should be a definition of that in the ordinances.

Rockwood invited Pinkham to join the LUAC.

Pinkham declined, stating that it was easier to come to the public hearing and vocalize his concerns.

Rockwood stated that they can reconcile the ordinances if that is what the Board wants to recommend.

Pinkham stated that the date of decision needs to be specifically defined. There should be a specific process. The current ordinance states that a written decision will be issued to the applicant within 7 days. Is the Town complying with that? 2 weeks seems far more likely to him. He also felt that the process should not drag on month after month for an applicant.

Dater told him that he was right, it does specify 7 days in the ordinance but the staff is only in the office 2 days a week, not that that should be an excuse. Dater said the decision needs to come within 7 days or that language needs to be changed to be more realistic.

Rockwood stated that the LUAC would appreciate the Planning Board's input on getting the language to read the same across the 3 ordinances mentioned by Pinkham.

Dater told Pinkham that there was a balance – on one hand there is what the Town wants, which is documented by the Comprehensive Plan, sort of like a road map guiding decisions and ordinance development. On the other hand, is the large commercial developer, not the small guy looking to build a house, the large professional developers that come from outside Town with lots of money. The amendments to the Site Plan Review Ordinance gives the Planning Board some muscle to level the playing field with those big guys. It's said that most developers have 3 plans when they come with the application, one they want to do; one they will reluctantly do if required; and the one that actually conforms. If they are interested enough in coming to Town, they should meet the Town's requirements. That's all the amendments are about, keeping the balance.

Pinkham stated that he's followed the processes currently going on in Town and we need to learn from past mistakes. Clean up the language and the process regarding the notice of decision, improve the definitions to eliminate angles for appeal.

Rockwood told the Board that he thinks he's presented everything he could on behalf of the LUAC at this public hearing.

Dater invited Begin to talk about her hand out on storm water management.

Begin stated that she wanted to introduce the concept of low impact development techniques and design with regards to water run-off. The current major projects that have been approved in town all rely on large, very focused retention or detention ponds which forces all the water into one area with the idea that over time it will drain into the ground.

She told the room that this is not how it's done anymore. The new method is to use small, low impact ways to treat storm water onsite so it doesn't all get concentrated in one large area. She's taken model ordinances, that are developed in Maine by the DEP and local storm water conservation districts, and placed the language into the Site Plan Review Ordinance to reflect an emphasis on these low impact techniques.

The current ordinance language states that post development run off shall not exceed pre-development run off. She told the Board that over time the hydrology is changed with the large development in the area. She mentioned Hannaford's pond as another example of a lot of extra run off.

She stated that all of the information is out there for anyone to review. The DEP has a LID (low impact development) manual with best management practices that they offer as well.

Eaton asked if she was suggesting that the Town adopt her changes as part of the storm water ordinance?

Begin stated that it's to encourage developers to use other techniques in their design.

Eaton stated that you'll never encourage them, you have to force them.

Begin stated the LID is actually cheaper for the developer and improves water quality over all.

Chairman Eaton recognized Seth Hagar from the audience.

Hagar asked if Begin was suggesting that the Town enforce and or inspect or regulate this type storm water management ordinance?

Begin stated that she was not. She went on to say that the Town is actually responsible for inspecting all of the stormwater management systems created.

Several members of the Board and audience corrected her and said that the DEP is responsible for the inspecting & regulating of those systems.

Begin stated that the DEP engineers the systems but they don't inspect them.

Rockwood and Dater also stated that they do not regularly inspect.

Hagar stated that as the owner of a DEP engineered pond system, he can confirm that they absolutely do come out and inspect the system. A best practice protocol has to be developed, a monthly log must be maintained and

submitted to DEP annually, and they come out and inspect the system and force certain maintenance activities.

Eaton agreed, stating that he knows that they inspect the one at Hannaford as well.

Hagar went on to say that if the Town is really trying to develop ordinances that even remotely encouraging to business development, it seems that the last thing they should be doing is placing additional restrictions on top of what the DEP requires.

Begin stated that it was not an additional restriction.

Rockwood stated that it sounds like this is already done.

Hagar stated that currently they follow one standard that is governed by the DEP. If the Town is going to apply a stricter standard, it sounds like that means that a developer will have to follow both? A signed permit from the DEP includes all those best management practices in place now.

Rockwood asked Hagar to give the LUAC his feedback – he can email Hagar the 50-page document.

Hagar told the Board that the DEP has many different types of systems, it's not always a big system – they engineer a system based on the size of the site an plan presented. He doesn't see a reason to reinvent what exists and make more work for the Town.

Rockwood stated that it's not clear whether the existing practices adequately address the amount of run off. There's been an increase in storms in this country in recent years. They are not talking about the effect of one project, they are talking about the culminative effect of many new ponds.

Begin stated that she has someone at DEP, who works with towns on storm water ordinances, reviewing her suggestions for further input. This will at least get the language out there to get people to think about other options

Pinkham stated that if it's just a recommendation, those go in the comprehensive plan. An ordinance requires or prohibits specific actions.

Rockwood stated for the room that the next Land Use Advisory Committee meeting is Monday, April 9th at 5pm and everyone is encouraged to attend.

Sage stated that she agrees with the request for language. She believes it would help developers who may not be familiar with Town requirements have a clearer understanding of the expectations. She doesn't see any harm in it. She's gotten a feeling from audiences of past Planning Board meetings that the poor developer has to come before the Board so many times,

but this is our town and we have to live with the end result. They need to come however many times it takes to meet the ordinance guideline. The comprehensive plan is the priority to maintain the aesthetics existing here. It's their job to respect what the ordinance says, not try to under mind them with constant waivers. The Town should not be jumping through hoops to accommodate developers, it needs to be the other way around.

Eaton stated that if no one else has anything new to add at this point he was closing the Public Hearing portion of the meeting. (7:45pm)

REGULAR MONTHLY MEETING FOR APRIL 2018:

A. MINUTES:

On motion Genthner / Maltese to approve the meeting minutes listed below as submitted via email.

January 8, 2018 Meeting Minutes

February 5, 2018 Meeting Minutes

March 5, 2018 Meeting Minutes

VOTE: 4-0 IN FAVOR

Sage did not vote

B. OLD BUSINESS:

1. DAMARISCOTTA WATERFRONT RESTROOMS – HARBOR MUNICIPAL PARKING LOT – C1 DOWNTOWN COMMERCIAL DISTRICT AND SHORELAND COMMERCIAL ZONE – PRELIMINARY PLAN REVIEW FOR NEW PUBLIC RESTROOMS ON OR ADJACENT TO THE MUNICIPAL PARKING LOT AT THE HARBOR PARKING AREA.

Eaton stated that he didn't see any reason to have the applicant go over the scope of the project again, since that happened during the previous public hearing.

Hunt asked if the only thing left for the Board to do was to make a recommendation to the Board of Selectmen on the outcome of the public hearing tonight.

Lutkus stated that was not the case. He believes it's in the Planning Board's court now to vote to approve the site plan review application of the Town on the restroom project.

Hunt agreed, stating that they need to make a motion so they can then discuss.

Genthner stated that they should to go through the Site Plan Review Application Check List, like any other application process.

Eaton asked Lutkus if the abutters were notified.

Lutkus confirmed certified notices were sent notifying abutters of this meeting.

Dater reviewed the usual procedure, asking the Board if the applicants come back for the May meeting, does the Board want to see a full-sized site plan and go through the full check list to ensure that all the required submittal have been done. He told the Board that they could have the Town do the same procedure as any other application.

Eaton stated that he felt they should.

Lutkus agreed.

Dater agreed to site down with the Town to go over the requirements prior to the next meeting, if that works time wise for the Town.

Lutkus stated that the purchase may not be complete by then.

Dater stated that a Purchase & Sale Agreement would satisfy the requirement of the ordinance.

Lutkus asked if it would be another public hearing in May.

Eaton stated that he did not see a reason to hold another public hearing on the topic.

2. REVIEW OF PUBLIC COMMENTS ON PROPOSED SITE PLAN REVIEW ORDINANCE AMENDMENTS. POSSIBLE FURTHER CHANGES TO THE ORDINANCE IN PREPARATION FOR POSSIBLY SENDING IT FORWARD TO THE SELECTMEN BY MAY FOR PLACEMENT ONTO THE JUNE 2018 TOWN MEETING WARRANT.

Hunt asked Rockwood if anything might change in the LUAC strategy going forward, based on comments of this meeting.

Rockwood stated that the majority of the document needs more work. He would like to ask the Board to forward only the language amendments in section 11 to the Selectmen for inclusion on the June Town Meeting Warrant. That way the LUAC can continue to focus on the rest of the ordinance for a possible fall vote.

Dater stated that was a possibility. He would like to add one additional change for immediate consideration and that is Josh Pinkham's point on the time for the written notice of decision. Specifically, section 10.H.2:

"The Board shall inform the applicant in writing of its decision (by a Notice of Decision) on final plan applications within 7 days of its action..."

Dater agreed that it needs to be changed to allow time for staff preparation and Board review to be fair to all involved.

Pinkham suggested 2 weeks or 15 days would be sufficient.

Rockwood asked if the Board had a consensus on the changes in section 11 and 11.V building appearances.

Hunt asked Rockwood to consider striking the statement in section 10.B.2 "There shall be a presumption against such waivers" because that is not an accurate statement of how the Board operates.

Begin agreed with Hunt, that is not how this Board operates, but that was what the Selectmen asked LUAC to do.

Hunt told her that he disagrees with the Selectmen.

Eaton stated that they weren't talking about addressing section 10.B. They are talking only about section 11. Essentially just the 2 paragraphs on Rockwood's handout under section 11. Performance Standards.

Hunt stated that section 11 is incorrect. It is not how the Board currently operates or has operated for the past 20 years.

Rockwood stated that is correct, this changes the language.

Eaton stated that this has to go before the Townspeople for a vote. He asked for a motion.

Pinkham wanted to clarify that the appointed LUAC brought changes to the entire Site Plan Review ordinance to this hearing and now it seems that their Chairman was making changes to condense that request. He believes that will confuse the issue tremendously. Will the voters even understand what they are voting on?

Lucy Harrington answered from the audience. She told Pinkham that from the beginning the LUAC knew the document was too large to have a full recommendation prepared for June. The committee agreed to present the changes in sections. They agreed to present the section in Rockwood's handout at tonight's meeting to get it on the June Town Meeting. It's a small committee with a huge undertaking.

Ronn Orenstein stated that the committee was given a difficult task in reviewing the 50-page document. They broke it down to the most important topics and tackled those first. After the June vote they plan to go back to work on the rest of the document. The process doesn't end with a June vote.

Ann Pinkham stated that while the Selectmen did say that they wanted it for the June meeting, it may actually be too much too quick. Does it make more sense to hold off and do the entire document for the November election?

Eaton told her that it's been condensed down to a single paragraph at this point.

Rockwood stated that they are actually putting off most of the document. He corrected Eaton to say that it's actually 2 paragraphs and it is what they were tasked to do. It's taken them 4 months, he doesn't think it's too fast at all.

Hagar asked for clarification on what the Board was considering. All of section 11?

Eaton told him it was just the first 2 paragraphs on Rockwood's handout.

Dater added the procedural change to the timing of the NOD.

On motion Maltese / Sage to recommend the language amendments to section 11 as suggested by the Land Use Advisory Committee (**see below**) be forwarded to the Board of Selectmen for inclusion on the June Town Meeting Warrant.

Section 11. PERFORMANCE STANDARDS

The following standards are to be used by the Board in judging applications for site plan review. These standards are meant to provide minimum criteria, and while they should not be regarded as inflexible requirements, all proposals should address them while being open to demonstrating creativity, invention and innovation, to ensure the best outcome for the applicant and the Damariscotta community. The site plan shall be approved unless in the

judgment of the Board the applicant is not able to reasonably meet one or more of these standards. In all instances the burden of proof shall be on the applicant and such burden of proof shall include evidence necessary to demonstrate compliance with all applicable standards. If the site plan includes a building or buildings in the aggregate of 7,500 square feet or greater of floor area or has a façade of 50 feet or more, additional standards in Section 12 may also apply.

As a requirement for being approved by the Board as a complete application and thus a preliminary plan, the applicant shall submit a plan that fully meets all the requirements of all the Section 11 Performance Standards. The applicant may also submit an accompanying separate plan that sets out any proposed waivers from Section 11 Performance Standards accompanied by a written statement(s) explaining why the applicant believes the waivers would still accomplish the purpose of the performance standard so proposed to be altered...

VOTE: 4-1 IN FAVOR
(HUNT)

On motion Maltese / Sage to change wording in Section 10.H.2 from 7 days to issue to written Notice of Decision to 15 days.

VOTE: 5-0 IN FAVOR

3. JM AUTOMOTIVE – ACROSS FROM 705 MAIN STREET (RT. 1B LILY BROOK APARTMENTS) – LOT 3/42 HIGHWAY COMMERCIAL C2 DISTRICT – PRELIMINARY PLAN APPLICATION FOR FOUR-BAY COMMERCIAL AUTOMOTIVE REPAIR GARAGE.

No one was present for this application.

C. NEW BUSINESS:

1. CONSIDERATION OF A NEW C3 OVERLAY DISTRICT.

Shari Sage was presenting this proposal. She told the Board that she has not had any feedback from other Boards on reviewing this.

Dater told her that it was on the LUAC schedule, but they have not reviewed it yet.

Sage stated that Chairman of the Board of Selectmen, Robin Mayer told her that the other committees should review and give feedback before it gets to the Planning Board or the Select Board.

Eaton stated that it should be tabled to the following month.

D. OTHER:

1. POND CIRCLE LTD PARTNERSHIP – 240-246 LESSNER ROAD AND POND CIRCLE – LOT 2/5 – RURAL DISTRICT – CHANGE OF 14 RENTAL CONDOMINIUM RESIDENTIAL UNITS TO 14 OWNER-OCCUPIED UNITS WITHIN EXISTING CONDOMINIUM SITE. REVIEW OF LEGAL DOCUMENTATION FOR MAINTAINING FUNDING FOR AFFORDABILITY.

No one was present representing this project.

2. QUESTIONS FROM THE PUBLIC

3. REVIEW DRAFT PLANNING BOARD BYLAWS.

Dater told the Board that only one member has returned comments & suggestions at this point so he asked the Board if they had any comments on draft #3.

Begin stated that she would like to see the wording on electing a chair & vice chair be expanded from the 5 regular members to include all members of the Planning Board, regular and alternate members. The alternates are Board members that have to abide by the chair and vice chair as well.

Genthner stated that at the Maine Municipal Association workshop training he recently attended for Planning Board members he learned that alternates are not actually members of the Board unless officially voted by existing Board members to sit on the voting panel.

Hunt stated that he was confused by the multiple emails on this with multiple drafts. He's not sure where they are now at all. He asked Dater to double check which draft is actually the newest one.

Dater stated that he would check to make sure that the Town Manager comments were part of draft #3, if not, he will do a draft #4 to help clarify things & sent it out to the Board.

Sage stated that on page 5 section E she broke that paragraph down into line items because she found it difficult to read. The contents are the same, she just felt her format was easier to read.

Dater stated that he will put this on next month's agenda for further discussion.

4. PLANNER'S REPORTS

None

E. ADJOURNMENT

On motion Genthner / Hunt to adjourn the meeting at 8:20 pm.

VOTE: 5-0 IN FAVOR

Respectfully submitted by:

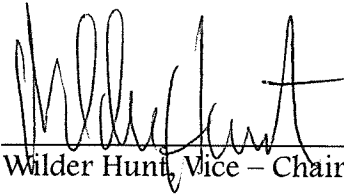


Rebecca J. Bartolotta, Deputy Clerk

We, the undersigned, do hereby approve the minutes of the April 2, 2018 Planning Board meeting:



Jonathan Eaton, Chairman



Wilder Hunt, Vice – Chairman



Neil Genthner

Shari Sage

Adam Maltese

Dated: 10/01/2018

