



**Town of Southwest Harbor
Planning Board Minutes November 21, 2024
Town Office and via Zoom 6:00 PM**

I. Call to Order:

Eric Davis called the November 21, 2024, Planning Board meeting to order at 5:59pm.

II. Roll Call:

Eric Davis, Lee Worcester, Charlotte Gill, Michael Levesque, Joel Wolak. John Williams via Zoom

Others Attending: CEO John Larson, Town Manager Karen Reddersen, Madilynn Michaud, Applicant Jose Feliciano, Applicant Sedge Saunders, Rob Leavitt, George Swetz, Rosanne Guerette, Michael Guerette, Tom Raynor, Julie Francis, Lori Morneault, Joe Morneault, Tom Benson

Absences: Priscilla Ksionzyk

III. Adoption of the Agenda:

Eric Davis adopted the November 21, 2024; agenda as presented.

IV. Approval of Minutes: November 7, 2024

Eric Davis motioned to approve November 7, 2024, minutes with minor corrections
Second by Lee Worcester. Motion passed 6 | 0 | 0

V. Public Hearing: Acadia Views Subdivision

Eric Davis motioned to open a public hearing at 6:07pm

Comments and concerns:

- Increased water runoff and erosion due to tree removal
- Lack of buffering between the proposed development and abutting properties
- Procedural irregularities in the application process, including the towns failure to notify abutters of the initial application filed in 2023 and the decision to waiver the stormwater drainage plan.
- Lack of clarity regarding the expiration of the original application and whether the project should be resubmitted under a new application

VI. Old Business:

Final subdivision Plan for Acadia Views
228 & 234 Main Street
Jose Orlando Feliciano
Map 007 Lots 029 & 031
Finding of Facts

STATE OF MAINE
MUNICIPALITY OF SOUTHWEST HARBOR
**FINDINGS OF FACT AND DECISION
ON APPLICATION FOR SUBDIVISION**

Subdivision Name: Acadia Views Subdivision Map 007 Lots 029 & 031
Property Owner: Jose Orlando Feliciano
Applicant's Name: Jose Orlando Feliciano
Applicant's Address: 234 Main Street, Southwest Harbor ME 04679

Before an application for subdivision approval may be approved, the municipal reviewing authority must determine that the proposed subdivision meets the following criteria;

1. POLLUTION. The proposed subdivision will not result in undue water or air pollution.
In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and sub soils and their ability to adequately support waste water;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resources rules and regulations;

Met ✓ Not Met NA

Reasons: The proposed subdivision will not result in undue water or air pollution. The Board considered the elevation, nature of soils, slope of the land and applicable state and local health rules.

Motion by: Lee Worcester Seconded by: Eric Davis

Discussion: None The motion carried unanimously. 6 | 0 | 0

2. SUFFICIENT WATER. The proposed subdivision has sufficient water available for the foreseeable needs of the subdivision;

Met ✓ Not Met NA

Reasons: The proposed subdivision is served by Town water and letter from Water Department states adequate water is available for the foreseeable needs of the subdivision.

Motion by: Eric Davis Seconded by: Lee Worcester
Discussion: None The motion carried unanimously. 6 | 0 | 0

3. MUNICIPAL WATER SUPPLY. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

Met ✓ Not Met NA

Reasons: Municipal water supply to be used. Letter from water department stating adequate water supply

Motion by: Eric Davis Seconded by: Lee Worcester
Discussion: None The motion carried unanimously. 6 | 0 | 0

4. EROSION. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

Met ✓ Not Met NA

Reasons: based on the face the subdivision involves minimal soil disturbance, will not cause unreasonable soil erosion.

Motion by: Eric Davis Seconded by: Charlotte Gill
Discussion: None The motion carried unanimously. 6 | 0 | 0

5. TRAFFIC. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing and proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of a urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveway or entrances conform to Title 23, section 704 and any rules adopted under that section;

Met ✓ Not Met NA

Reasons: Based on the fact that the amendment changes the property lines of two lots with one existing structure, will not cause unreasonable highway or public road congestion or unsafe conditions.

Motion by: Eric Davis Seconded by: Lee Worcester
Discussion: None The motion carried unanimously. 6 | 0 | 0

6. SEWAGE DISPOSAL. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

Met ✓ Not Met NA

Reasons: The project is served by public sewer and letter from sewer department stating sewer adequate and not cause unreasonable burden on municipal services

Motion by: Eric Davis Seconded by: Charlotte Gill
Discussion: None The motion carried unanimously. 6 | 0 | 0

7. MUNICIPAL SOLID WASTE DISPOSAL. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

Met Not Met **NA** ✓

Reasons: There is no Municipal solid waste disposal

Motion by: Michael Levesque Seconded by: Eric Davis
Discussion: None The motion carried unanimously. 6 | 0 | 0

8. AESTHETIC, CULTURAL AND NATURAL VALUES. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights of way for physical or visual access to the shoreline;

Met ✓ Not Met NA

Reasons: Based on that there are no rare or irreplaceable natural areas identified by the Department of Inland Fisheries and Wildlife or the municipality and is not located in the shoreland zone therefore will not have and undue adverse impact of scenic or natural beauty of the area.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

9. CONFORMITY WITH LOCAL ORDINANCES AND PLANS. The proposed subdivision conforms to a duly adopted subdivision regulation or ordinance,

comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

Met ✓ Not Met NA

Reasons: The proposed subdivision conforms to Town of Southwest Harbor, Subdivision Ordinance.

Motion by: Eric Davis Seconded by: Michael Levesque

Discussion: None The motion carried unanimously. 6 | 0 | 0

10. FINANCIAL AND TECHNICAL CAPACITY. The sub-divider has adequate financial and technical capacity to meet the standards of this section;

Met ✓ Not Met NA

Reasons: Letter from Machias Savings Bank dated July 11, 2023 made part of application.

Motion by: Eric Davis Seconded by: Michael Levesque

Discussion: None The motion carried unanimously. 6 | 0 | 0

11. SURFACE WATERS; OUTSTANDING RIVER SEGMENTS. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall review as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designed by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983.

Met Not Met N/A ✓

Reasons: No portion of the proposed subdivision is located within the shoreland zone.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

12. GROUND WATER. The proposed subdivision will not, alone or in conjunction with existing activities, adversely, affect the quality or quantity of ground water;

Met ✓ Not Met NA

Reasons: Planning Board granted wavier for stormwater plan on August 20, 2024

Motion by: Eric Davis Seconded by: Charlotte Gill
Discussion: None The motion carried unanimously. 6 | 0 | 0

13. FLOOD AREAS. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the sub-divider shall determine the 100-year flood elevation and flood hazard boundaries within subdivision. The proposed subdivision plan must include a condition of plan approval requiring that the principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

Met Not Met N/A ✓

Reasons: No part of the proposed subdivision is located within a flood area.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

14. FRESHWATER WETLANDS. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of local soil and water conservation district;

Met Not Met N/A ✓

Reasons: No wetlands have been identified proposed subdivision

Motion by: Lee Worcester Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

15. RIVER, STREAM OR BROOK. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the

application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38, section 480-B, subsection 9.

Met Not Met N/A ✓

Reasons: No river, stream or brook within or abutting proposed subdivision.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

16. STORM WATER. The proposed subdivision will provide adequate storm water management

Met ✓ Not Met NA

Reasons: Planning Board granted wavier from stormwater plan on August 20, 2024, due to minimal impervious areas being added to site. Therefore, a storm water plan isn't required.

Motion by: Lee Worcester Seconded by: Eric Davis
Discussion: None The motion carried unanimously. 6 | 0 | 0

17. SPAGHETTI-LOTS PROHIBITED. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

Met Not Met N/A ✓

Reasons: Not applicable, no part of proposed subdivision is in the shoreland zone.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

18. LAKE PHOSPHORUS CONCENTRATION. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

Met Not Met N/A ✓

Reasons: Not applicable, no freshwater in or near the proposed subdivision.

Motion by: Eric Davis Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

19. IMPACT ON ADJOINING MUNICIPALITY. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

Met Not Met N/A ✓

Reasons: No part of the proposed subdivision crosses municipal boundaries.

Motion by: Eric Davis Seconded by: Lee Worcester
Discussion: None The motion carried unanimously. 6 | 0 | 0

20. LANDS SUBJECT TO LIQUIDATION HARVESTING. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76.

Met ✓ Not Met NA

Reasons: Any harvest that has taken place in the past five years has been approved as defined in Title 12, section 8869, subsection 14.

Motion by: Lee Worcester Seconded by: Michael Levesque
Discussion: None The motion carried unanimously. 6 | 0 | 0

Other terms and conditions:

After reviewing the ordinance the board determined that a level one impact rating was appropriate for the project, which calls for buffering around parking areas and driveways

Lee Worcester motioned to declare that the project is a residential project for the purposes of buffering.

Seconded by Charlotte Gill. Motion passed 6 | 0 | 0

The board concluded that before deeming the application complete a new site needs to be submitted with the following:

- A plan for diverting water runoff along the western property line approximately halfway to pin # 1064
- The agreed-upon 8-foot fence along the western property line
- The deletion of any other proposed fencing shown on the previous plan.

Eric Davis motioned the application as presented is complete contingent upon the submission of a revised site plan that includes the items discussed.

Seconded by Michael Levesque. Motion passed 6 | 0 | 0

Jose Feliciano provided the revised site plan before the meeting adjourned. Members that were present signed the new and final site plan.

Date of Approval: November 21, 2024

A brief recess took place at 8:22pm for approximately 5 minutes.

VII. **New Business:**

Saunders, J.L. Inc D/B/A Harbor View Motel

11 Ocean Way Map 003 Lot 074; Harbor Zone

Demolish existing 1 story structure and rebuild a new 2 story structure on same footprint

After reviewing the completeness checklist, the board identified that the following was needed before the plan can be deemed complete

- Scale, north arrow and names of abutting property owners
- Dimensions and area of each lot
- Location of any abutting water body, streams, brooks and wetlands
- Size, shape and location of existing and proposed buildings and/or structures including dumpsters, piers, docks. Including setbacks from lot lines. Rights of way, water bodies.
- Outdoor lighting, signs: Existing and proposed
- Location and layout of parking areas with existing and proposed parking spaces (including commercial vehicle parking). Legal non-conforming parking spaces to be noted.
- Location of existing or proposed roads/driveways with setbacks from nearest lot line.
- Name/location of existing or proposed right of way and easements on the site or abutting the property

Eric Davis motioned the application was deemed incomplete, pending the submission of an acceptable site plan that addresses the identified deficiencies
Seconded by Lee Worcester. Motion passed 6 | 0 | 0

VIII. **CEO Issues:** None.

IX. **Next Meeting Date:** December 5, 2024

Eric Davis motioned to schedule the next meeting for December 5, 2024
Seconded by Lee Worcester. Motion passed 6 | 0 | 0

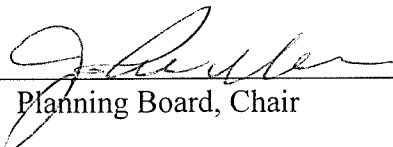
X. **Adjourn Meeting:**

Eric Davis Motioned to adjourn at 9:04pm

Respectfully submitted,

Madilynn Michaud
Deputy Clerk

APPROVED



Planning Board, Chair

Date: 3/20/25