



Southwest Harbor Planning Board  
Regular Meeting  
September 12, 2013 @ 6:00 PM  
Municipal Town Office

**MINUTES**

- I. Call to Order/Roll Call:** The meeting was called to order at 6:00 p.m. Present: Lee Worster, Eric Davis, Mike Magnani, Chris Rawls and CEO Donald Lagrange.
- II.** A public hearing was scheduled to discuss changes in the description of the Maritime Activity zone, the definition of Inn and Motel, the zone change on Clark Point Road in a portion of the CMFA zone and the Harbor zone to Maritime Activity zone and the DEP conditional requirements to be inserted into the Land Use Ordinance. Lee Worster presented the changes to the visitors. Jeff Berzinis questioned ultimate goals of these changes. This was a second Planning Board public hearing on these issues due to the first hearing not being properly advertised. This hearing was advertised twice as required by section XI of the Land Use Ordinance
- III.** There being no further discussion during the public hearing, a motion by Lee Worster and second by Mike Magnani at 6:25 PM to adjourn public hearing. Voted 4/0/0
- IV.** Acting chairman Chris Rawls called to order the regular meeting.
- V** Members present included: Lee Worster, Eric Davis, Mike Magnani, Chris Rawls and CEO Donald Lagrange.
- VI.** The minutes of August 22 were not available to accept and the chairman requested to place on the next regularly scheduled meeting.
- VII.** There were no visitors not on the agenda.
- VIII:** A site plan application by Fairwinds Management Maine, LLC was presented by owner James Patton for a land use change of the property formerly known as Double J at the corner of Mansell Lane and Seawall Road to include a restaurant, gift shop, office and residences. Location identified as 201 Seawall Road, Map 17, Lot 56 of the SWH tax maps.

A memo from the CEO stated the application was complete and the Planning Board agreed items 1-16 site plan requirements have been addressed. Motion by Lee Worster to accept the recommendations of the CEO the application is complete and proceed to the performance standards, second by Eric Davis, Voted 4/0/0

The Planning Board found the following performance standards not applicable for the stated reasons:

**B Clearing of vegetation**

Clearing of vegetation is required for review in shore land zones. This 1 parcel is located inland in Zone B and therefore review is not necessary.

**F. Fill and Excavation**

Fill will be included as part of the construction permit and is not applicable for the review.

**H. Flood Hazard Permit**

Location of proposed structure is beyond the Flood Zone as indicated on the FEMA maps and a permit is not required.

**J. Heavy Commercial or Industrial Pollutants**

Not applicable due to the use of structure being non-industrial.

**K. Noise**

Except for activities during construction, this commercial use does not require any review criteria for noise control.

**M. Road Standards**

No roads exist on property and this is not applicable.

**O. Sign Regulations**

Any signage to be permitted by CEO.

**R. Stream Standards**

No stream on parcel

**S. Vibration Standards**

There will be no vibration activity on site during construction or post construction.

**T. Water Quality Standards**

There are no activities which require water quality monitoring or assessment.

**U. Water Supply Standards**

Current user of town water services; Water Supply Standard is not applicable.

A motion by Lee Worcester the above performance standards B, F, H, J, K, M, O, R, S, T & U are not applicable to the Fairwinds application, second by Eric Davis. Voted 4/0/0

The Planning Board discussed the following performances standards and agreed they are applicable to the application as noted:

**A. Landscaping/Buffering**

Current vegetation surrounding the property will provide a portion of buffering requirements. The applicant made the representation he would also plant 4-6' arborvitae on the north and east sides of the property and low lying shrubs elsewhere. The arborvitae will be maintained at 6-8' height.

A motion by Lee Worcester that the impact of this development was low level according to Section VI (A) of the Land Use Ordinance, second by Eric Davis. Voted 4/0/0. A motion by Lee Worcester to accept the proposal of the applicant for buffering to meet the definition of low level activity, second by Eric Davis. Voted 4/0/0

C. Driveway and Driveway opening

A DOT entrance permit will be required for the main entrance off route 102A. Also, an 10' exit driveway to Mansell Lane is proposed, which must remain one way.

A motion by Eric Davis the applicant will apply for a DOT entrance permit and that the exit drive to Mansel Lane will remain as a one way egress only, second by Mike Magnani. Voted 4/0/0

D. Erosion/Sedimentation Controls

Staked hay bales or comparable methods on site for erosion and sedimentation controls.

A motion by Lee Worcester, second by Mike Magnani that erosion and sedimentation controls will installed as needed according the Maine State Best Management practices for erosion and sedimentation controls as a condition of this application. Voted 4/0/0

E. Exterior Lighting

Lighting as noted will be shielded lights and not reflect beyond the property lines.

A motion by Eric Davis that all lighting will be shielded and not reflect beyond property lines according to the Land Use Ordinance, second by Lee Worcester. Voted 4/0/0

G. Fire Protection

Plans for transient accommodations, marinas, nursing homes, convalescent centers, multifamily developments, hospitals, schools, theaters, mercantile developments over 3000 sq.ft, business occupancy of 2 or more stories, etc. shall be approved by the State Fire Marshal's Office.

A motion by Lee Worcester this project does not require review by the State Fire Marshalls office but is highly recommended. Second by Eric Davis, Voted 4/0/0

I. Handicap Access

A condition to this application the applicant must confirm ADA requirement compliance according to the State Fire Marshall.

Motion by Lee Worcester, second by Eric Davis the applicant will contact State Fire Marshall office for ADA compliances. Voted 4/0/0

L. Parking and Loading Standards.

A total of 20 parking spaces is provided which allows for (2) residential spaces; (1) space for office; (2) spaces for up to 4 employees; and (15) spaces for up to sixty (60) restaurant seats.

A motion by Eric Davis, second by Lee Worcester the proposed parking area meets the requirements of Section VI, (L) (f)(h)(g) of the Land Use Ordinance. Voted 4/0/0

**N. Sewerage Disposal Standards**

A grease trap is required for any new food preparation area.

A motion by Lee Worcester, second by Eric Davis a grease trap be installed prior to the issuance of an occupancy permit. Voted 4/0/0

**P. Soil Standards**

The Planning Board should determine if construction of structure will not cause an adverse impact on the environment including, but not limited to, erosion, soil movement, improper drainage and water pollution.

A motion by Eric Davis, second by Lee Worcester soil erosion and sedimentation controls will be according to State standards, also noted in performance standard (D). Voted 4/0/0

**Q. Storm Water Runoff Standards**

A determination is required that the project has been designed to minimize storm water runoff from the site in excess of the natural predevelopment conditions and that the flow will not affect abutters.

A motion by Lee Worcester, second by Mike Magnani that the representation made by owner that all drainage will lead away from abutters to street catch basins or drainage swales. Voted 4/0/0

A motion by Eric Davis, second by Lee Worcester the above performance standards A, C, D, E, G, I, L, N, P & Q are applicable to this site plan and approved according to the representations made by the owner and will be conditions to approval. Voted 4/0/0

The CEO noted other conditions 1-4 on page five of the memo was previously agreed to by applicant designated by signature.

A motion by Lee Worcester, second by Eric Davis, based on the review of the plans, representations by the applicant and submissions included in the CEO memo, the applicant has met his burden to satisfy the requirements of the Land Use Ordinance and thereby approved the application. Voted 4/0/0

**IX:** The CEO presented a potential conflict between the Planning Board ordinance and the By-Laws regarding the meeting schedules. The Ordinance requires the Chairman to call at least one regular meeting of the Board each month. The By-Laws state the Board shall meet at 5:00 PM on the first and third Thursday of the month. A motion by Lee Worcester, second by Eric Davis to recommend to change the By-Laws to state a meeting at 6:00 PM on the first Thursday of each month be included in the By-Laws and submitted to the Selectmen for approval. Voted 4/0/0

**X:** There being no other business, a motion by Mike Magnani, second by Lee Worcester to adjourn meeting. Voted 4/0/0