

PLANNING BOARD

PACKET OF MATERIALS

MEETING MARCH 21, 2018

Cover page with date

Agenda

Minutes for approval

Applications

Supporting Documents

Agenda
Bar Harbor Planning Board
Wednesday, March 21, 2018
Council Chambers- Municipal Building
93 Cottage Street
6:00 P.M.

I. CALL TO ORDER

II. ADOPTION OF THE AGENDA

III. EXCUSED ABSENCES

IV. PUBLIC COMMENT PERIOD *(The Planning Board allows up to 15 minutes of public comment on any subject not on the agenda and not a pending application before the Board, with a maximum of three minutes per person.)*

V. APPROVAL OF MINUTES

a. March 7, 2018

VI. REGULAR BUSINESS

a. Sketch Plan Review: PUD-2017-02 Planned Unit Development - Village

Project Location: 25 West Street Extension, Bar Harbor Tax Map 103, Lots 048-000 & 049-000

Applicant: BH Apts., LLC

Application: The applicant is proposing to construct four new buildings with two dwelling units in each and reconfigure the existing dwelling unit layout. The project will not result in any more units than the existing total of 16.

b. Public Hearing: LU-2018-01 - Zoning District Boundary Line Relocation

Project Location: 1200 State Highway 3, Bar Harbor Tax Map 213, Lot 008-001

Applicant: Stewart Brecher for Downeast Horizons, Inc.

Application: The applicant is proposing to relocate the district boundary of the Town Hill Rural district to include all of Tax Map 213, Lot 008-001 which is currently in the Town Hill Residential and Town Hill Rural districts.

c. Public Hearing: SP-2018-01 – Jack Russell’s Steakhouse and Brewery

Project Location: 102 Eden Street, Bar Harbor Tax Map 101, Lot 010-000

Applicant: G.F. Johnston & Associates for Jack Russell’s Steakhouse and Brewery

Application: The applicant is proposing to change the use of the existing structure to a restaurant

d. Final recommendation – Statewide Timber Harvesting Provisions - The Planning Board will make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted.

- e. **Final recommendation – Integration of Appendix C and Neighborhood District Maps into Article III** - The Planning Board will make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted.
- f. **Final recommendation – Shoreland Zoning Corrections Required by Maine Department of Environmental Protection** - The Planning Board will make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted.

VII. OTHER BUSINESS

- a. **Pending Applications (none)**
- b. **Regulating Vacation Rentals Course in Augusta 04/04/18**
- c. **Dormitory**

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

IX. ADJOURNMENT

**Minutes
Bar Harbor Planning Board
Wednesday, March 7, 2018
Council Chambers- Municipal Building
93 Cottage Street
6:00 P.M.**

I. CALL TO ORDER

The Chair called the meeting to order at 6:00 PM. Members present: Tom St. Germain, Chair; Basil Eleftheriou, Jr., Secretary; John Fitzpatrick, Member; Alf Anderson, Member; and Joseph Cough, Vice Chair.

Also present: Angela Chamberlain, Code Enforcement Officer & Interim Planning Director.

II. ADOPTION OF THE AGENDA

Mr. Cough moved to adopt the agenda as prepared and to table item VIa. to the March 21, 2018 meeting at the applicant's request. Mr. Fitzpatrick seconded the motion and the Board voted 5-0 to approve the motion.

III. EXCUSED ABSENCES

There were none.

IV. PUBLIC COMMENT PERIOD

Mr. Josh Ehrlich spoke on behalf of a Climate to Thrive and asked the Board if they would consider discussing a land use ordinance amendment to allow stand alone solar panels, not accessory to structures in rural districts. The Board agreed to discuss the request during their comment period at the end of the meeting.

V. APPROVAL OF MINUTES

February 21, 2018

Mr. Anderson moved to approve the minutes of the February 21, 2018 meeting as prepared. Mr. Cough seconded the motion and the Board voted 3-0-2 to approve the motion with Mr. Fitzpatrick and Mr. Eleftheriou, Jr. abstaining.

VI. REGULAR BUSINESS

- a. Sketch Plan Review: PUD-2017-02 Planned Unit Development - Village**
Project Location: 25 West Street Extension, Bar Harbor Tax Map 103, Lots 048-000 & 049-000
Applicant: BH Apts., LLC
Application: The applicant is proposing to construct four new buildings with two dwelling units in each and reconfigure the existing dwelling unit layout. The project will not result in any more units than the existing total of 16.

The item was tabled to the March 21, 2018 meeting.

- b. Completeness Review: SP-2017-07 – The Woods of Eden Tent Camping - Campground**
Project Location: Corner of Seabury Drive and Route 3, Bar Harbor Tax Map 207, Lot 032-000
Applicant: Nancy Sweeney for The Woods of Eden Tent Camping
Application: The applicant is proposing to operate a campground with eight tent platforms and tents.

The applicant explained the project as being upscale camping in tents on wooden platforms with bedrooms, a bathroom, and kitchen sink. She noted that cooking would be done outside on grills.

The Board reviewed and discussed the waiver requests. Mr. Eleftheriou, Jr. asked if there were any covenants on this property. The applicant stated that there were not. Mr. Eleftheriou, Jr. asked if the tents were going to have exterior lighting. The applicant said that there was and the Board requested additional information on the lighting.

Mr. Eleftheriou, Jr. moved to accept the waiver requests except item 6E. "Water Capacity Statement." Mr. Anderson seconded the motion and the Board voted 5-0 to approve the motion.

Mr. Eleftheriou, Jr. moved to find the application complete pending the receipt of items 9CC. "Fire/Emergency Equipment Site Access"; 3B. a copy of the SIGNED purchase and sale agreement; 21. "Lighting Plan" specifically, the manufacturers spec sheets and radius of intensity of illumination; a statement describing the number of trips per day to satisfy item 23A.; a statement describing the trash disposal plan for item 19.; and a explanation on what constitutes a engineered subsurface wastewater disposal system in the State plumbing code, all items must be submitted prior to the end of the day on March 16, 2018 to be considered for a public hearing on April 4, 2018. Mr. Fitzpatrick seconded the motion and the Board voted 5-0 to approve the motion.

The Chair asked if any member of the public wished to speak on this application.

Mr. John Kelly spoke and wanted to make sure the Board was aware that the fire pond in the subdivision was on private property and there were no rights of ways to anyone else in the subdivision to access it. He added that in the past, the Fire Chief had stated that Hamilton Pond would be used for water.

Ms. Ruth Calas spoke and expressed her concerns as a direct abutter with control of dogs and whether there would be fencing or clear borders to keep people on the campground property. She also asked who was in charge and who do neighbors contact if they have issues or concerns.

The Chair closed the public hearing.

VII. OTHER BUSINESS

a. Dormitory Use Land Use Ordinance Amendment

The Board agreed to keep this item on the agenda and to discuss when time permitted. The Board reviewed the suggestions from some operators of employee housing, and discussed amendments to the draft language and areas where the uses were appropriate.

b. Pending Applications

There were no new applications to report.

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

The Board discussed the request to consider and support an amendment to allow stand alone solar systems. The Board expressed a general consensus that they would support such an amendment. Mr. Ehrlich asked what the next steps were to start the process and the Board offered to work on this amendment as a Planning Board initiated amendment.

Mr. Cough moved to request that Staff look at ordinances in other communities in anticipation of a November warrant article. Mr. Fitzpatrick seconded the motion and the Board voted 5-0 to approve the motion.

Mr. Cough asked if there was any interest among the Board members to have a discussion regarding conditional uses to tighten up the ordinance to prevent a project such as the Mount Desert Street B&B from happening again. Mr. Anderson noted that he would be more comfortable looking at the definition of Bed and Breakfast because that's where he had concerns during the review of that project. Mr. Cough asked Staff to prepare draft language. Staff noted that this would be on a to-do list, this could not be committed to immediately because of other priorities.

Mr. St. Germain asked the Board to note the latest Polco question regarding Lyme disease.

Mr. St. Germain asked if the Board had any interest in looking at the campground standards and definition which he noted was not very strict and loosely regulated. There were no concerns.

IX. ADJOURNMENT

Mr. Anderson moved to adjourn at 8:25 PM. Mr. Eleftheriou, Jr. seconded the motion and the Board voted 5-0 to approve the motion.

Signed as approved:

Basil Eleftheriou, Jr., Secretary
Planning Board, Town of Bar Harbor

Date



**Town of Bar Harbor
Planning Department
Staff Report – March 21, 2018 Planning Board Meeting**

Sketch Plan Review – PUD-2017-02 Planned Unit Development – Village

There is a staff report in your packet. Pursuant to section 125-72, at this meeting you are required to take the following action:

- Set a date for a site inspection within 30 days;
- Act on the waiver requests;
- Set a date for a neighborhood meeting;
- Entertain brief public comment on the proposal, if any.

Public Hearing – LU-2018-01- Zoning District Boundary Line Relocation

Pursuant to section 125-9A.(2)(e), the Board shall:

- Hear the request;
- Accept public comment on the request; and do one of the following:

- Recommend to the Town Council the written request as submitted;
- Recommend with amendments or conditions that would bring the proposal into conformance with the most recently adopted comprehensive plan;
- Take no action

Public Hearing – Jack Russell’s Steakhouse and Brewery

There is a staff report and draft decision in your packet.

Public Hearing – Statewide Timber Harvesting Provisions

The final language is available on the town website at <http://www.barharmoraine.gov/207/Land-Use-Information>, in the Planning office, or by email. Hard copies are in your boxes in the Planning Office.

The Planning Board must make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted. The recommendation will be printed on the warrant.

The Board could make the following motion:

“move to recommend that the amendment ought to be adopted.”

Public Hearing – Integration of Appendix C and Neighborhood District Maps into Article III

The final language is available on the town website at <http://www.barharbormaine.gov/207/Land-Use-Information>, in the Planning office, or by email. Hard copies are in your boxes in the Planning Office.

The Planning Board must make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted. The recommendation will be printed on the warrant.

The Board could make the following motion:

“move to recommend that the amendment ought to be adopted.”

Public Hearing – Shoreland Zoning Correction required by Maine DEP

The final language is available on the town website at <http://www.barharbormaine.gov/207/Land-Use-Information>, in the Planning office, or by email. Hard copies are in your boxes in the Planning Office.

The Planning Board must make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted. The recommendation will be printed on the warrant.

The Board could make the following motion:

“move to recommend that the amendment ought to be adopted.”

Regulating Vacation Rentals Course in August 04/04/18

There is at least one Board member that has expressed an interest in attending this course on regulating Vacation Rentals. I have already signed up to attend and if any Board members would like to attend, I would be happy to register them. If any Board members express interest, I would suggest that you schedule your April 4, 2018 meeting at 7:00PM rather than 6:00PM to accommodate travel time.

Dormitory Use

There is an updated draft dated March 7, 2018 in your packet.



Town of Bar Harbor Planning Department Staff Report

Application:
PUD-2017-02

Meeting Date:
March 7, 2018 – Sketch Plan Review

Applicant:
BH Apts. LLC
1000 Market Street
Building One, Suite 300
Portsmouth, NH 03801

Applicant's Representative:
The Moore Companies
P.O. Box 120
Hulls Cove, ME 04644

Project Location:
25 West Street Extension
Map 103, Lots 048-000 and 049-000

Land Use District:
Village Residential District

Permitted Use:
PUD-V

Project Description:
The applicant proposes to construct four new buildings with two dwelling units in each and reconfigure the existing dwelling layout. The project will not result in any more units than the existing total of 16.

Applicable Laws:
Bar Harbor Land Use Ordinance section 125-66 lists all submission requirements the applicant is required to provide as part of the site plan/subdivision application.

Bar Harbor Land Use Ordinance section 125-67 contains the General Review Standards the Planning Board shall use to verify site plan compliance.

Bar Harbor Land Use Ordinance section 125-68 contains the shoreland standards that the proposed plan must comply with.

Bar Harbor Land Use Ordinance section 125-69 S. contains the standards for particular uses that the proposed plan must comply with.

S. Planned Unit Development - Village (PUD-V).

(1) Purpose and intent.

(a) The purpose of the Planned Unit Development - Village is to provide an opportunity for residential subdivision developments in the villages of Bar Harbor to embody the principles of:

- [1] Clustering of dwelling units to create public parks and gardens;
- [2] Compatible design;
- [3] Providing adequate access to local goods, services and employment; and
- [4] Reducing negative impacts to the environment from the development.

(b) A PUD-V is also offered to seek development projects that:

- [1] Include affordable housing;
- [2] Follow the guidelines for the Great American Neighborhood;
- [3] Complement the visual character of the district; and
- [4] Encourage infill development, specifically allowing for growth where Town services, roads, and pedestrian access already exist.

(c) The intent of PUD-V is to encourage development which benefits the Town as a whole by offering financial incentives. The PUD seeks to provide for enhanced planned developments by:

- [1] Allowing greater freedom of design;
- [2] Improving the opportunity for flexibility and creativity in the land development process; and
- [3] Undertaking techniques which foster community and pedestrian access.

(2) District and authority.

(a) The Planned Unit Development-Village is an overlay option to zoning in existing neighborhood districts. The districts in which the PUD-V overlay is permitted are Downtown Village I and II; Downtown Residential; Bar Harbor Residential; and Village Residential, where served by the Town sewer system; and Hulls Cove Business, where served by the Town sewer system. Properties in the above-noted neighborhood districts with a portion of land in the Shoreland Residential, Shoreland Commercial I and II, Resource Protection and Stream Protection Neighborhood Districts may apply for a PUD-V; however, these properties must still meet shoreland standards contained in § 125-68.

(b) Applicants may choose to permit a project as a PUD-V; otherwise the underlying zoning requirements apply.

(c) The Planning Board is the permitting authority for a PUD-V; however, any other permits and approvals required must be sought and received by the applicant. A PUD-V does not relieve the applicant from obtaining any local, state and/or federal permits that may be required.

(3) PUD-V process.

(a) The PUD-V process shall include the requirements of a subdivision approval process as outlined in Articles V and VI. Any modification upon approval shall be subject to the requirements of § 125-58B.

(b) In addition to Subsection S(3)(a) above, applicants shall prepare a site analysis diagram graphically identifying major physical features of the site, including but not limited to existing structures and improvements, land cover type, wetlands, watercourses and significant vernal pools, slopes greater than 20%, and district boundaries. The site analysis shall identify context of the neighborhood surrounding the project area by showing graphically the relationship of proposed new structures or alterations to nearby preexisting structures in terms of character and intensity of use (e.g., scale, materials, setbacks, roof and cornice lines, and other major design elements). The analysis shall also include a graphic illustration of the visual impacts and viewshed alterations that the proposed development will have on neighboring properties because of the location and configuration of proposed structures, parking areas, open space, and gradient changes.

(c) Prior to submitting an application for a PUD-V, and after the submission of the sketch plan, the Planning Department will hold a neighborhood meeting. Abutters within 300 feet of the application parcel shall receive notice of this meeting.

(4) Parcel size and eligibility.

(a) The minimum size of a parcel seeking application for PUD-V shall be the minimum lot size in its neighborhood district.

(b) The application parcel cannot contain in the aggregate more than 30% of the following land type(s):

- [1] Wetlands and significant vernal pools;
- [2] Sustained slopes greater than 20%;
- [3] Areas within 75 feet, horizontal distance, of the shoreline of a stream, great pond, river, coastal wetland or significant vernal pool;
- [4] Floodplains.

(c) An application for a PUD-V may consist of land in more than one ownership, provided that all land comprising the parcel lies entirely within the PUD-V overlay district and is contiguous. Lots separated by a minor street as defined may be considered contiguous for this purpose.

(d) Proposed developments may include preexisting buildings, provided that all PUD-V requirements are satisfied by each new or existing building and these are included in calculations for the PUD-V as a whole.

(5) Permitted uses. The Planning Board may consider the allowance of multifamily dwellings not otherwise allowed in the underlying district when the construction of multifamily dwelling structures will result in the creation and/or retention of larger

buffers, open space and recreation areas that might not be possible otherwise in the development, reduce negative impacts on the environment and will be consistent with the purpose and intent of this provision.

(6) Intensity of development.

(a) Number of allowable dwelling units.

[1] Applications shall show the density allowed for a conventional subdivision application. This density shall be used in calculations for requisite open space, affordable unit dedication and also as the base requirement that the Planning Board may increase as noted below. This calculation is the "base development density." Land encumbered at the time of the application by conservation easement cannot be included in the calculation of base development density.

[2] An increase in the number of dwelling units above the base development density shall be considered for the following provisions:

[a] For every additional affordable dwelling unit, an additional market-rate dwelling unit may be allowed.

[b] For 10% of open space dedicated on the application parcel, an additional market-rate dwelling unit may be allowed.

[c] For the provision by deed and construction of active recreation space, an additional market-rate dwelling unit may be allowed.

[d] For projects that meet, either by application or by affidavit for adherence during construction, the standards of Leadership in Energy & Environmental Design of the U.S. Greenbuilding Council ("LEEDS") or an approved equivalent, for all dwelling units, an additional market-rate dwelling unit may be allowed.

[e] For projects that propose to construct new pedestrian amenities to connect the proposed development to other areas, amenities or goods and services, an additional market-rate dwelling unit may be allowed.

[f] For projects that provide formal access to public transportation, an additional market-rate dwelling unit may be allowed.

[g] For projects that restore or preserve an historic resource existing on the property as part of the application, an additional market-rate dwelling unit may be allowed.

[h] For projects that place all public utilities, other than stormwater management systems, underground on the application parcel, an additional market-rate dwelling unit may be allowed.

[3] A PUD-V may never exceed the allowable number of dwelling units by more than twice the base development density.

(b) Affordable units and lots. In the final plan the minimum number of affordable units or lots must be 20% of the base development density. These units and lots must be in compliance with § 125-69R.

(c) Open space.

[1] All PUDs with an application parcel greater than five acres shall set aside by deed or easement an area in square footage at least 20% of the application parcel as open space.

[2] Open space calculations may not include land that is under conservation easement at the time of application.

[3] Open space shall be contiguous.

[4] No more than 75% in the aggregate of the following land types can be used in the calculation of open space:

[a] Wetlands and significant vernal pools;

[b] Sustained slopes greater than 20%;

[c] Stormwater management systems; and

[d] Area(s) within 75 feet, horizontal distance, of the normal high water line of a stream, great pond, river, saltwater body, or significant vernal pool.

[5] Restrictive language. The applicant shall present the Planning Board with proposed language for incorporation into deeds, recorded plans and declarations designed to ensure the integrity, protection and maintenance of the common open space. Such language shall be subject to the approval of the Town Attorney to be sure it will accomplish its intended purposes. The applicant will comply with all reasonable requests of the Town to incorporate such language in appropriate documentation to ensure the purposes of this section will be met.

(d) Setbacks and lot coverage.

[1] Setbacks may be modified through review by the Planning Board to ensure the purpose and intent of this chapter is met.

[2] The aggregate lot coverage of a PUD-V cannot exceed that of the neighborhood district.

[3] In no event shall height requirements be allowed to exceed the requirements of the underlying neighborhood district.

(e) Other standards. The standards found in § 125-67 may be considered for modification in instances where the applicant adequately shows that the proposed application meets the purpose and intent of a PUD-V.

(7) Criteria for approval.

(a) In reviewing PUD-V applications, the Planning Board shall use the requirements found in §§ 125-67 and 125-69 as applicable and as may be modified to meet the purpose and intent of a PUD-V.

(b) The Planning Board also shall use the requirements of § 125-68, which shall not be modified, for review of property in a shoreland zone(s) as may be applicable.

(c) All Planning Board approvals of PUD-Vs are contingent upon the development meeting the express purpose and intent of a PUD-V.

Staff Recommendation

Section 125-72 A. – Sketch Plan Review:

Staff has reviewed the application for compliance with the submittal requirements contained in section 125-72 and has found all the required submittal items were provided.

Public Comment – Staff recommends that the Board accept any brief public comment concerning the application.

Waivers – Staff recommends that the Board accept the waivers as requested.

Neighborhood Meeting – Staff will coordinate a neighborhood meeting as required in section 125-69 S. (3)(c).



Town of Bar Harbor Planning Department Staff Report

Application:

SP-2018-01

Meeting Date:

February 21, 2018 - Completeness Review

March 21, 2018 - Public Hearing

Applicant:

Jack Russell's Steakhouse and Brewery
8 Eagle Lake Road
Bar Harbor, ME 04609

Applicant's Representative:

G.F. Johnston & Associates, Inc.
P.O. Box 197
Southwest Harbor, ME 04679

Project Location:

102 Eden Street
Map 101, Lot 010-000

Land Use District:

Bar Harbor Gateway

Permitted Use:

Restaurant

Project Description:

The applicant proposes to change the use of the existing building to a restaurant.

Applicable Laws:

Bar Harbor Land Use Ordinance section 125-66 lists all submission requirements the applicant is required to provide as part of the site plan/subdivision application.

Bar Harbor Land Use Ordinance section 125-67 contains the General Review Standards the Planning Board shall use to verify site plan compliance.

Bar Harbor Land Use Ordinance section 125-68 contains the shoreland standards that the proposed plan must comply with.

Staff Recommendation

Section 125-61 E. - Completeness Review:

Staff has reviewed the application for completeness and determined that the following items are missing:

Section 125-67 – Suggestions for Compliance:

Staff has completed a preliminary compliance review of the proposed project. Staff recommends the Board request additional information from the applicant in the following areas:

1. **Photographs** - 125-66 L. states the “existing improvements on the site and 200 feet thereof” be shown. Photographs have been provided but they are not recent photographs since no photos of the existing building under construction are shown. The Board may find it helpful to see photos of the structure as it exists today. **Photographs have been submitted.**
2. **Building Plans** – 125-66 R. states that building plans should be supplied showing “elevations, indicating the height of the structure and proposed materials and exterior colors”. There is virtually no information about the proposed structure in the way of plans. Additionally, the plans supplied reference the IRC code which is for residential construction. The plans should be revised to show that the building will be constructed to the appropriate code. Revised building plans were submitted.
3. **Building Plans** – 125-66 R. states that building plans should be supplied showing “proposed use of all floor area, including basements and attics”. **There are no building plans or floor plans on the section of the building that connects the old building to the new addition. There is no information on how the basement will be used. There is still no information about the “breezeway” addition.**
4. **Building Plans** – The building plans need to be stamped by an appropriate design professional pursuant to state law. **Revised plans were submitted.**
5. **State Fire Marshal approval** – The Fire Marshal still has not approved this project.
6. **Parking** – Spaces 1, 17 and 18 are located in the side setbacks. Are these legally nonconforming spaces? If so, is there adequate documentation to support that?

Staff Recommendation

Waivers – The Board acted on the waiver requests at the February 21, 2018 meeting.

Completeness - The Board found the application complete on February 21, 2018 but asked that the following additional information be submitted before March 2, 2018:

- 6B. Public Works Capacity Statement*
- 6C. Sewer Department Capacity Statement*
- 6E. Water Department Capacity Statement*
- 9F. Locations of Lot Monumentations on the site plan*
- 9M. Items within 200' on the site plan*
- 18B. Fire Marshal approval*

Documents were submitted for these exhibits on March 2, 2018.

Public Comment – Staff recommends that the Board accept any brief public comment concerning the merits of the application.

TOWN OF BAR HARBOR

PLANNING BOARD

93 Cottage Street, Suite I
Bar Harbor, Maine 04609-1400
Tel. 207-288-3329 Fax 207-288-3032

DECISION

Date: March 21, 2018

Application: SP-2018-01 Jack Russell's Steakhouse & Brewery

Project Location: 102 Eden Street (Map 101, Lot 010-000)

Applicant: Jack Russell's Steakhouse & Brewery

Application: The applicant proposes to use of the existing building to a restaurant

Zoning District: Bar Harbor Gateway district

Permitted Use: Restaurant

To the Code Enforcement Officer:

Under the authority and requirements of the Land Use Ordinance Article V, Section 125-61. F, at the properly noticed public hearing on March 21, 2018, by a motion duly made and seconded, it was voted to approve the noted application.

This approval is based upon the following submitted plans:

1. "Basement Floor Plan", exhibit SH1, dated March 2, 2018 and prepared by Gregory F. Johnston.
2. "First Floor Plan", exhibit SH2, dated March 2, 2018 and prepared by Gregory F. Johnston.
3. "Second Floor Plan", exhibit SH3, dated March 2, 2018 and prepared by Gregory F. Johnston.
4. "Elevations", exhibit SH4, dated March 2, 2018 and prepared by Gregory F. Johnston.
5. "Site Plan", exhibit C1, dated March 2, 2018 and prepared by G. F. Johnston & Associates.

This approval is based upon the following FINDINGS AND CONCLUSIONS OF LAW:

1. Based on the documents received, this application meets the requirements under the Land Use Ordinance Article V.
2. Based upon the documents received, and accepting the work of the professionals who have prepared the documents, this application meets the requirements of Section 125-67 as found below:
 - a. The Board finds the use of the property for restaurant is a permitted use in the Bar Harbor Gateway district.
 - b. The Board finds that the development will meet the minimum lot standards for the Bar Harbor Gateway district.
 - c. The Board finds that the development will meet the minimum height requirements for the Bar Harbor Gateway district.
 - d. The Board finds that the development will meet the requisite parking standards.
 - e. The Board finds that the development will meet the minimum parking areas and driveways standards.
 - f. The Board finds that the minimum loading requirements are not applicable to this application.
 - g. The Board finds that the streets, sidewalks and access standards are not applicable to this project.
 - h. The Board finds that the buffering and screening standards are not applicable to this project.
 - i. The Board finds that the development will meet the municipal water standard.
 - j. The Board finds that the groundwater standards are not applicable to this project.
 - k. The Board finds that the development will meet the stormwater management standards.
 - l. The Board finds that the development will meet the municipal sewer facilities standard.
 - m. The Board finds that the sewage waste disposal standards are not applicable to this development.
 - n. The Board finds that the development is located in an area where the soils are not rated severe or very severe for the proposed activity.
 - o. The Board finds that the landscaping requirements are not applicable to this application.
 - p. The Board finds that the development will not cause unreasonable soil erosion.
 - q. The Board finds that the development is not located within a flood prone area.

- r. The Board finds that the development will not result in undue air pollution.
- s. The Board finds that the refuse disposal standards are not applicable to this application.
- t. The Board finds that the dangerous and hazardous materials and wastes standards are not applicable to this application.
- u. The Board finds that no vibration will be transmitted outside the proposed development.
- v. The Board finds that there are no significant spawning grounds or wildlife habitat located on this property.
- w. The Board finds that there are no rare and irreplaceable natural areas located on this property.
- x. The Board finds that the development will not cause radiant heat to be perceptible beyond the proposed development.
- y. The Board finds that the development will meet the lighting standards.
- z. The Board finds that the proposed development will comply with the Bar Harbor Noise Ordinance.
- aa. The Board finds that the sign standards are not applicable to this application.
- bb. The Board finds that the development does not include the outdoor storage of materials.
- cc. The Board finds that the development will meet the utilities standard.
- dd. The Board finds that the development will not cause an unreasonable burden on the Municipal Fire Department. **See Condition # 1.**
- ee. The Board finds that the development conforms to the Comprehensive Plan.
- ff. The Board finds that the applicant meets the financial and technical capacity standard.
- gg. The Board finds that there is no registered farmland in Bar Harbor.
- hh. The Board finds that the Town is able to provide municipal services to the proposed development.
- ii. The Board finds that there are no known violations of the Bar Harbor Land Use Ordinance.
- jj. The Board finds that the legal documents standard is not applicable to the proposed development.
- kk. The Board finds that the site does not contain any historic and archaeological resources.
- ll. The Board finds that the utilization of the site standard is not applicable to the proposed development.
- mm. The Board finds that there are no natural features of interest located on the property.

The applicant is advised of the following:

1. No modifications shall be made to this approval including changes to the plans, accompanying documents, and conditions without a review for a modification under the requirements in Section 125-88 of the Land Use Ordinance.
2. This permit does not relieve the applicant from any other local, state or federal permits that may be required for this proposed development.
3. Please refer to Article VIII for standards conditions that will be applied to the construction of this project. No performance bonds are required.
4. Building permits are required for this project.
5. There is an appeal period for any interested party of 30 days to appeal this decision of the Planning Board. It is the risk of the applicant to commence construction during this period.
6. Violations of any conditions placed upon this approval are subject to enforcement per Article IX, Section 125-100 B of the Land Use Ordinance.

Condition of Approval:

1. Prior to the issuance of a change of use building permit, the applicant must obtain a construction permit from the State Fire Marshal.

Signed as approved:

Joe Cough, Vice Chair
Planning Board, Town of Bar Harbor

Date

Appeals of this decision may be made to the Board of Appeals pursuant to section 125-103 of the Bar Harbor Land Use Ordinance within 30 days of this date of this decision.

Training Information:

For an updated listing of educational offerings, please visit our website at www.memun.org or call our automated training hotline at (207) 624-0117.

About MMA:



Maine Municipal Association
60 Community Drive
Augusta, ME 04330

*MMA is located off I-95, Exit 112A
Northbound, Exit 112 Southbound, behind the
Augusta Civic Center*

1-800-452-8786
Local Area (207) 623-8428
www.memun.org

The Maine Municipal Association (MMA) is a voluntary membership organization offering an array of professional services to municipalities and other local governmental entities in Maine. MMA is a non-profit, non-partisan organization governed by an Executive Committee elected from its member municipalities. Founded in 1936, MMA is one of 49 state municipal leagues that, together with the National League of Cities, are recognized at all governmental levels for providing valuable services and advocating for collective municipal interests.

The Maine Municipal Association has a core belief that local government is a fundamental component of a democratic system of government. MMA is dedicated to assisting local governments, and the people who serve in local government, in meeting the needs of their citizens and serving as responsible partners in the intergovernmental system.

MMA's services include advocacy, education and information, professional legal and personnel advisory services, and group insurance self-funded programs.

Certification:

This course applies to the Maine Town, City and County Management Association Certification Program as 3.0 credits in the Legal category.

DIETARY REQUIREMENTS

We do our best to plan meals according to general dietary guidelines. If you have a specific dietary restriction, please call our office at least 5 business days prior to the start of the event. Please note that we are not able to accommodate onsite requests, as catering planning happens in advance of the event.

SMOKE FREE

Effective Sept. 1, 2015, in accordance with the provisions of the Workplace Smoking Act of 1985, smoking is prohibited anywhere within the MMA building or on MMA property. MMA maintains a smoke free campus.

FRAGRANCE FREE

MMA recognizes the potential hazards caused by exposure to scented products and cleaning chemicals. We ask that event participants refrain from using products that contain strong fragrances so that we can maintain a safe and healthy learning environment for all.

SPECIAL EVENT



Regulating Vacation Rentals

**WEDNESDAY
APRIL 4, 2018**

**Maine Municipal Association
60 Community Drive
Augusta, ME**



Presented By
Maine Municipal Association

Regulating Vacation Rentals

**Wednesday
April 4, 2018**

Maine Municipal Association
60 Community Drive
Augusta, ME 04330

PRESENTERS:

Kristin Collins
Attorney, Preti Flaherty

Werner Gilliam
Director of Planning and
Development, Town of Kennebunkport

John Root
Code Enforcement Officer,
City of Rockland

STORM POLICY: If there is inclement weather, a decision to postpone will be made by 5:00 p.m. the day prior to the workshop. MMA encourages attendees to check the MMA website or call the training hotline at 207-624-0117 before departing for any MMA events to ensure that the event schedule has not changed.

ADA MESSAGE: In order to ensure your complete participation, we would appreciate your informing us of any special requirements you may have due to a disability.

Who Should Attend:

Elected officials, city and town managers, planners, fire-rescue personnel, assessors, tax collectors and any local officials who will make decisions affecting short-term vacation rentals.

Course Information:

Registration: 1:00 p.m. / Course: 1:30 p.m. to 4:30 p.m.

Websites with non-hotel vacation rentals appeal to travelers to such a degree, that home, apartment and condo rentals seem to be popping up everywhere. That creates challenges for local officials, from site regulation to traffic to safety and noise complaints. Attendees will come away from this session with a legal update on permitted regulations and a look at municipal "best practices."

Registration Confirmation/Directions:

Confirmation of class registration will be sent out one week prior to the start of the event. If an email has been provided, the confirmation will be sent electronically. If no email is on file, the confirmation will be mailed to the billing address provided on the registration form. Directions to the facility can be found on the MMA website at: <http://www.memun.org/TrainingResources/WorkshopsTraining/DirectionsToEvents.aspx>.

Questions/Cancellations:

Cancellation notification must be given in writing at least 3 business days before the session. Any cancellation received within that 3-day window will be charged the full registration fee. All cancellations are subject to a \$10 administrative fee for processing. Please go to <http://www.memun.org/TrainingResources/WorkshopsTraining/Cancellations.aspx> to cancel. If you have any questions please contact the Educational Services Office at (800) 452-8786 or (207) 623-8428.

Visit www.memun.org for updates & to register online

Regulating Vacation Rentals

FEE: MMA Member Municipality/Patron: \$45.00
Non-Member Municipality: \$90.00

Please make check payable to:
Maine Municipal Association

Fee includes workshop materials and refreshments.

WEB: You can register online on MMA's website: www.memun.org; or complete the form below and send via:

FAX: 207-624-0128 ATTN: Educational Services

MAIL: Maine Municipal Association
ATTN: Educational Services
60 Community Drive, Augusta, ME 04330

EMAIL: wsreg@memun.org

Please register the following person(s) from: (municipality): _____

Billing Address: _____

Registrant Information:

① Full Name: _____

Title: _____

Tel: _____

Fee: \$45.00 (member) \$90.00 (non-member)

Email: _____

② Full Name: _____

Title: _____

Tel: _____

Fee: \$45.00 (member) \$90.00 (non-member)

Email: _____

Please duplicate form if registering more than two people.

Order

Of the Bar Harbor Town Council
For the XXXXX Town Meeting

It is hereby ordered that the following article be placed on the town meeting warrant with voting thereon to be held by Australian ballot.

Warrant Article

LAND USE ORDINANCE AMENDMENT: Temporary Housing – Shall an Ordinance dated XXXX, 2018 and entitled “An amendment to add an Employee Dormitory definition and standards, a Rooming House definition and standards, a Workforce Housing definition and standards, and to amend Appendix C, the Table of Permitted Uses” be enacted?

Temporary Housing Ordinance

An amendment to add an Employee Dormitory definition and standards, a Rooming House definition and standards, a Workforce Housing definition and standards, and to amend Appendix C, the Table of Permitted Uses

The Town of Bar Harbor hereby ordains that Chapter 125 of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125 , LAND USE ORDINANCE

ARTICLE XII Construction and Definitions

§ 125-109 Definitions

EMPLOYEE DORMITORY – A building or portion of a building in which group sleeping accommodations are provided solely for employees on premise for more than 16 persons who are not members of the same family in one room, or a series of closely associated rooms, under joint occupancy and single management, with or without meals.

ROOMING HOUSE – A single family dwelling or portion thereof in which group sleeping accommodations are provided for more than 5 but less than 16 persons who are not members of the same family in one room, or a series of closely associated rooms, under joint occupancy and single management with or without meals.

WORKFORCE DORMITORY – A building or portion of a building in which group sleeping accommodations are provided solely for employees of one or more businesses or institutions for more than 16 persons who are not members of the same family in one room, or a series of closely associated rooms, under joint occupancy and single management, with or without meals.

§ 125-69 Standards for Particular Uses

125-69 W. Employee Dormitories. All Employee Dormitories shall meet the following standards:

- (1) Employee Dormitories can be attached or stand alone structures on the same parcel as the principal use.
- (2) Employee Dormitories shall be limited to an accessory use to educational facilities, eleemosynary scientific research institutions, hotels, motels, hospitals, restaurants, and transient accommodations (TA-1 through TA-8).
- (3) In no event shall any part of an Employee Dormitory be located closer to the property lines than the principal building(s) it is designed to serve.
- (4) An Employee Dormitory shall not contain more than one kitchen.
- (5) The gross floor area of an Employee Dormitory shall not exceed twenty-five (25) percent of the gross floor area of the principal building(s) on the lot.
- (6) The maximum number of occupants originally approved in the application shall not be exceeded without approval from the jurisdiction which provided the original approval.
- (7) Employee Dormitories are subject to the regulations contained in Chapter 64, Disorderly Houses, in the Bar Harbor Town Code.
- (8) An annual inspection of Employee Dormitories shall be conducted during the months of July or August each year by the Fire Department and the Code Enforcement Division.

Commented [A1]: What happens if the principal building is located in the center of a large lot?

- (9) Employee Dormitories shall managed by and be supervised at all times by the operator of the primary use entity. A property management representative shall be accessible, in person or by telephone, on a twenty-four (24) hour basis.
- (10) Density Bonus: Construction of an Employee Dormitory on the premise of the primary use as defined in 125-69.W(1) is exempt from lot coverage. Other uses and structures on the lot serving the Employee Dormitory are subject to the lot coverage requirements.
- (11) Occupancy shall be limited to employees of the operator of the primary use on the premises and duration of stay for each occupant shall be for a period of not less than 90 days.
- (12) Employee Dormitories shall not be used as vacation rentals and units shall not be sold separately as condominiums.
- (13) Parking Requirements: _____ None

125-69 X. Rooming House: All Rooming Houses shall meet the following standards:

- (1) Rooming Houses shall provide one kitchen for the common storage, preparation, and cooking of food.
 - a. It shall be unlawful for any person, firm, corporation, partnership or association which owns, conducts, keeps, manages or operates a Rooming House to permit in any living and/or sleeping or other room not especially designated as a kitchen area:
 - i. The cooking of any food or beverage on, over, or under any device whatsoever for human consumption;
 - ii. The storage of food in any container not hermetically sealed and rodent proof.
 - b. It shall be unlawful for any person to perform the following acts within any living and/or sleeping or other room not especially designated as a kitchen within a rooming house.:
 - i. The cooking of any food or beverage on, over, or under any device whatsoever for human consumption;
 - ii. The storage of food in any container not hermetically sealed and rodent proof.
 - c. It is unlawful for any person, corporation, partnership or association to possess or use within any living and/or sleeping or other room not especially designated as a kitchen area within a Rooming House any microwave, toaster, hot plate, stove, grill, or any other device whose purpose it is to cook food by the use of electricity, gas or solid fuel.

- (2) Rooming Houses shall be provided with toilets, lavatories, and bathing facilities, and shall consist of one (1) toilet, one (1) lavatory and one (1) bathing facility for every eight (8) occupants or fraction thereof.
- (3) Rooming Houses shall provide not less than two hundred (200) square feet of floor area therein for each such person living in the structure.
- (4) Rooming Houses are subject to the regulations contained in Chapter 64, Disorderly Houses, in the Bar Harbor Town Code.
- (5) An annual inspection of the Rooming House shall be conducted during the months of July or August each year by the Fire Department and the Code Enforcement Division.
- (6) Rooming Houses shall be managed and supervised at all times by a single management entity registered and licensed to do business in the municipality. A property management representative shall be accessible, in person or by telephone, on a twenty-four (24) hour basis.
- (7) Duration of stay for each occupant shall be for a period of not less than 90 days.
- (8) Rooming Houses shall not be used for vacation rentals and units shall not be sold separately as condominiums.
- (9) Parking Requirements: Shall follow requirements for multi-family housing in the zone where the Rooming House is sited.

125-69 Y. Workforce Dormitories. All Workforce Dormitories shall meet the following standards:

- (1) A Workforce Dormitory shall have one kitchen for every 25 occupants or fraction thereof.
- (2) The maximum number of occupants originally approved in the application shall not be exceeded without approval from the original permitting authority.
- (3) Workforce Dormitories are subject to the regulations contained in Chapter 64, Disorderly Houses, in the Bar Harbor Town Code.
- (4) An annual inspection of the Workforce Dormitory shall be conducted during the months of July or August each year by the Fire Department and the Code Enforcement Division.

- (5) Workforce Dormitories shall be managed and supervised at all times by a single management entity registered and licensed to do business in the municipality. A property management representative shall be accessible, in person or by telephone, on a twenty-four (24) hour basis.
- (6) Occupancy shall be limited to seasonal employees of the multi-businesses and duration of stay for each occupant shall be for a period of not less than 90 days.
- (7) Workforce Dormitories shall not be used for vacation rentals and units shall not be sold separately as condominiums.
- (8) Parking Requirements: One space for each management employee and one additional for each 20 occupants or fraction thereof.

Key to Appendix C

Permissibility of Use

• • • •

b = Activity or structure requires approval through site plan review process before it may be commenced or built.

c = Activity or structure requires a permit issued by the Code Enforcement Officer (CEO) before it may be commenced or built.

cu = Activity or structure requires approval through conditional use review process before it may be commenced or built.

Changes to Appendix C

District	Employee	Rooming	Workforce
Bar Harbor Gateway	<u>cu</u>	<u>cu</u>	<u>cu</u>
Downtown Village I	<u>cu</u>	<u>cu</u>	<u>cu</u>
Downtown Village II	<u>cu</u>	<u>cu</u>	<u>cu</u>
Downtown Residential		<u>cu</u>	
Educational Institution	<u>cu</u>	<u>cu</u>	<u>cu</u>
Emery			
Hulls Cove Business		<u>cu</u>	<u>cu</u>
Hulls Cove Residential Corridor			
Hulls Cove Rural		<u>cu</u>	<u>cu</u>
Indian Point Residential			
Indian Point Rural			

Industrial			
Ireson Hill Corridor	<u>CU</u>	<u>CU**</u>	<u>CU**</u>
Ireson Hill Residential			
Marine Research		<u>CU</u>	
McFarland Hill Residential			
McFarland Hill Rural			
Mount Desert Street Corridor	<u>CU*</u>	<u>CU*</u>	<u>CU*</u>
Otter Creek			
Resource Protection			
Salisbury Cove Corridor			
Salisbury Cove Residential			
Salisbury Cove Rural			
Salisbury Cove Village			
Schooner Head			
Scientific Research	<u>CU</u>	<u>CU</u>	<u>CU</u>
Shoreland General Development I	<u>CU</u>	<u>CU</u>	
Shoreland General Development II		<u>CU</u>	
Shoreland General Development III	<u>CU</u>	<u>CU</u>	
Shoreland General Development IV			
Shoreland Limited Residential			
Shoreland Maritime			
Stream Protection			
Town Hill Business		<u>CU</u>	<u>CU</u>
Town Hill Residential Corridor		<u>CU</u>	<u>CU</u>
Town Hill Residential			
Town Hill Rural			
Village Historic			
Village Residential			
Village Transitional		<u>CU</u>	<u>CU</u>

*overlay district only

**if served by public water and sewer

Effective Date.

This ordinance shall become effective on XXXXX, 2018

EXPLANATION:

To provide more housing stock for employees, address overcrowding and safety concerns by allowing and regulating housing for employees, and other individuals housed in a group setting. Noise issues would continue to be regulated under the Town's Noise Ordinance and Disorderly House Ordinance.

Given under our hands and seal at Bar Harbor this XXXX day of XXXX, 2018.

Municipal Officers of the Town of Bar Harbor
