

Minutes
Bar Harbor Planning Board
Wednesday, January 6, 2016
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. Planning Board members present: Ivan Rasmussen, Chair; Tom St. Germain, Vice Chair; Basil Eleftheriou, Jr., Secretary; John Fitzpatrick, Member and Joseph Cough, Member.

Also present: Robert Osborne, Planning Director.

II. ADOPTION OF THE AGENDA

Mr. St. Germain moved to adopt the agenda as presented. Mr. Eleftheriou, Jr. seconded the motion and the Board voted five in favor and none against the motion.

III. EXCUSED ABSENCES

None.

IV. APPROVAL OF THE MINUTES

a. December 16, 2015

Mr. Eleftheriou, Jr. made a motion to approve the minutes as presented. Mr. Cough seconded the motion and the Board voted five in favor and none against the motion.

V. REGULAR BUSINESS

a. Land Use Ordinance Amendments for Downtown Village I, Downtown Village II and Downtown Village Transitional Districts Use Amendments - Public Hearing–
Article III Land Use Activities and Standards draft amendments in the form of draft warrants:

Chair Rasmussen introduced this set of draft land use amendments and indicated that the public hearing would be kept open through the use amendment items. Chair Rasmussen opened the public hearing and read the first amendment item question:

1. **LAND USE ORDINANCE AMENDMENT - Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add farmers market use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District be enacted? (*Uses requires permit from the Code Enforcement Officer*).

Chair Rasmussen asked the Planning Director to provide some background on this item.

Robert Osborne, Planning Director stated that he would like to start by reading a letter from the Maine Department of Environmental Protection into the public record (attached to minutes). The letter in essence stated that, with regard to Shoreland Zoning, the draft amendments are acceptable to the Department.

Chair Rasmussen noted that he wished to introduce Edmund Bearor the new Town Attorney to the Board and the attendees.

Mr. Osborne continued stating that the intent of these first five warrant articles is to recommend that uses that were previously found in the now defunct Business District but were, without explanation deleted from the current Downtown Village districts be added to those districts and then allow the voters to decide if the uses should be put back to that location.

Mr. Osborne explained that all of these warrant articles are for the June, 2016 ballot initiative. The process now would be for the Planning Board to hold this public hearing and make a recommendation tonight. Subsequently the Town Council will hold a public hearing and make a recommendation. Then the warrant articles would go on to the Warrant Committee and finally on to the ballot.

Chair Rasmussen asked for public comment.

Terry Zaballa commented that in attending the previous meeting that there was discussion of separating all of the uses and districts.

Stewart Brecher commented that the three districts (Downtown Village I, II and Transitional) do not make sense to him. Far too many of the site developments are nonconforming. We are chasing definitions. Delaying the real business of addressing the real issues within the ordinance. What is the schedule to work through these issues? A real rewrite of the LUO is needed.

The Planning Board had several comments:

Mr. Cough indicated that he supports a broader approach. He noted that some of this work can be incorporated into future revision. He noted that the Board had been tasked by the Town Council to work on parking. Not giving up on major revision but that does not mean that housekeeping efforts cannot go forward.

Mr. St. Germain indicated that after the defeat of the LUO repeal/replace effort the Town Council delegated to the Planning Board this effort to make smaller changes that are manageable for the June ballot and prepare for a winter of hearings on the larger topics that Mr. Brecher is talking about. This effort is voting to restore the intent of the voters, all these uses were previously approved by voters but taken out in 2010. Auto repair garage was something in the 2010 land use ordinance previously and taken out without a vote to expressly do so (as well as the other uses). This is a restoration of those uses.

Stewart Brecher said he has a question regarding home occupation. If you can run a business in a district why do you have this home occupation use in here?

Mr. Osborne indicated that home occupation is an accessory use to the dwelling use. There are clear differences between a business on its own and a dwelling unit with a room or two dedicated to a home occupation.

Stewart Brecher indicated that way back home occupations were considered a low impact use in residential districts. The Downtown Village districts allow much higher impact uses. There needs to be a hierarchy of uses in each district. We do not want a list of 30 to 40 uses specifically called out in each district. There seems to be no reason to do this.

2. **LAND USE ORDINANCE AMENDMENT - Downtown Village II District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add single-family dwelling and two-family dwelling uses to the Downtown Village II District” be enacted? (*Uses require permit from the Code Enforcement Officer*).

Chair Rasmussen read the amendment item question and asked for comments on this item but there were none.

3. **LAND USE ORDINANCE AMENDMENT - Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add automobile sales lot and automobile repair garage uses to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? (*Uses require Planning Board Site Plan Review*).

Chair Rasmussen read the amendment item question and asked for comments on this item but there were none.

4. **LAND USE ORDINANCE AMENDMENT - Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add home occupation use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? (*Uses require permit from the Code Enforcement Officer*).

Chair Rasmussen read the amendment item question asked for comments on this item but there were none. He noted that there had been some discussion of home occupation already.

5. **LAND USE ORDINANCE AMENDMENT - Downtown Village I District, Downtown Village II District and Downtown Village Transitional District** – Shall an Ordinance dated December 2, 2015 and entitled “An amendment to add retirement community use to the Downtown Village I District, Downtown Village II District and Downtown Village Transitional District” be enacted? (*Uses require Planning Board Site Plan review*).

Chair Rasmussen read the amendment item question and asked for comments.

Donna Karlson commented that overall the Planning Board and the Planning Director had done a good job of sticking to the original purpose of these amendments. There is voter choice on each item. She thanked the Board for their efforts.

Mr. Cough noted that regardless of where you live (in town) everyone is entitled to vote on these items. He noted that the districts are not separated out for each item.

Mr. Osborne noted that the original warrant articles prepared by the Planning Board went to the Town Council and at that time the Council recommended that the parking lot and parking garage question not go forward on the June ballot. That particular question was the only one the Planning Board had recommended to be separated by district and use. The Planning Board did not recommend that any of the other items be separated by district. The Planning Board heard that concern before but it seemed that it was more directed at the parking question. It was also noted that to separate all of the items would make a larger set of warrant articles. (A total of 16 use questions plus 5 signs and Design Review questions when all separated out).

Mr. Eleftheriou, Jr. asked if the language of the explanations (at the end of each warrant article) could be altered at this time? Mr. Osborne indicated that this was the language set for public hearing, and he suggested it not be changed.

Mr. Cough asked Edmond Bearor if the Board should vote on each warrant article separately or if they can be voted as a group. Mr. Bearor indicated that the Board could vote the warrant articles as a group as long as there is unanimity on the Board that members are in favor of all of the questions.

As no one wished to speak more on this set of warrant articles Chair Rasmussen called for a motion.

Mr. Cough made a motion that the Planning Board recommend approval of these amendments 1 through 5. Mr. St. Germain seconded the motion.

Mr. Osborne suggested that the motion should cite the warrant article identifier a through e rather than the agenda identifier 1 through 5.

Mr. Cough amended his motion to reflect that his motion was for the Planning Board to recommend approval of warrant articles a through e.

Mr. St. Germain seconded the amended motion.

The Planning Board voted five in favor and none against the motion that the Planning Board recommends approval of warrant articles a through e.

- b. Land Use Ordinance Amendments for General Review Standards, Light and glare & Signs and advertising, Definitions and Design Review - Public Hearing –Article V Site Plan Review, Article XII Construction and Definitions and Article XIII Design Review draft amendments in the form of draft warrants.**

Chair Rasmussen introduced the second set of amendments and indicated that the public hearing will continue.

1. **LAND USE ORDINANCE AMENDMENT – Definitions, General Review Standards, Light and glare and Signs and Advertising** – Shall an Ordinance dated December 2, 2015 and entitled “Amendments to add terms and definitions for categories of internally illuminated signs, amendments to clarify lighting requirements for signs and amendments to prohibit certain types of internally illuminated signs” be enacted?

Chair Rasmussen read the amendment item question and asked for comments.

Elaine Donnelly expressed that the voters will need some help to understand what these sign types are.

Mr. Cough agreed and indicated that there will be opportunities to do that. Illustrations or photos can be made available online or in the office.

Mr. Osborne read the draft definitions of the internally illuminated sign types into the record.

SIGN, INTERNALLY ILLUMINATED - A sign with a light source incorporated into the body of the sign and where light emanates through, or from, the message of the sign; there are four types as follows:

TYPE 1; CABINET WITH TRANSLUCENT FACE: An internally illuminated sign with a cabinet style fixture with full or nearly full translucent face(s) and/or sides, through which light from an internal source passes.

TYPE 2; CABINET WITH LIGHT LIMITING FACE: An internally illuminated sign with an opaque surround cabinet style fixture with light limiting translucent face(s), flush translucent sign graphics within an opaque background field, through which light from an internal source passes. This type of sign has two acceptable categories.

A. 20% (or less) translucent face/ 80% (or greater) opaque background field.

B. 30% (or less) translucent face/ 70% (or greater) opaque background field.

TYPE 3; CHANNEL LETTER: An internally illuminated sign comprised of three dimensional sign graphic letters and logos, each with its own internal light source, in which the dimensional faces are internally illuminated and affixed to the sign or structure upon which the channel letter are mounted.

TYPE 4; HALO: An internally illuminated sign comprised of dimensional sign graphics, which cast a halo-like glow along the sides of the graphics, or cast light backward onto the face of the sign or structure upon which the graphics are mounted.

He then explained that the translucent face and channel letter types of internally illuminated signs are proposed to be prohibited. The light limiting face and halo types of internally illuminated signs are proposed to be allowed. (Currently internally illuminated signs are prohibited in the Downtown Village districts and are allowed in most other districts). He identified the Irving sign as a translucent face sign, the MDI Biological Laboratory sign as a combination light limiting face and halo sign and the Hannaford sign as a channel letter sign but noted that it happens to not be internally illuminated.

There was no other discussion on this item.

2. **LAND USE ORDINANCE AMENDMENT General Review Standards, Signs and Advertising** - Shall an Ordinance dated December 2, 2015 and entitled “An amendment to clarify Design Review Board sign review authority” be enacted?

Chair Rasmussen read the amendment item question and asked for comments.

Mr. Osborne discussed the Design Review Board's review authority over signage and stated that the intent of the proposed amendment was to make corrections and clarifications to what districts are applicable.

Mr. Osborne discussed the Design Review Board's overlay district map and stated that the intent of the proposed amendment was to make corrections and clarifications to what districts are applicable.

There were no other comments on this item.

3. **LAND USE ORDINANCE AMENDMENT Design Review Board** - Shall an Ordinance dated December 2, 2015 and entitled "An amendment to clarify the boundaries of the Design Review overlay district" be enacted?

Chair Rasmussen read the amendment item question and asked for comments.

Stewart Brecher asked why the list of districts in the DRB sign review differs from the DRB overlay district and is that intentional? Mr. Osborne indicated that the lists are in fact different and that is intentional. (The Design Review Overlay District is: Village Historic, Downtown Village I, Downtown Village II, Town Hill Business, Shoreland General I and Shoreland General II districts. The Design Review sign districts are: Village Historic, Bar Harbor Gateway, Downtown Village I and II, Educational Institutional, lots with road frontage on Routes 102 and 3, Marine Research, Scientific Research, Shoreland General Development I and II, Town Hill Business and Town Hill Residential Corridor districts).

4. **LAND USE ORDINANCE AMENDMENT Design Review / Signs and advertising** – Shall an Ordinance dated December 2, 2015 and entitled "An amendment to move certain signage regulations from the Design Review section to the Signs and advertising section" be enacted?

Chair Rasmussen read the amendment item question and asked for comments.

Mr. Osborne explained that the language in Article 13 that creates certain exemptions from DRB sign review are proposed to be moved to Article 5, 65-BB Signs and advertising.

Mr. Eleftheriou, Jr. noted that there was a discrepancy between the phrase signage requirements that appears in the agenda and signage regulations that appears in the warrant article and the public notice. Mr. Osborne agreed and indicated that the agenda would be revised to correct the typo.

5. **LAND USE ORDINANCE AMENDMENT Signs and advertising** – Shall an Ordinance dated December 2, 2015 and entitled "An amendment to clarify the allowable sign area of regulated signs" be enacted?

Chair Rasmussen read the amendment item question and asked for comments.

Mr. Osborne explained that the defined term “sign area” was not consistently utilized in this section of the signage regulations and the purpose of the amendment is to correct that. The Planning Board was the author of this particular amendment.

Mr. Cough indicated that the Planning Board had held three meetings on signs. He asked Barbara Sassaman, Chair of the Design Review Board how many meetings they had regarding these items. Chair Sassaman indicated that they have been working on these issues for six years and due to a number of delays the changes have not been able to go forward. After being held off for several years the amendments were in the LUO repeal/replace which failed. She indicated that the proposed internally illuminated signage would allow businesses to have the type of signage that they want and lower the amount of light in the town. At the November 12, 2015 Design Review Board meeting they voted to recommend these amendments to the Planning Board. She indicated that she wants to emphasize that the Design Review Overlay Map is unchanged.

Hearing no other comments Chair Rasmussen closed the public hearing.

Mr. Cough moved that the Planning Board recommend approval of warrant article items aa through ee. Mr. Eleftheriou, Jr. seconded the motion. The Planning Board voted five in favor and none against the motion to recommend approval of warrant articles aa through ee.

I. OTHER BUSINESS

a. Land Use Ordinance Discussion of Parking, Article III Districts, Article V Site Plan Review- General Review Standards - D. Parking regulations and Article XII Definitions.

Mr. Osborne discussed his review of the Council discussion on parking which was led primarily by David Bowden. He suggested the Planning Board take a look at where parking is allowed and where it is not. He noted specific examples of the hospital and the bio lab. He said that there is need of a comprehensive plan for parking for the entire town. Look at parking issues as a whole. Definitions need to match the uses. Off-premise parking should be addressed. He noted specific examples of the schools and the college. Repeated that we should look at a comprehensive parking plan. Remove c1 through c5 from the draft warrant. Definitions at issue. Possible legal challenges should be worked through.

There was no dissent among the Council during this discussion.

Mr. Osborne noted that his observation on the discussion is that most everything parking is on the table. The emphasis was on parking lots, parking garage, off-premise parking and definitions but other items such as minimum parking requirements and locational requirements are not off the table. The call was for a comprehensive look at parking.

b. Land Use Ordinance – Update on tasks and timeline.

Mr. Osborne discussed a list of potential November 2016 topics for Land Use Ordinance amendments: Jackson Lab issues including building height and parking; Comprehensive review and revision of parking; Definition of “lot”; Minimum area per family; Design Review ordinance separated from LUO;

Reworking of Article V, Site Plan Review; Downtown Village II language about bars and restaurants on certain streets; Design Review revision of Appendix A and B; Multi-family housing; Town Hill Residential Corridor questions; Shoreland Cottage conformity; Agricultural processing and packaging. Affordable housing; Expansion of the use of Conditional Use with modifications to make approval thresholds more reasonable; Consolidation of districts. Ferry Terminal and Cruise Ship Operations.

Mr. Osborne stated that he did not think that the new Design Review ordinance would be ready to go forward for the November ballot. He also indicated that the reworking of Article 5 was a major project that would take time to complete.

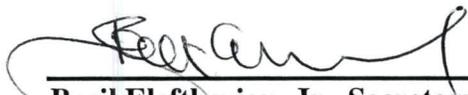
II. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

Suggestions included discussion of the ferry terminal/cruise ship operations question, lot coverage of that site and setbacks.

III. ADJOURNMENT

Mr. St. Germain moved to adjourn the meeting at 8:30 pm. Mr. Eleftheriou, Jr. seconded the motion. The Board voted unanimously in favor of the motion to adjourn.

Signed as approved:



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

1.06.16
Date