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**BOOTHBAY HARBOR PLANNING BOARD**

MINUTES OF MEETING

**May 9, 2018**

MEMBERS PRESENT: Thomas Churchill, Vice Chairman

Lee Corbin, Second Alternate

Jon Dunsford, First Alternate

William Hamblen, Chairman

John Hochstein

Margaret Perritt

Chris Swanson

CEO, Geoff Smith

In addition to these typed minutes, audio recordings are available to be listened to at the Boothbay Harbor Town Office.

**OLD BUSINESS**

* Approval of April 11, 2018 minutes

**NEW BUSINESS**

* Discussion with Cory Tibbetts, regarding plans for site work at his property at 107 Eastern Ave.

**OTHER BUSINESS**

* Review April 25, 2018 public meeting
* Discussing the Board’s priorities for Harbor consultant
* Review possible sections of the Land Use Code

Chairman Hamblen called the Wednesday, May 9th Planning Board meeting to order at 7:00 p.m. stating that they had a full board of members and alternates.

**OLD BUSINESS**

Margaret Perritt **motioned** to approve the minutes of April 11, 2018. Thomas Churchill **seconded**. **Unanimous approval**.

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**NEW BUSINESS**

Chairman Hamblen invited Cory Tibbetts to explain what he wanted to do.

Cory Tibbetts stated he would like to landscape the back of his business property at 107 Eastern Avenue so customers can play "pitch and putt" disc hole baskets while they wait for their pizza. There would be no charge and it would be for customers only.

Chris Swanson stated he did not believe Cory needed Planning Board approval to do this.

Chairman Hamblen agreed, stating Cory was doing what a landowner can do and wished him luck.

**OTHER BUSINESS**

Chairman Hamblen stated there were a number of discussion topics and by a show of hands determined an equal number of people were there for both "another option" as well as deliberations on the east side zoning articles. Chairman Hamblen suggested they begin with a response to "**another option**."

Chairman Hamblen stated while he thought it (having a public park) was a great idea, it was not really a Planning Board issue. There is nothing in either the proposed plans or current zoning that is an impediment of the town accepting a gift of a parcel of land. It would be a decision made by the Board of Selectmen.

A number of people had comments to make.

1. Susan Craig was told she could read a statement she had written if it was relatively brief. Her husband, George Craig, objected since the Planning Board was proposing to lift the Marine/Water Dependant designation and their proposal was to preserve it. [Chairman Hamblen clarified they were not "lifting" the Marine/Water Dependant designation but instead were adding other permitted uses.
2. Doug Carter stated the proper way to consider giving a gift of property to the town would be to go to the Selectmen first to see if the Selectmen would be willing to accept it. [It would be a loss of $20,000 in taxes to the town.] They should also make sure Jon Fish would be willing to sell the property to them before anything is done.
3. John O'Connell stated he liked the new concept of a park and thought Susan Craig should be allowed to read her statement.
4. Tom Philbrick, Boothbay Lobster Wharf, stated if the lobster fishery dries up he would like to be able to do something different with his property that the Marine Dependent designation will presently allow.

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1. Mike McBride stated the property in question is very valuable and wondered who would maintain it if it becomes a town property. If the town loses this tax revenue as well as gaining the expense of maintaining this property, the taxes of the town's people will have to go up.
2. George Craig stated that to assume they had not been in touch with Jon Fish was inaccurate because they'd had multiple conversations with him. Also, with so many people there that evening to plan for their future, the Planning Board would be stifling their desire to voice their concerns if not allowed to speak.
3. Susan Craig read her prepared statement. Susan stated she and her husband were there because of "the impending decision to remove the working waterfront." After talking with people at the Island Institute in Rockland, she learned that only twenty miles of the 5,300 miles of the coast of Maine remain available for public access and working waterfront. Only eight miles of those twenty are preserved forever because of state or municipal ownership. The other twelve are privately owned and vulnerable to conversion to other competing uses. Susan stated if the zoning on the east side is changed to "mixed use" it would remove and eradicate all protection afforded through being a Marine/Water Dependant district. Public access and a working waterfront could be guaranteed if we could have a park on the water. Without this additional green space the Fish Pier might be the only Maritime District for the whole harbor. What the town's people choose to do now will affect the people on the peninsula in the future.

Chairman Hamblen stated he had previously understood acquiring the Cap'n Fish property was for the town to have green space for public access but now it sounds like the intent is to use it for a working waterfront.

Susan Craig responded their vision was that it could be both, as a park and dockage.

Chairman Hamblen commented what they were contemplating in the new zoning works in part only because the town owns the Fish Pier, that guarantees a working waterfront separate from economic pressures.

Linc Sample stated the two properties that the Craig's seemed to be worried about are the Boothbay Lobster Wharf and the Sea Pier. The fact is that neither property has any substantial amount of land that would attract a developer.

Doug Carter stated the Fish Pier can accommodate all the lobstermen in Boothbay Harbor. The Sea Pier or the Boothbay Lobster Wharf could also accommodate them. So if the Sea Pier or the Boothbay Lobster Wharf were sold and no longer included in the working waterfront lobster boats would still be able to operate.

Jeanne McKay stated they need green space as well as a working waterfront for the lobstermen. There is not enough space at the Fish Pier for visitors to have access to the harbor.

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Chairman Hamblen agreed the Fish Pier should remain commercial.

George Craig wondered how more fishing boats could be accommodated in the future and started to read a prepared statement in support of acquiring the Cap'n Fish property to use as a park. George acknowledged changing the zoning code on the east side might attract developers but the working waterfront needs to be protected and should be deemed critical harbor infrastructure...even if more boats don't come.

[A large number of people in the audience asked George Craig to stop reading his statement.]

George Craig insisted he be allowed to continue. George turned to Paul Coulombe, who was in the audience, and began to address him directly until a large number of people in the audience asked him to sit down.

Chairman Hamblen authorized George Craig to read two more sentences as long as they were not a personal attack.

George stated just that morning Susan had gotten an email from Jon Fish saying he has decided not to sell his property to them. [The negotiated sale price had been $3,000,000.]

Thomas Churchill stated this idea was inconsistent with what they were trying to do with the east side of the harbor but might be compatible and he was in favor of it.

Chairman Hamblen agreed but pointed out this was the wrong forum for the discussion.

Chairman Hamblen moved on to **review of the proposed east side plans.**

After the April 25th meeting they have had additional feedback from the DEP who have requested **justification** for their recommendations and objected to the **concept** that non- contiguous lots owned by the same person could be considered contiguous for lot calculations. Chairman Hamblen stated arguing with the DEP is not in the best interest of the town, so since it is not critical, felt they should drop that provision.

There have been many arguments for and against their proposals so it is time for the voters to decide.

Chairman Hamblen suggested breaking up the articles into three separate questions as follows.

*Question 1 Which will include the following zoning policies.*

***To re-define the existing Maritime/Water Dependant District as a Mixed Use District with every parcel in the district having the same set of permitted uses.***

This provision defines the new district (with boundaries identical to the old district), introduces the mixed use concept, and makes clear that every parcel in the district will have the same set of permitted uses (no "special" parcels).

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***To continue all current uses (including Water Dependant uses) in the new District, and add new commercial uses (e.g. motels, hotels, inns) consistent with a Mixed Use District.***

In many ways this is the key new provision for the district. It allows new commercial uses in the district and will allow many of the existing business to re-invest, as they will become permitted uses.

***To have a high water setback of 25 feet for all new construction except Water Dependant uses which will continue to have a 0 foot setback.***

This will allow for flexibility in locating buildings on the parcel, still protect the shoreline, and is consistent with DEP requirements for a mixed use district.

***To set the square footage required for each non-residential use to 2,000 square feet***

***per use.***

This will provide flexibility for commercial development of the lots in the district. This is the same recommendation that has been made to the town for the Downtown Business district (the west side).

***To require that significant developments on lots with 100' or more of frontage on***

***Atlantic Avenue maintain view corridors of at least 20' from Atlantic Avenue to***

***the water.***

This will maintain the visual connection to the waterfront that exists today and prevent development that results in an impenetrable "wall" of buildings. It will be limited to those lots big enough to maintain a view corridor without an undue hardship on development. Significant developments are those over 3,000 square feet or multi-family units of 3 or more.

***To require impact fees on new common wall construction and significant non-residential development to meet the additional public needs for recreation, pedestrian access and open space.***

The group wrestled with ways to promote waterfront access and improve public amenities in the district. We concluded that the best way was to require an impact fee that would allow the town to improve (and perhaps to acquire) public properties in the district. These actions will provide benefits to both the town and the developer.

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*Question 2 Which will include the following zoning policies.*

***To permit common wall residences in the district, subject to the same density***

***requirements that currently exist for every other district in town (up to 6 units per***

***acre).***

This will permit additional common wall residences to be built, but will control the density to be consistent with the rest of the town and limit the number to an amount consistent with the overall vision for the district.

***To set a minimum lot size (MLS) per common wall construction dwelling unit of***

***2500 sq. ft. ~~and allow lots in common ownership (in the district) to be treated as if~~***

***~~they are contiguous for the purposes of calculating density and locating these units~~.***

This will allow design flexibility in positioning these structures and result in better utilization of the district without increasing the overall density of the multi-family units. The 2500 sq. ft. MLS will also encourage commercial development in the district (one of the primary goals of the effort).

*Question 3 Which will include the following zoning policies.*

***To permit new construction heights of 35 feet or 2 1/2 stories whichever is less.***

The 2 1/2 story requirement is consistent with the remainder of the town and will promote sloped roofs and structures that visually match the region. The current Downtown Business District (the west side) permitted height is 36 feet (30 feet or 2 1/2 stories plus up to a 6 foot façade). Thus 35 feet is appropriate, particularly since several existing structures are higher than this. For consistency, the Planning Board will examine if it should recommend applying the same height requirement (35 feet or 2 1/2 stories) to the Downtown Business District.

Existing Zoning - Not to be changed

***And finally to maintain all other existing development standards in the district; side yard and front yard setbacks, impervious area lot coverage limitations, storm water runoff controls, etc***

We do not recommend relaxing any of the development standards that are currently in the land use codes. This is a significant point; the reality is that these standards provide numerous protections to landowners, neighbors and the town. In many cases these standards will be the limiting factor in new development.

CEO, Geoff Smith confirmed they needed three weeks lead time to set a date for a public meeting

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Chris Swanson **motioned** the Board limit its recommendations for rezoning conditions to only the following:

1.) To re-define the existing Maritime/ Water Dependant District as a Mixed Use District.

2.) To have a high water setback of 25 feet for all new construction except Water Dependant uses which will continue to have a 0 foot setback.

3.) The District should include the Union Street extension from Atlantic Avenue to Townsend Avenue.

The height restrictions and impact fees should be kept separate.

Thomas Churchill **seconded** the motion.

Chairman Hamblen stated he was reluctant to throw in the Union Street extension since it was not agreed to by the majority of the Board members and so had not been kept on the table during the seven workshops and public hearings they had held. Chairman Hamblen also felt the impact fee should be left in.

Margaret Perritt **motioned** to call the question. Chairman Hamblen **seconded**. The **motion passed 3 - 2**.

Chairman Hamblen asked the Board to vote on the motion (made by Chris Swanson) that was on the floor. The **motion failed 4 - 1**.

Margaret Perritt stated she believed issues should be voted on individually rather than lumped together.

Chairman Hamblen stated they could make the impact fee a separate vote from the others. (It is an import item since it could raise money to create public access. A property owner cannot be asked to give an easement to the town.)

Thomas Churchill wondered if they would need to change the comprehensive plan.

CEO, Geoff Smith pointed out they were a long way from taking a vote, including consulting with DEP.

Thomas Churchill motioned in a mixed use area that only six common wall dwellings can be built per acre or the owner can build a commercial building as permitted with up to six common wall dwellings on the second floor per acre. **Motion died per lack of a second**.

Chairman Hamblen asked for a consensus from the Board to delete all references to lots being contiguous if owned by the same owner from the zoning bylaws (unless they are actually contiguous lots where they would be automatically combined). **All were in consensus.**

ChairmanHamblen asked for a consensus from the Board to include neighborhood grocery stores on the list of small operations in their land use codes. **All were in consensus.**

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ChairmanHamblen asked for a consensus from the Board that the impact fees be based on the square footage (if they should go ahead with impact fees) instead of the estimated cost of the development which would be too difficult to calculate. **All were in consensus.**

ChairmanHamblen asked for a consensus from the Board that the impact fees should be separated out from the rest of the questions. **All were in consensus.**

ChairmanHamblen reminded everyone that these are only **recommendations** because theSelect Board has final decision.

[There was a brief discussion about a town-wide building height restriction of 35 feet and how it might be affected by the flood plain proposal to increase **new** construction by three feet.]

ChairmanHamblen opened the floor for public comments on the proposed rezoning.

1. Denise Griffin wondered if the impact fee (which she is in favor of) would only relate to the east side zone (which she would like to see town-wide).

Chairman Hamblen responded it was only going to apply to the east side now.

2. Dorothy Ferrell asked if the acquisition of Cap'n Fish property for green space would be coming to another public forum.

Chairman Hamblen responded it might come up at the Selectmen's meeting on Monday, May 14th but he couldn't guarantee that.

3. Bob Foster remarked on the benefit of 235 new jobs to the region that had been created by Paul Coloumbe, as well as remaking the east side of Boothbay Harbor and thought there may be something more going on than an effort to just create "green space."

4. Bill Logan asked if there would be more opportunity to talk more about the rezoning of the east side.

Chairman Hamblen anticipated it might be at least two months before it would get handed over to the Select Board.

5. Julie Roberts felt the whole process had been a great education and hoped everyone would study up on the many things that need to go together to make the puzzle work such as the 35 foot height restriction that would lead to more esthetic roof lines with dormers, etc. and the view corridor. Julie also stated she was not in favor of a green space on the east side, as wonderful as it may sound, because it would not really benefit year-round residents financially.

6. Marty Peak Helman expressed concern about a 35 foot building height restriction.

7. Jean McKay commented negatively on having commercial as well as common wall units on the same property.

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8. Wendy Wolf re-emphasized that the advisory committee spent a long time getting input (which included discussions) about ordinances and now that the initial recommendations are done, are getting responses from the DEP and other sources that may necessitate some additional feedback like they were getting this evening as an example of how much is going into the process to make it as seamless as possible.

9. Mary Kaler felt it was good to have a town-wide height requirement as long as it encourages gabled construction.

10. Dan Bacon, identifying himself as part of the east side development team, stated the proposal would be balanced by view corridors made possible by impact fees.

11. Doug Carter spoke in favor of Paul Coulombe's plans for the east side.

12. Margaret Perritt, as a private citizen, stated only 25 people came to the recent 22 minute-long town meeting and felt it was important that the town's people turn out.

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ADJOURN

The meeting was adjourned at 9:17 p.m.

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William Hamblen, Chairman Kellie Bigos, Recording Secretary