



Planning Board
Town of Southwest Harbor
MINUTES OF MEETING
July 3, 2008, 6:00 p.m.

I. Roll Call/Call to Order: 6:03 p.m. the meeting was called to order by Acting Chair, Sharon Howard. Absent: Chairman Anna Demeo. Present were: Sharon Howard (acting Chair), Carolyn Maling, Molly Lyman, Dennis Dever, Sandy Johnson, and Chris Rawls (arrived at 6:32 p.m.)

Visitors Present: Noel Musson, CES, Inc., Carol Williams

II. Visitors to be heard not on the agenda – Carol Williams discussed the building and development in her area of Seawall which over the last 3 years has produced increasing runoff. She feels a great deal of this is the cumulative effect of housing and development allowed behind the Seaweed Café, resulting in property flooding during rain storms. Ms. Williams said she has spent close to \$3000 in the last 2 years, repairing flood damage. She also discussed a state governed culvert that goes through her property and said the duct is collapsing around where the culvert ends, and with the runoff during rainy weather causes actual waves of water on the property. Ms. Williams is hoping that this will spur the Planning Board to look at considering ways in which to address the engineering study on how to judge a cumulative effect – not just house by house by house. She also referenced the Chalfoun project on Forest Avenue and the engineering studies. Sandy Johnson clarified that what she heard was that Ms. Williams would like to bring this to the attention of the Planning Board to strengthen the Land Use Ordinance. Molly Lyman read aloud the portion of the Land Use Ordinance that deals with erosion. She suggested that each time a new permit is granted, the Board must pay attention to the storm water management, but make sure that someone down the line isn't experiencing flooding. Sharon Howard, acting Chair, recommended that if there is an application that affects Ms. William's area it would be good for her to be at the meeting. The Board values the input from neighboring properties. Carol Williams said that Selectman Bickford said the Town is supposed to check each spring to make sure the culverts are clear.

III. Review Minutes of Meeting(s):of June 5, 2008 and June 19, 2008:
Suggested for future minutes to put the Visitors on the minutes. Handouts should be included. It was Moved Dever and Seconded Lyman to accept the June 5, 2008 minutes.
Discussion: there was not a quorum of attendees present at the current meeting to allow a

vote. Dever withdrew the motion and Lyman withdrew the 2nd. . The minutes will be held over to the next Planning Board Meeting.

IV. Buffering Letter (Lyman) deferred to end of meeting.

V. Applicants:

CES, Agent for Great Harbor Marina, Inc., 7 Apple Lane, Southwest Harbor, Map 003, Lot 063, Zone: Harbor. Purpose: Site modifications and change of use to add a commercial boat sales operation to existing site uses.

Noel Musson presented an overview of the project for the Board. He explained the applicant wishes to convert the property into a residential and commercial mixed site and have an area for commercial boat sales seasonally. Re-grading, for erosion and storm water management is the major portion of the project. Two dwelling units were demolished on this site. Current work to date was just filling in the foundations from the demolished houses. This application is for a change of use, for mixed site of residential and commercial boat sales. Musson doesn't know the range in size of the boats, but could be up to 40 or 50 feet and as small as 18 feet. The packet includes requirements for erosion control from CES, including hay bales and silt fence, based on DEP requirements. Storm water: the site was re-graded to provide a ditch on the upper side – the purpose is to infiltrate the water into the ground and slow it down as well as redirect it. On the downhill side there is an infiltration trench with a crushed stone base. There is no standard for outdoor boat display and CES used the car parking formula to come up with 8 spaces to display boats. The existing building will be a small office space as part of the existing residential space. No new lighting proposed at this time. There is an existing entrance to the area, and the approach was integrated. Sharon asked if the CEO had any questions that the board needed to hear. He said one area he looked at on site was buffering and it seems dense, and especially the property to the west and up hill. There appears to be nothing serious needed for buffering. Sharon had asked Carolyn to speak to the completeness of the application. She said everything was complete – and asked if there was anything other members thought she had missed. Molly asked about the note in the application saying that lot coverage wasn't an issue – and there was nothing listed on the application. Carolyn said all the information is in the application, although not necessarily in the appropriate places. Carolyn provided the existing square footage of 777 s.f., proposed coverage of 10,925 s.f., for a total of 11,702 s.f. which is 58.5% coverage.

It was Moved Carolyn and seconded Molly that the CES application for Great Harbor Marina, to prep for site plan modifications and change of use, be deemed complete. Vote in favor 6 – 0

Review of the application: Page 1, Carolyn Maling noted that Noel Musson is the applicant. Project information – the description of the project needs to be fleshed out – would like to add: ‘include the construction of a parking area and pave the 10,925 s.f.’ Also under proposed use was checked Commercial Boat Sales, and perhaps since there will be residential use, other should be checked. The residential use currently exists. Molly suggested that the description says boat sales and office. Sandy said there is an addition of commercial sales to a residential structure. Carolyn pointed out that there are two uses in the one structure. Molly said that can be part of the description change. And the change of use to add commercial boat sales with the commercial office included in the existing residential structure. Noel explained that some of the information is in the project description.

Page two: For the record, the house can’t be any higher than 18’. Under site access it should list: Town Road. Noel said dig safe will be called when appropriate. Carolyn filled in the three abutters as well. Carolyn commented that the letter from Dysart didn’t contain any specific information, but in the future she would like to see a bit more project-specific information on the agent authorization letter.

Page 3 General regulations and standards: ok

Zone standards: Sharon asked how many residential dwelling units were in the building. Noel said two residential units were in the structure and they found that after demolishing the other building it appears that they will now only have one residential unit. The percentage of residential use is ok. It is an existing non-conforming structure that is not changing.

Carolyn asked whether the Board had to consider the change of use of the lot. The Board said it is a change of use of a non conforming structure – that may not effect the application as it is not a greater impact. The board referred to page 9 of the LUO to address the non conformance issue. The Board agreed to vote on the impact issue. It was moved Carolyn and seconded Chris, that with regard to the current application, the dwelling ‘A’, and the taking of a portion of the residential use within that dwelling and conversion to a boat sales office, will not result in any greater adverse impact to the area than existed prior. Vote in favor: 6 – 0.

Performance Standards (page 22 of the LUO): Landscaping and buffering: Carolyn Maling stated that the buffering level of impact is a low impact – and it is less non conforming than it was before – agreed by Rawls and Dever as well. Molly said that using the parallel of the car lot there is no extra lighting required and that makes the impact less. Molly said it is not going to be late into the night, and not lit like a parking lot – there are two residential uses abutting the project, and most of the activity will be outside – we need to make sure that activity is low. Sharon asked for a clarification on hours of business. Noel said it is a boat sales business – but should be normal business hours during the summer time –

would hesitate to make it a firm seasonal usage, but the agent is willing to add additional buffering if needed. There will be boats as a buffer as well. Molly: it doesn't say in the ordinance if impact is medium there are specific parameters – Agent agreed that it is not a good idea to set a precedent. Sharon said the board should look at what's changing on the particular lot – and is open for suggestions as to whether it is low or medium impact. Dennis would suggest medium impact, as the business could grow. He also thinks that if the plantings on the drawings are made, it would buffer appropriately. Sandy asked if you plant trees they will obstruct their neighbors' views – it would seem that unless an abutter is complaining, it may be fine and without complaints from abutters, she would agree that the plantings are unnecessary. CEO said there is a line of trees that are getting tall for the house on Main Street. Molly said no one is disagreeing. Dennis said the level of impact is medium and that the existing buffering is satisfactory. It was moved Dennis and seconded Molly, that the definition of impact level is level medium. Discussion: Sharon said it could be set at medium and the board could find that the existing buffering is acceptable. Molly said it is important to know that buffering is not just tall trees, but lower bushes are considered also. Vote taken: 4 in favor, 1 Abstain (Sandy Johnson), 1 against (Carolyn Maling).

It was moved Dennis and seconded Sandy that the existing buffering at the proposed lot is adequate for the level 2 buffering impact. Discussion: Molly asked if is there anything to block headlights and was told by Musson that there is no house in direct line – there are trees and will be boats – Noel said there are existing conditions that will help but there is nothing there that would be impacted by headlights. Molly asked about the travel way – Noel said it is 24' from the boats. Molly suggested marking it on the original plan. The parking spaces (8) have been formalized. Sharon said if the Board has concerns about how the area can be used when there are not boats present, that those can be a condition of the permit. Chris Rawls asked if there will be plowing of the area during the winter. Noel Musson said he expected there to be plowing. Molly asked for a modified site plan – Noel will make the adjustments.

Erosion and sedimentation – Carolyn asked with the almost 11,000 s.f. of impervious surface, and the mention of a ditch above, what will happen on the side and down below so there is not an ice flow into the sewer parking lot? The engineers designed the system so they have a better chance of water infiltrating into the ground. The side is graded to go into the ditch, where it infiltrates into the ground and separates into the storm drain and it is designed to get into the ground before it goes into the Sewer Department parking lot. Chris asked about the infiltration trench – there is nothing to keep sediment from going into the crushed rock. Noel said there should not be a filter fabric over the rock, because it will negate what the rocks should do. Chris asked if the DEP standards have kept up with

the frozen ground/heavy rain problems. Chris said drain pipes could be included in that plan to take extra precaution. Molly said that if this isn't sufficient there is a way to handle it in the LUO. Ok with erosion and sedimentation control. Fill and excavation: Dennis asked how much of a sub-base is planned and what material will it be. CES Musson said they haven't determined yet. Carolyn asked if the boats would be show only – with no boats waiting to be repaired or painted, and no scraping. Musson said that is true – show only. Sharon suggested a condition – no servicing of boats other than washing. Re parking – Sharon and Carolyn said the requirement for parking is only 7. Carolyn suggested changing the master application to 7. There will be a sign and the CEO will address that permit.

Moved Carolyn and seconded Molly, that with regard to special activities and their standards that 1a – p be deemed NA. Vote 6 – 0 in favor

It was moved Carolyn and seconded Molly, that the SWH LUO permit application of Noel Musson, representing CES, Agent for Great Harbor Marina, Inc., 7 Apple Lane, Southwest Harbor, Map 003, Lot 063, Zone: Harbor. Purpose: Site modifications and change of use to add a commercial boat sales operation to existing site uses to proceed with site plan modifications including the construction of a parking area and paving of 10,900 sf ,and to change the use to add a commercial boat sales operation to the existing site and to include the addition of a commercial office in the remaining original residential structure, be in compliance with the SWH LUO pending a letter from the applicant regarding the fact that the non-conforming use (residential structure) reflects no greater adverse impact to the area and also, too, that the Southwest Harbor Planning Board states that the Board is not permitting any service of any boats on this lot. Vote in favor 6 – 0.

Five minute break at 7:44 p.m.

It was agreed that July 3rd is the only meeting in July.

VI. Shoreland Zoning Ordinance Changes (Howard) – Don suggested they meet and bring this to the next meeting. Discussion was held on whether it will be easier to adopt the State Shoreland Zoning Ordinance, or make changes to the SWH LUO. Next meeting according to CEO will include Walls Coal replacement of building, and the Pemetic Parking Lot. And it would be apropos to have that meeting August 7th.

Don explained the changes he is working on with regard to the application forms – it is a work in progress. He said the important part of any application is the performance standards, and where the Board needs to put its focus. All the other pieces of the application form are dealt with by the Ordinance. Sharon said the Board must get back to scheduled site visits. Don said if the site visit is announced at a meeting and the public attending is invited, there is no need for advertising. Sharon said the packages need to be

to the Board members early before the Aug 7th meeting. Don said he is thinking of mailing or having them delivered.

Molly handed out a very rough draft of a buffering letter. Additionally, the impact of the construction for the clinic complex has been rather dramatic – the dust kicked up by the heavy equipment is huge. She asked if there are controls that the CEO could implement. Carolyn asked if the CEO had noticed the sink at the Dysart’s expansion. CEO will look at it next week. There is a banner advertising the Moorings Restaurant, in the parking area of the residence on Mansell Lane. Molly said the parking on the dock of Great Harbor Marina is not being enforced.

VII. Term Renewals and Appointments: (Maling & Johnson). The Chair asked both Maling and Johnson to see the recorder after the meeting.

VIII. Other Business: Next Meeting Date and Agenda Items

IX. Adjournment 8:15 p.m. It was moved Sandy and seconded Carolyn, to adjourn the meeting at 8:15 p.m.

Johnson signed the Warrant and Planning Board member renewal forms.

Submitted by: _____

Approved by: _____