

NORTH BERWICK, MAINE 03906

MINUTES OF PLANNING BOARD MAY 8, 2014

Present: Chairman Barry Chase, Jon Morse, Rick Reynolds, Mark Cahoon, Anne Whitten

Absent: Geoffrey Aleva, Lawrence Huntley, CEO

Also Present: Karen Saracina, Anthony Saracina, Lionel Ewers, Laurienne Missud Martin

1. Call to Order:

Chairman Chase opened the Planning Board meeting at 6:32 pm.

Chairman Chase moved Anne Whitten to full voting status for tonight.

2. Review Previous Minutes:

Rick Reynolds stated that on Page 4 in the last paragraph, the first sentence reads, "Chairman Chase asked how the Board felt about have a low fence..." but it should read, "Chairman Chase asked how the Board felt about having a low fence..."

Rick Reynolds motioned to accept the minutes from April 24, 2014 as amended. Mark Cahoon seconded the motion. VOTE: 4-0 Abstain: 1

3. Current Business:

Chairman Chase stated that the first item on the Agenda for tonight was to go over the Findings of Facts for Recovery Maine and sign the Conditional Use Permit and Findings of Facts for them.

Anne Whitten asked why we were going to review these tonight because the applicants were not present. She stated that, at the last meeting, they had asked if they could do it at the May 22, 2014 instead of at the May 8, 2014. Chairman Chase stated that Larry Huntley had included it on the Agenda for tonight and Larry was not here to ask him about it. Chairman Chase stated that he didn't know if the applicant had approached Larry since the last meeting and told him to go ahead without them at this meeting. Rick Reynolds stated as long as they had them, they could go over them and if there was something that they didn't agree with they just wouldn't sign them. There was further discussion among the Board members about whether they should go over them tonight or not.

Jon Morse motioned to table the review of the Findings of Fact and Conclusions of Law for Recovery Maine until the May 22, 2014 meeting. Mark Cahoon seconded the motion. VOTE: 4-1

Chairman Chase moved on to the next item on the Agenda for review of the Findings of Facts and Conclusions of Law for Dollar General.

Chairman Chase and Rick Reynolds went on to read the Findings of Facts into the minutes.

TOWN OF NORTH BERWICK PLANNING BOARD

Dollar General Corporation

)	
Application for Conditional Use Permit)	Findings of Facts
Dollar General Store)	
Elm Street Route 4)	

Pursuant to the Town of North Berwick Zoning Ordinance, the Planning Board has reviewed the conditional use permit application submitted by Dollar General Store; including supplemental information on file with the Town of North Berwick. The Planning Board was assisted in its review of the project by the Southern Maine Planning and Development Commission. The project was also the subject of a peer review by the Town's engineering consultant, Underwood Engineering. The Planning Board makes the following findings of fact and conclusions of law for this application:

BACKGROUND

Dollar General filed a conditional use application on February 27, 2014, for a general retail sales facility and classified as a Commercial Facility with more than 2500 square feet per story. The project includes a 9,100 square foot facility, vehicular parking and access drive, service and loading areas, and other associated improvements. The site will be served by public water and sewer and have access to Elm Street (Route 4).

The project site is located in the Commercial II and Shoreland General Development I Overlay zoning districts. The site consists of two parcels that Dollar General has under agreement to purchase, which are identified on the Tax Assessor's maps as Map 17, Lot 45 and Map 17, Lot 47. By combining these parcels, the site is approximately 2.8+ acres, and is located on the easterly side of Elm Street.

The Planning Board determined that the application was complete on February 27, 2014, held a public hearing on March 13, 2014 where 5 citizens had several questions regarding the operation.

The board closed the public hearing that evening. The applicant revised the plans based on comments from SMPDC Planning Staff as well as Underwood Engineers and submitted them under a date of April 10, 2014, for consideration.

FINDINGS AND CONCLUSIONS

I. Background

The Planning Board finds that the project is categorized as a “commercial facility having more than 2,500 square feet per story,” and therefore that it is permitted with conditional use approval per the land use table in Section 4.2 of the Zoning Ordinance. The Ordinance does not separately define “commercial facility having more than 2,500 square feet per story,” but it does in Section 3.2 define a commercial use as: “the use of lands, buildings, or structures, other than a ‘home occupation,’ the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.” The proposed project here is commercial in nature because it is a facility that involves the use of lands, buildings, and structures the intent and result of which is the production of income for the sale of various goods, including groceries. Therefore, it is best categorized as a “commercial facility having more than 2,500 square feet per story.”

II. Conditional Use Review

A project that is classified as a “commercial facility having more than 2,500 square feet per story” is allowed in the Commercial II district only with conditional use approval from the Planning Board. Conditional use approval requires that the Planning Board review three separate sections of the Zoning Ordinance: (1) applicable performance standards under Article 5; (2) multiple immediate and long-range effects of the project under Section 6.9.6.a; and (3) multiple additional standards under Section 6.9.6.b. Because the performance standards in Article 5 are highly detailed, we will begin by analyzing compliance with those criteria and then move to discussing the conditional use provisions under Sections 6.9.6.a and 6.9.6.b.

A. Performance Standards

As an initial matter, the project must demonstrate compliance with Section 5.1, which sets out the basic requirements that apply to all projects. Specifically, the Planning Board finds the following:

1. Traffic.

The project provides for safe access to and from Elm Street. The design of the access driveway intersection The project has an adequate number of access points, and it is appropriately located, including with respect to sight distances, intersections, schools, and other

traffic generators and the curb cut is limited to the minimum width needed. The proposed development will not have an unreasonable negative impact on the Town's road system, and will provide safe interior circulation within the site. Accordingly, the applicant has met Section 5.1.1 of the Ordinance.

(Rick Reynolds stated that the second sentence did not make any sense and the other members agreed. It looks like it should be two separate sentences. The Board decided it should read: "The project provides for safe access to and from Elm Street with the design of the access driveway intersection. The project has an adequate number of access points...".)

2. Noise.

The project will not generate excessive or objectionable noise, including with respect to issues of intermittence, beat frequency, shrillness, or volume. The project is located on Elm Street, where regular car and truck traffic already dominate the acoustic environment. The minor operational noise that the project generates will be limited to mechanical equipment and vehicles. This noise will be attenuated by acoustic controls, including sound attenuating A/C cabinets and the proper placement of mechanical units to the rear of the building. Accordingly, the applicant has met Section 5.1.2 of the Ordinance.

3. Air Emissions.

The project will not adversely affect air quality. Air emissions will be within typical parameters for a supermarket of this size. Heating for the building will be provided by a highly efficient heat reclaim system and supplemented by liquid propane, which is generally considered clean-burning. During construction, dust must be controlled per the Erosion & Sedimentation Control Plan. The project does not trigger a need for an air emissions license from the MDEP. The project will not cause emissions of dust, dirt, fly ash, fumes, vapors, or gases that could damage human health, animals, vegetation, or property, or that could soil or stain persons or property, at any point beyond the property boundaries. In addition, the project will not emit dust, ash, smoke, or other particulate matter that can cause damage to human or animal health, vegetation, or property by reason of concentration or toxicity, that can cause soiling beyond the property boundaries, or that will be composed of solid or liquid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas or air at the point of emission. Accordingly, the applicant has met Section 5.1.3 of the Ordinance.

4. Odor.

Refuse for the project will be disposed of in a commercially fenced in dumpster unit and no open dumpsters are proposed as part of the project. The project will not produce offensive or harmful odors perceptible beyond lot lines. Accordingly, the applicant has met Section 5.1.4 of the Ordinance.

5. Glare.

The applicant provided a photometric plan and catalog cut sheets for the proposed light fixtures. Lighting for the project will be provided by pole mounted fixtures in the parking lot and wall mounted fixtures on the north, west, and south faces of the building. The lighting layout was designed to provide safe, efficient lighting for customers and employees, while preventing unwanted light spill across property boundaries.

(Rick Reynolds stated that the statement regarding the section of the Ordinance was missing. The Board members agreed. The following sentence was added to the end of this paragraph: Accordingly, the applicant has met Section 5.1.5 of the Ordinance.)

6. Stormwater Run-Off.

The applicant provided a detailed stormwater management report. Post-development run off patterns will remain similar to pre-development patterns, and peak flow rates will not exceed pre-development levels at the project boundaries. Underwood Engineers on behalf of the town reviewed the Storm Water Management plan and had no problems with the design after minor adjustments were made to the initial design upon Underwood's request. Accordingly, the applicant has met Section 5.1.6 of the Ordinance.

7. Erosion Control.

The applicant submitted an erosion and sedimentation control plan for this site that was developed to comply with the Maine Erosion & Sedimentation Control BMP's Handbook. The plan employs both temporary and permanent erosion and sedimentation control measures that will provide adequate controls during construction and operation of the site and will minimize the erosion of soil and sedimentation of watercourses. Long term, the site is designed to remain stable through establishment of permanent vegetation or riprap in those areas that are susceptible to erosion, such as pipe inlets and outlets. Accordingly, the applicant has met Section 5.1.7 of the Ordinance.

8. Setbacks and Screening.

The applicant provided a detailed landscaping plan. The landscaping for the site will visually screen the project from abutting uses and minimize the impacts of the project on those properties. The project meets all applicable setbacks, and there are no particular safety hazards to children that will be present. Also, the applicant will install a six-foot high vinyl fence along the western side of the building to help screen the rear portion of the building. Accordingly, the applicant has met Section 5.1.8 of the Ordinance.

9. Explosive Materials.

The project includes installation of two 1,000 gallon underground liquid propane tanks to serve the building. The tanks will be located approximately 75 feet from the nearest property boundary. Accordingly, the applicant has met Section 5.1.9 of the Ordinance. (Rick Reynolds stated that it should not state “approximately 75 feet”. Mark Cahoon stated that in the Ordinance, it reads as “at least 75 feet”. The Board agreed that it should be changed. The sentence will now read: “The tanks will be located at least 75 feet from the nearest property boundary.”)

10. Water Quality.

The project complies with the performance standard for stormwater, will be connected to public sewer, and does not otherwise involve the storage or use of solid, gaseous, or liquid materials, such as fuel, chemicals, industrial wastes, or biodegradable raw materials, that could run-off, seep, percolate, or wash into surface or ground water. Accordingly, the applicant has met Section 5.1.10 of the Ordinance.

11. Flood Protection.

The project is in an area subject to the 100-year floodplain, this standard is not applicable due to the fact that the building is not planning to be located in the area. In addition, the rate of stormwater discharge will remain at or below current levels, and therefore this project does not increase the risk of flooding of down-stream properties. (Rick Reynolds stated that the statement regarding the section of the Ordinance was missing. The Board members agreed. The following sentence was added to the end of this paragraph: Accordingly, the applicant has met Section 5.1.11 of the Ordinance.)

12. Soil Suitability.

The soils are suitable for the project. Accordingly, the applicant has met Section 5.1.12 of the Ordinance.

13. Off-Street Parking and Loading.

As discussed in more detail below, the applicant has met Section 5.1.13 of the Ordinance. More particularly:

1. General

The off-street parking and loading facilities will provide 30 off-street parking spaces with 15 located to the front of the building and 15 located on the east side of the building, with service and loading areas located on the south side of the building.

(Rick Reynolds stated that #2 in this section was missing. Jon Morse stated that it should be the section on Parking Lot Design Criteria. The Board agreed to add the following:

2. Parking Lot Design Criteria

With the engineered plan and review by MDOT and Underwood Engineers.)

3. Parking Stall and Aisle Layout

Parking spaces, which will be delineated by painted stripes, are 9 feet by 18.5 feet, and travel lanes and parking aisles are at least 16 feet wide to the front and 26 feet to the east side of the building.

4. Minimum Required Off-Street Parking

The parking lot provides 32 spaces. This exceeds the standards in the Zoning Ordinance as follows:

Rate	Number	Number of Spaces
1 space/300 sf work area, excluding bulk storage areas	7195	24
1 space/employee based on avg. employee occupancy	1905	4
Total Required:	-	28+2 Handicap

14. Subsurface Sewage Disposal.

Because the project will be served by public sewer, this standard is not applicable.

15. Other On-Site Disposal Systems.

Because the project will be served by public sewer, this standard is not applicable.

16. Private Wells.

Because the project does not include any private wells, this standard is not applicable.

In addition to the basic performance standards in Section 5.1, the project must also meet any applicable standards in Section 5.2 for specific activities. The Planning Board finds the following:

1. Medical Marijuana.

This standard is not applicable.

2. Earth Material Removal.

Because all earth material removal activities will be incidental to normal construction activity, this standard is not applicable.

3. Home Occupation.

This standard is not applicable.

4. Mobile Home Parks.

This standard is not applicable.

5. Planned Unit Development.

This standard is not applicable.

6. Signs and Billboards.

The applicant has submitted signage information and has met section 5.2.6 of the Ordinance.

7. Timber Harvesting.

This standard is not applicable.

8. Animal Husbandry.

This standard is not applicable.

9. Residential Uses in Commercial Zones.

This standard is not applicable.

10. Recreational Vehicles.

This standard is not applicable.

11. Agricultural Land and Development Standards.

This standard is not applicable.

12. Manufactured Housing.

This standard is not applicable.

13. Aquifer Protection.

Because this project is not in the Aquifer Protection district, this standard is not applicable.

14. Street Design and Construction.

This standard is not applicable.

15. Handicapped Accessibility.

This standard is not applicable.

16. Affordable Housing.

This standard is not applicable.

17. Shoreland District Standards.

Because the project is not in the Shoreland district, this standard is not applicable.

18. Adult Businesses.

This standard is not applicable.

19. Emergency Public Health and Safety Facilities.

This standard is not applicable.

B. Immediate and Long-Range Effects

In considering this application, the Planning Board evaluated the immediate-and long-term effects of the project, per Section 6.9.6.a of the Zoning Ordinance, as follows:

1. The proposed project is and will continue to be compatible with adjacent land uses and other property in the district. The property was previously used as a lumber yard for both wholesale and retail sales of lumber products. In addition, given Dollar General's compliance with the performance standards regarding issues such as traffic, noise, stormwater, setbacks,

screening, and buffering, the project has been designed to be compatible with existing residential uses in the area.

2. The Town does not currently have a General retail sales facility, and therefore there is a need for this project, both now and in the future. Further, the central location of the project is convenient for residents who choose to shop there.

3. There will be few, if any, negative impacts on the local population and community facilities. As noted above, the applicant has made substantial efforts to fit the project harmoniously into the neighborhood. In addition, this project fills a need in the community for a supermarket.

(Rick Reynolds stated that he does not agree with the last statement because Hannaford is coming into town. The Board agreed to remove the last statement that reads, "In addition, this project fills a need in the community for a supermarket.").

4. As discussed in detail above, the project meets the traffic requirements, and there will otherwise be little to no impact on transportation facilities.

5. By meeting the performance standards regarding issues such as air emissions, odor, glare, stormwater, erosion, water quality, and sewage disposal, as described in detail above, the project will maintain safe and healthful facilities.

6. The project site is gently sloping to flat, and thus requires limited grading work and will not create topographic conditions that pose a concern. As discussed above, the project also meets the performance standards regarding stormwater and erosion, and thus drainage does not pose a problem. A great deal of vegetation will be allowed to remain, particularly along the eastern and southern boundaries of the parcel, to provide buffering. In addition, the project will include extensive landscaping.

7. As discussed in greater detail above, the project meets performance standards for managing stormwater and erosion, and will be connected to public sewer. Therefore, Dollar General has adequately addressed the prevention and control of water pollution and sedimentation.

8. The Structure is not located in a flood plain or in the floodway of a river or stream.

C. Conditional Use Standards

In addition, the Planning Board finds that Dollar General has made satisfactory provisions and arrangements concerning the following, per Section 6.9.6.b of the Zoning Ordinance:

1. Ingress and egress to the property and the proposed structures, with particular reference to vehicular and pedestrian safety and convenience, traffic flow, and control, and access in case of fire or other catastrophe, will be safe, convenient, and adequate for the anticipated type and quantity of traffic, particularly given compliance with the traffic and parking performance standards, which are addressed in detail above.
2. The parking and loading areas, with particular attention to the items addressed immediately above in (1), and the economic, noise, glare, and odor effects of the use on adjoining properties generally in the district, will be reasonable given that the district is now zoned for commercial use and the project will meet the performance standards regarding parking, noise, glare, and odor, which are addressed in greater detail above.
3. The refuse and service areas, with particular reference to the items addressed immediately above in (1) and (2) have been adequately designed and will be safe and well buffered from abutters, and will not create unreasonable noise or odors.
4. Utilities – including water, sewer, and electricity – are available will be adequate to serve the project’s needs, and will be located conveniently and appropriately to limit impacts on neighboring properties. Both the North Berwick Water District and the North Berwick Sanitary District have the capacity to serve the project. Electrical service is readily available.
5. As discussed in greater detail above, the screening and buffering will be adequate to limit impacts of the project on neighboring properties, particularly in light of the project’s compliance with setbacks and landscaping requirements, as well as the maintenance of natural vegetation.
6. The signs and proposed exterior lighting will not cause unreasonable glare, or pose a threat to traffic safety, and will not have an adverse economic impact or otherwise be incompatible with properties in the district.
7. The project meets the requirement for proposed yards, as discussed above with respect to the requirements for setbacks, and will make adequate provision for open space, much of which will be left in its natural state.

III. Conditions of Approval

There are no conditions of approval that were approved for this project.

IV. Conclusion

The Planning Board hereby finds and concludes that Dollar General has demonstrated compliance with all applicable standards of the Zoning Ordinance and approves the conditional use application in this matter.

Dated at North Berwick, Maine, this 24th day of April, 2014.

Mark Cahoon stated that his name was misspelled on the Findings of Facts. It was spelled Cahon instead of Cahoon. He corrected it and the Board signed the paperwork.

4. Other Business:

No other business at this time.

5. Adjournment:

Mark Cahoon motioned to close the meeting at 7:31 pm. Rick Reynolds seconded the motion.
VOTE: 5-0

Lawrence Huntley, CEO
Planning Coordinator

Respectively submitted,
Susan Niehoff, Stenographer

Chairman Barry Chase

Geoffrey Aleva

Rick Reynolds

Mark Cahoon

Jon Morse

Anne Whitten