

MINUTES
TOWN OF TOPSHAM
PLANNING BOARD MEETING
SEPTEMBER 18, 2012, 7:00 P.M.

MEMBERS PRESENT: Donald Spann
Ronald Bisson
Jay Prindall
Joshua Spooner
Bruce Van Note

MEMBERS ABSENT: Michael Colleran and Scott Libby

STAFF PRESENT: Planning Director, Richard Roedner

A meeting of the Topsham, Maine Planning Board was held on Tuesday September 18, 2012 at the Municipal Building at 100 Main Street, Topsham, Maine.

1. CALL TO ORDER AND ROLL CALL

Chairman Spann called the meeting to order at 7:00 p.m.. The recording secretary conducted the roll call and noted that all members were present, except for Michael Colleran and Scott Libby, both of whom had been excused. Chairman Spann introduced and welcomed the new member on the Board, Joshua Spooner.

2. APPROVAL OF THE MINUTES OF THE SEPTEMBER 4, 2012 MEETING

Motion was made by Mr. Bisson, seconded by Mr. Prindall, and it was

VOTED

To approve the minutes of the September 4, 2012 meeting, as written.

3. PUBLIC HEARING - GRIMMEL INDUSTRIES, INC. HAS SUBMITTED AN AMENDMENT TO THE SITE PLAN FOR 80 PEJEPSCOT VILLAGE, TAX MAP R02, LOT 034

Mr. Roedner began the discussion saying this project was originally scheduled to come before the Board on August 21, 2012, but was postponed. It is before the Board for a public hearing on an application to amend the original site plan approval dated 1992. At that time the premise of the application was that all operations and storage would be conducted in the then existing buildings. However, over the years, several fires have taken place eliminating several of the buildings, resulting in much of the process at the site taking place outside. The applicant is seeking approval from the Board to continue operating as it has been since the fires.

Attorney Brian Dench from Skelton, Taintor & Abbott represented the applicant. Attorney Dench told the Board that Grimmel Industries is requesting that the Board modify its August 14, 1992 Findings of Facts and Conclusions in order to reflect the reality that buildings on site were destroyed by fire in 1995. Attorney Dench said this

necessitates changes to Findings No. 8 and No. 10 of the Planning Board's 1992 findings and Site Plan approval as follows:

- (8) The recycling operations will be entirely contained within ~~existing buildings on the site~~. No new buildings will be constructed.
- (10) All materials to be processed will be stored within ~~the buildings~~ the site and materials will not be stockpiled outside the site.

Back in 1992 when the application was approved, most of the operation was done inside of the old building which burned. Attorney Dench told the Board that the applicant did not realize that he had to amend the application when moving the operation out of doors.

Attorney Dench referenced a Noise Level Report from Stephen Ambrose of S.E. Ambrose & Associates which provides the results of noise testing conducted on April 11, 2012 during which time Grimmel was operating its metal separation equipment. The report confirms that Grimmel's operations fell within the Town of Topsham's noise limitations.

Regarding question posed earlier by the Code Enforcement Officer relative to surface water drainage and stormwater, Attorney Dench distributed photographs of the wastewater treatment plant, which he said takes care of any runoff. When questioned if the treatment plant was actually in operation, Attorney Dench responded that it was.

Attorney Dench distributed a copy of the applicant's Stormwater Permit from Teco Brown, Director of the Bureau of Land & Water Quality, Department of Environmental Protection. It was noted that the DEP inspects the site regularly and are happy with its operation. The Planning Director said the Codes Office was under the impression that the plant has not been operational and DEP said it was not working.

Attorney Dench's presentation was followed with a period of questions and answers from the Board. Board member Van Note remarked that normally the Board receives evidence from a registered engineer assuring that the water runoff isn't flowing to the wrong drains and he would like to have someone tell him so (other than counsel) or make it a condition of approval that all the water will be going into the wastewater treatment system. Mr. Van Note acknowledged the letter from the DEP dated April 25, 2011 reissuing the stormwater permit. He recalled Attorney Dench's statement that the DEP said the plant was an "excellent site" and asked Attorney Dench if that was an actual acknowledgement to the applicant that the site was good. Attorney Dench responded that there was such a document.

Board member Prindall inquired when the fires occurred. It was noted there were several, but the major fires occurred in 1995, 1996 or 1997 and 2005.

Chairman Spann referenced the two Finding of Facts from the original approval, that the applicant would like amended:

- (8) *The recycling operations will be entirely contained within ~~existing buildings on the site~~. No new buildings will be constructed.*

- (10) *All materials to be processed will be stored within ~~the buildings~~ the site and materials will not be stockpiled outside the site.*

Board member Van Note asked if there would be any objection to having No. 10 read: "All materials to be processed will be stored within the site and in compliance with all applicable Topsham Ordinances." Attorney Dench said that would apply to a junkyard and the operation is not a junkyard. Board members asked the Planner to read section 225-39, which he did. It was noted that 225-39 does not reference a junkyard, but any business with outdoor storage. Board member Spooner also made a suggestion of adjusting Finding No. 10.

Chairman Spann inquired if the Board considered that a site walk was in order. Response was to hear what the public had to say and then decide whether or not to call for a site walk.

The Public Hearing was declared open. Offering comments were:

John Houston - Said the applicant does not comply with anything. The gate was supposed to be locked at night and unlocked at 7:00 a.m. There was a truck there last night at 10:00 p.m. Town was remiss in not checking on the applicant as they have been getting away with non-compliance all these years. They crush cars at 5:30 a.m. and it sounds like an airplane in my yard. They need to build a building and do the noisy work inside. Water runs through the rust and junk metals right into the river. Drivers are not supposed to use the Jake brakes, but they do. When Mr. Grimmel is in his new house he built, everything is quiet. When he is away the noise starts all over again.....

Mary Beth Walton - Operations start prior to 7:00 a.m. Neighbors have had several flat tires because of the debris on the road....

With no further comments to be heard, the Public Hearing was declared closed.

Chairman Spann polled the Board on whether or not they wanted to do a site walk. All said they did and a site walk was scheduled for 9:00 a.m. on Tuesday, October 2, 2012, pending confirmation from the applicant.

4. **PUBLIC HEARING - TOPSHAM PROPERTY HOLDINGS, LLC HAS SUBMITTED A SITE PLAN AND CONDITIONAL USE PERMIT FOR A 4,140 S.F. FAST-FOOD RESTAURANT AT 75 TOPSHAM FAIR MALL ROAD, TAX MAP R05B, LOT 009E**

Chairman Spann recused himself because of a possible conflict of interest and turned the gavel over to Mr. Van Note who conducted the meeting.

Curt Neufeld from Sitelines represented the applicant and reviewed a revised sketch plan for a proposed fast food restaurant with a drive-through window. The restaurant will be constructed in an existing out parcel (75 Topsham Fair Mall Road) in front of and to the west of Reny's.

Mr. Neufeld reviewed a revised traffic flow pattern which changed the flow of the vehicles showing them coming out approximately 75-feet from the intersection. A

Traffic Report detailing the number of trips to be generated by the project was submitted to the Planning Office. In reference to the Traffic Impact Fee, the applicant is proposing to use the PM Peak Weekday trip count of 122, discounted by existing traffic that will pass at the project versus another destination. This results in 38 new trips per day. The Planner suggested the applicant use the Weekend Peak which is 146, then to discount for existing trips in the mall, resulting with a number in the low to mid 40s. The Board requested Diane Morbedo, individual who did the traffic study, go back and recalculate using 146 rather than the 122.

Number of parking spaces in the whole mall were reviewed and it was determined that there is more than ample parking spaces for the proposed project. Memo from Tom Saucier dated September 17, 2012 was reviewed and it was noted MDOT indicated that the project does not require a "new" permit as it is covered under the mall TMP.

Specifications on 3 LED lights were shown and there will be two lights attached to the building. A wall sign was presented which complies with the sign ordinance. Tom Saucier suggested alterations to the plantings around the dumpster and the applicant has agreed to alter those accordingly.

During questions and answers from the Board, it was noted that a Shared Parking Agreement was on file. Following the applicant's presentation, the Public Hearing was declared open.

John Larson asked to be recognized, said he and his wife own the mall along with a partnership with Kevin and Paul Kelly. Mr. Larson spoke in favor of the project.

With no further comments to be heard, the Public Hearing was declared closed.

CONDITIONAL USE STANDARDS

Per Ordinance Section 225-67.F -Conditional Use Standards - it was concluded that:

1. **The use is compatible with and similar to the general categories and uses of neighboring properties.** *The size and location of the building is consistent with those on the adjacent parcels. It is anticipated that the architecture for the building will incorporate materials and accents that will complement the existing commercial buildings in the vicinity.*
2. **The use is compatible with the Comprehensive Plan and the anticipated future development of the neighborhood.** *Per the Comprehensive Plan, the proposed development is located in the Mixed-use Commercial Growth Area. This area is intended to "remain an area of varied uses, including large-scale commercial and service businesses, as well as office/business/light industrial parks." As the proposed development is a restaurant building located within the Topsham Fair Mall development, it complies with the intent of the Comprehensive Plan.*
3. **Anticipated traffic to and from the proposed operation will not cause an adverse negative impact on the neighborhood surrounding the proposal.** *A traffic report was prepared by Diane Morabito, P.E., of Maine Traffic Resources, for the proposed development. A copy of the report is included will be submitted under separate cover.*
4. **There will be no noise, dust, odor, vibration or smoke generated by the use that will adversely affect neighboring properties or the Town in general.** *As the project development consists of a restaurant building, and all activities will occur within the building, it is not anticipated that the proposed use will generate excessive noise, dust, odor, vibration, or smoke. The*

development has been designed to conform to all building and landscaping setbacks and is not anticipated to adversely affect the neighboring properties.

5. **The physical characteristics of the site, including location, slopes, soils, drainage and vegetative cover are suitable for the proposed use.** *The location of the site, within the Topsham Fair Mall development, is an appropriate location for the proposed use. The proposed development will not result in excessive cutting or filling of the site and the existing soils on-site are suitable for the proposed development. Vehicular & pedestrian access, parking, and utilities are available at the site.*
6. **The use will not constitute a public or private nuisance.** *As the project development consists of a restaurant building, which is similar in character to several others in the Topsham Fair Mall, it is not anticipated that the proposed use will constitute a public or private nuisance. The hours of operation are intended to minimize the impacts to the neighborhood.*

The Board was in unanimous agreement with the above conclusions.

Motion was made by Mr. Prindall, seconded by Mr. Bisson and it was unanimously (of those present)

VOTED

That a Conditional Use Permit be granted for a Fast-Food Restaurant at 75 Topsham Fair Mall Road, identified by Tax Map R05B, Lot 009E.

SITE PLAN REVIEW

Mr. Roedner asked the Board if they were comfortable with the architectural design of the building as proposed. The Board was in unanimous agreement that the design of the proposed restaurant met the architectural design standards.

The following issues were summarized in accordance with **§175-8 PERFORMANCE STANDARDS** of the Code:

LANDSCAPE PRESERVATION: As the existing parcel was developed as a parking lot, the proposed development will ultimately result in a net decrease in impervious area. As part of the project, additional landscaping will be planted adjacent to the building and parking areas to enhance the overall project appearance. A Landscape Plan, conforming to the Town of Topsham Code, has been developed by Frank Cushing, RLA, and is enclosed for your review.

BUILDING RELATIONSHIP TO ENVIRONMENT: The building will be constructed in an existing commercial development. The size and location of the building is consistent with those on the adjacent parcels. Architectural floor plans and elevations of the proposed restaurant building have been developed and are enclosed for your review. It is anticipated that the architecture for the building will incorporate materials and accents that will complement the existing commercial buildings in the vicinity.

VEHICULAR ACCESS: Access to the site will be from the existing drive aisles that surround the parcel. The drive-thru lane will exit to the existing access drive for the Topsham Fair Mall. No new curb cuts from the public way will be required for the proposed development. A traffic analysis and trip generation report has been by Diane Morabito, PE, of Maine Traffic Resources and will be submitted under separate cover.

STORMWATER RUNOFF: The existing development, which is almost 100% impervious cover, was approved under the Site Location of Development Act Permit (SLODA) for the Topsham Fair Mall. As the proposed development will result in a decrease in the overall impervious area, a Minor Revision to the SLODA will be required. A copy of the permit will be provided to the Town under separate cover. The proposed development will maintain existing drainage patterns and utilize the stormwater management system for the Topsham Fair Mall. Since there will be a net decrease in the impervious area and the drainage will continue to be conveyed to the detention basin near Home Depot, there will be no adverse impact from the project.

EXISTING UTILITIES: Utility services will connect to existing services that are either located within the Topsham Fair Mall Road right-of-way or have been extended to the project site. It is anticipated that the project will result in a water and wastewater demand of approximately 2,500 GPD. The development will connect to existing natural gas

that is located in the Topsham Fair Mall Road right-of-way. Letters have been sent to the utility districts/companies requesting their ability to serve the proposed development. Upon receipt of any response letters, a copy will be forward to the Town.

SIGNS: The project will include an additional sign on the Topsham Fair Mall directional sign, located at the intersection with Rt. 196. Building mounted signage will be located on the façade, as shown on the building elevations enclosed with this package. Directional signs will be installed within the site to help guide patrons to the drive-thru lane.

SPECIAL FEATURES: NA

OUTSIDE LIGHTING: Lighting will include full cut-off fixtures and house shields where necessary. The proposed signage will be externally illuminated using downward facing fixtures as much as possible. A Lighting Plan, which depicts the light fixture locations, illumination levels, and a schedule of materials, will be prepared and submitted under separate cover.

EMERGENCY ACCESS: The existing drive aisles and parking spaces that surround the site provide adequate access for emergency vehicles to access and circulate through the site. The Topsham Police Department has indicated that they have no comments on the access to the site. A letter has been sent to the Topsham Fire Department requesting their comments on the Site Layout Plan. Upon receipt of a response letter, a copy will be forwarded to the town for their review.

MUNICIPAL SERVICES: As the project development consists of a restaurant building, and is located in an area designated for growth and this type of development, it is anticipated the proposed use will have a minimal impact on municipal services.

WATER QUALITY: The project will be serviced by public sewer and water. The proposed building will be constructed with a shallow foundation including an underdrain to dewater the areas immediately adjacent to the exterior footing. There are no adverse impacts to groundwater anticipated from this development.

AIR QUALITY: As the project development consists of a 4,140± s.f. restaurant building, it is not anticipated that the use will conduct activities, or include a heat plant, that would result in undue air pollution.

FUTURE WATER SUPPLIES: The project will be served by the municipal water system. As the proposed development consists of a relatively small restaurant, and there is limited area for expansion, it is not anticipated that future water needs will exceed those at the time of construction. It is anticipated that the project will result in a water demand of approximately 2,500 GPD.

EXISTING WATER SUPPLIES: The project will be served by the municipal water system. A letter has been sent to the Brunswick and Topsham Water District requesting their ability to serve the proposed development. Upon receipt of a response letter, a copy will be forwarded to the Town.

EROSION CONTROL: Temporary erosion control measures will include sediment barrier around any disturbed areas and inlet protection at existing catch basins to prevent sediment from leaving the development site. Permanent erosion control measures will include seeding and mulching of disturbed areas immediately after final grading is completed. Erosion control measures will remain in place until the area has been properly stabilized. The project will use methods as outlined in the "Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices" by the Maine Department of Environmental Protection.

SEWAGE DISPOSAL: The facility will be served by the municipal sewer system. It is anticipated that the project will result in a wastewater demand of approximately 2,500 GPD. A letter has been sent to the Topsham Sewer District requesting their ability to serve the proposed development. Upon receipt of a response letter, a copy will be forwarded to the Town for review.

NATURAL BEAUTY; HISTORIC SITES: The project is located in an existing commercial development within a zoning district that is designated for this type of development. The project will not adversely affect the scenic or natural beauty of the area. No natural resources or historic sites will be impacted as a result of the development.

SHORELAND AREAS: The proposed development is not be located within any shoreland setback and is not anticipated to adversely affect the quality of the surrounding water bodies.

Motion was made by Mr. Spooner, seconded by Mr. Bisson and it was unanimously (of those present)

VOTED

Based on the findings as set forth in Ordinance Section 175-8, and as described beginning on page 2, under Performance Standards up to page 5, and 175-12, General Parking Design, are consistent with said sections of our ordinance, including Items #1 through #10 of site plan conditions as listed in memo from the Planning Director dated 9/18/12, with #11 added to include the 9/17/12 memo from Tom Saucier (Sheet C3), Site Plan Approval is hereby granted.

5. ADJOURN

Motion was made, seconded and it was unanimously

VOTED

To adjourn the meeting at 8:45 p.m. and to move into a workshop to discuss Multi-Family Dwellings.

Respectfully submitted,



Patty Williams, Recording Secretary