BOOTHBAY HARBOR PLANNING BOARD DECEMBER 13, 2017 Page 1 of 14

**BOOTHBAY HARBOR PLANNING BOARD**

MINUTES OF PUBLIC HEARING

(HELD IN THE FIRE DEPARTMENT)

**December 13, 2017**

MEMBERS PRESENT: Thomas Churchill, Chairman

Lee Corbin, Second Alternate

Jon Dunsford, First Alternate

William Hamblen, Vice 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 November 8, 2017 minutes

**NEW BUSINESS**

**John Hennessy,** Map 15, Lot 45, 21 Sea Street. Applicant is proposing to construct a new building for commercial use, requiring Planning Board approval per **Chapter 170, Article V, §170-67 (A).**

**OTHER BUSINESS**

Discussion of recent changes in proposed development of the east side of the harbor by Paul Coulombe.

**WORKSHOP - DISCUSS POSSIBLE ORDINANCE AMENDMENT TOPICS**

Bob Faunce, Lincoln County Planner, to review and discuss possible goals and objections to be taken into consideration when reviewing properties located in the Maritime/Water Dependent District.

Discussion with Bob Faunce regarding possible ordinance amendments for the Downtown Business District, which would adjust dimensional requirements for non-residential uses.

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Chairman Churchill called the Wednesday, December 13th Planning Board meeting to order at 7:00 pm., stating they were happy to see such a large turnout. They would begin with a review of the one scheduled application before moving into discussion of development on the east side of the harbor. Anyone who would like to comment at that time would have a chance.

**OLD BUSINESS**

In the minutes of the November 8th meeting, Lee Corbin pointed out a correction to the first sentence on page five where it should read John Hochstein, not John Hamblen.

Vice Chairman Hamblen **motioned** to approve the minutes as **amended**. Chris Swanson **seconded**. **Unanimous approval**.

Chairman Churchill stated the application from the John Hennessy meets all of the requirements and is being reviewed by the Board because the construction is in the Shoreland zone.

CEO, Geoff Smith confirmed the application was to build docks and floats that had not existed before.

There were no questions from the Board after reviewing the site plan.

Chairman Churchill stated they would begin the Findings of Facts process and since there was a full Board present, the Alternate members of the Board would not be voting that evening.

**Findings of Fact:**

1. The owner is John Hennessy, relating to the property located at 21 Sea St. Property taxes on account of the premises for which the approval is requested have been paid in full.
2. The property is in the Downtown Business B zoning district, and the Shoreland Zone Overlay District. The property is further identified as Assessor’s Tax Map/Lot: 15/45.
3. The applicant proposes to construct a new building for commercial use, requiring Site Plan review approval in accordance with **Chapter 170, Article V, §170-61 (A)**

# Conclusions

Based on the above stated facts, the Planning Board makes the following conclusions:

**Right, Title or Interest in the Property**

The applicant \_X\_***has/***\_\_\_\_\_\_***has not*** demonstrated Right, Title or Interest on the property in question.

**Motion made by** \_\_\_Margaret Perritt\_\_\_, **seconded by** \_\_\_Vice Chairman Hamblen \_\_\_

**Vote**\_\_\_ALL\_\_\_\_\_X\_**In Favor \_\_\_\_\_\_Against**

**Chapter 170, §170-69,** [**Site plan review standards.**](http://ecode360.com/8628292#8628292)

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[**A.**](http://ecode360.com/8628293#8628293)**Utilization of site**. The plan for the development must reflect the natural capabilities of the site to support development. Buildings, lots and support facilities must be clustered in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas, including but not limited to wetlands, steep slopes, floodplains, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, and sand and gravel aquifers must be maintained and preserved to the maximum extent. Natural drainage areas must also be preserved to the maximum extent. The development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction and limiting the extent of excavation.

[**B.**](http://ecode360.com/8628294#8628294)**Traffic access.**

[**(1)**](http://ecode360.com/14420317#14420317)Adequacy of road system.

[**(a)**](http://ecode360.com/14420318#14420318)Vehicular access to the site must be on roads which have adequate capacity to accommodate the additional traffic generated by the development. For developments which generate 50 or more peak-hour trips based on the latest edition of the Trip Generation Manual of the Institute of Traffic Engineers, intersections on major access routes to the site within one mile of any entrance road which are functioning at Level of Service D or better prior to the development must function, at a minimum, at Level of Service D after development. If any such intersection is functioning at Level of Service E or lower prior to the development, the project must not reduce the current level of service. This requirement may be waived by the Planning Board if the project is located within a growth area designated in the Town's adopted Comprehensive Plan and the Board determines that the project will not have an unnecessary adverse impact on traffic flow or safety.

[**(b)**](http://ecode360.com/14420319#14420319)A development not meeting this requirement may be approved if the applicant demonstrates that:

[**[1]**](http://ecode360.com/14420320#14420320)A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard; or

[**[2]**](http://ecode360.com/14420321#14420321)The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guaranty acceptable to the municipality.

[**(2)**](http://ecode360.com/14420322#14420322)Access into site. Vehicular access to and from the development must be safe and convenient.

[**(a)**](http://ecode360.com/14420323#14420323)Any driveway or proposed street must be designed to provide the minimum sight distance as required by § [**170-54C(8)**](http://ecode360.com/14419939#14419939).

[**(b)**](http://ecode360.com/14420324#14420324)Points of access and egress must be located to avoid hazardous conflict with existing turning movements and traffic flows.

[**(c)**](http://ecode360.com/14420325#14420325)The grade of any proposed drive or street must not be more than plus or minus 3% for a minimum of two car lengths, or 40 feet, from the intersection.

[**(d)**](http://ecode360.com/14420326#14420326)The intersection of any access/egress drive or proposed street must function at Level of Service D following development if the project will generate 100 or more peak-hour trips or at a level which will allow safe access into and out of the project if fewer than 100 peak-hour trips are generated.

[**(e)**](http://ecode360.com/14420327#14420327)Where a lot has frontage on two or more streets, the primary access to and egress from the lot must be provided from the street where there is less potential for traffic congestion and for traffic and pedestrian hazards. Access from other streets may be allowed by the Planning Board if it finds if it is safe and does not promote shortcutting through the site.

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[**(f)**](http://ecode360.com/14420328#14420328)Where it is necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, the applicant shall be responsible for providing turning lanes, traffic directional islands and traffic controls within public streets.

[**(g)**](http://ecode360.com/14420329#14420329)Accessways must be designed and have sufficient capacity to avoid queuing of entering vehicles on any public street.

[**(h)**](http://ecode360.com/14420330#14420330)The following criteria must be used to limit the number of driveways serving a proposed project:

[**[1]**](http://ecode360.com/14420331#14420331)No use which generates fewer than 100 vehicle trips per day shall have more than one two-way driveway onto a single roadway. Such driveway must be no greater than 30 feet wide.

[**[2]**](http://ecode360.com/14420332#14420332)No use which generates 100 or more vehicle trips per day shall have more than two points of entry from and two points of egress to a single roadway. The combined width of all accessways must not exceed 60 feet.

[**(3)**](http://ecode360.com/14420333#14420333)Accessway location and spacing. Accessways must meet the following standards:

[**(a)**](http://ecode360.com/14420334#14420334)Private entrances/exits must be located at least 50 feet from the closest unsignalized intersection and 150 feet from the closest signalized intersection, as measured from the point of tangency for the accessway. This requirement may be reduced if the shape of the site does not allow conformance with this standard.

[**(b)**](http://ecode360.com/14420335#14420335)Private accessways in or out of a development must be separated by a minimum of 75 feet where possible.

[**(4)**](http://ecode360.com/14420336#14420336)Internal vehicular circulation. The layout of the site must provide for the safe movement of passenger, service and emergency vehicles through the site.

[**(a)**](http://ecode360.com/14420337#14420337)Nonresidential projects that will be served by delivery vehicles must provide a clear route for such vehicles with appropriate geometric design to allow turning and backing for a minimum of WB-40 vehicles.

[**(b)**](http://ecode360.com/14420338#14420338)Clear routes of access must be provided and maintained for emergency vehicles to and around buildings and must be posted with appropriate signage (fire lane - no parking).

[**(c)**](http://ecode360.com/14420339#14420339)The layout and design of parking areas must provide for safe and convenient circulation of vehicles throughout the lot.

[**(d)**](http://ecode360.com/14420340#14420340)All roadways must be designed to harmonize with the topographic and natural features of the site insofar as practical by minimizing filling, grading, excavation or other similar activities which result in unstable soil conditions and soil erosion, by fitting the development to the natural contour of the land and avoiding substantial areas of excessive grade and tree removal, and by retaining existing vegetation during construction.

[**C.**](http://ecode360.com/8628295#8628295)**Parking layout and design shall comply with §**[**170-50**](http://ecode360.com/8628074#8628074)**and the applicable performance standards of Article**[**IV**](http://ecode360.com/8627861#8627861)**.**

[Amended 5-2-2015 by ATM Art. 34]

[**D.**](http://ecode360.com/8628296#8628296)**Pedestrian access.**

[**(1)**](http://ecode360.com/14420341#14420341)The site plan must provide for a system of pedestrianways within the development appropriate to the type and scale of the development. This system must connect the major building entrances and exits with parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in an open space or recreation areas. The system must be designed to connect the project to

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residential, recreational, and commercial facilities, schools, bus stops, and existing sidewalks in the neighborhood or, when appropriate, to connect to amenities, such as parks or open space on or adjacent to the site.

[**(2)**](http://ecode360.com/14420342#14420342)When an existing or planned sidewalk is interrupted by a proposed project entrance, the sidewalk must be constructed and marked to distinguish it as a sidewalk or cross walk in compliance with all applicable slopes and markings. Furthermore, if street vegetation or trees exist on an adjacent property, like or similar vegetation or trees must be planted on the new site. In urban situations, a widening of a sidewalk onto private property to encourage local commerce and improved streetscape should be encouraged. Benches, sculptures, planters and other street furniture should be encouraged.

[**E.**](http://ecode360.com/8628297#8628297)**Buildings.**

[**(1)**](http://ecode360.com/14420343#14420343)Building placement.

[**(a)**](http://ecode360.com/14420344#14420344)The site design should avoid creating a building surrounded by a parking lot.

[**(b)**](http://ecode360.com/14420345#14420345)In urban built-up areas, buildings should be placed close to the street, in conformance with existing adjacent setbacks. Parking should be to the side preferably in the back.

[**(c)**](http://ecode360.com/14420346#14420346)In rural uncongested areas, buildings should be set well back from the road to conform to the rural character of the area. If the parking is in front, a fifteen-foot or greater landscape buffer between the road and the parking lot shall be provided. Unused areas should be kept natural, as field, forest, wetland etc.

[**(d)**](http://ecode360.com/14420347#14420347)Where two or more buildings are proposed, the buildings should be grouped and connected with sidewalks. Tree plantings should be used to provide shade and break up the scale of the site. Parking should be separated from the building by a minimum of five to 10 feet. Planting should be provided along the building edge, particularly where building facades consist of long or unbroken walls.

[**(2)**](http://ecode360.com/14420348#14420348)Setback and alignment of buildings. Where is a reasonably uniform relationship between the front walls of buildings and the street, new buildings must be placed on a lot in conformance with the established relationship. For buildings on corner lots, the setback relationship of both streets should be maintained. The creation of empty corners should be avoided through the placement of the building and other site features.

[**(3)**](http://ecode360.com/14420349#14420349)Building entrances.

[**(a)**](http://ecode360.com/14420350#14420350)The main entrance to the building should be oriented to the street, unless the parking layout or grouping of the buildings justifies another approach, and should be clearly identified as such through building and site design, landscaping, and signage.

[**(b)**](http://ecode360.com/14420351#14420351)At the building entrance areas and dropoff areas, site furnishings such as benches and sitting walls and, if appropriate, bicycle racks shall be encouraged.

[**(c)**](http://ecode360.com/14420352#14420352)Additional plantings may be desirable at these points to identify the building entrance and to complement the pedestrian activity at this point.

[**(4)**](http://ecode360.com/14420353#14420353)Building illumination.

[**(a)**](http://ecode360.com/14420354#14420354)Building facades may be illuminated with soft lighting of low intensity that does not draw inordinate attention to the building. The light source for the building façade illumination must be concealed.

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[**(b)**](http://ecode360.com/14420355#14420355)Building entrances may be illuminated using recessed lighted in overages and soffits or by use of spotlighting focused on the building entrance with the light source concealed (e.g., in landscaped areas.) Direct lighting of limited exterior building areas is permitted when necessary for security purposes.

[**(5)**](http://ecode360.com/14420356#14420356)Drive-through facilities. Any use that provides drive-through service must be located and designed to minimize the impact on neighboring properties and traffic circulation. No drive-through facility shall be located in an area of the site adjacent to a residential use or residential zone. Communication systems must not be audible on adjacent property in a residential use. Vehicle access to the drive-through shall be through a separate lane that prevents vehicle queuing within normal parking areas. A minimum of 12 queuing spaces must be provided to prevent any vehicles from having to wait on a public way, within the entry from the street or within designated parking areas. The drive-through must not interfere with any pedestrianway or bicycle path.

[**F.**](http://ecode360.com/8628298#8628298)**Storage of materials.**

[**(1)**](http://ecode360.com/8628299#8628299)Exposed nonresidential storage areas, exposed machinery, and areas used for the storage or collection of discarded automobiles, auto parts, metals or other articles of salvage or refuse (cross reference § [**170-34**](http://ecode360.com/8627894#8627894)) must have sufficient setbacks and screening (such as a stockade fence or a dense evergreen hedge) to provide a visual buffer sufficient to minimize their impact on abutting residential use and users of a public way.

[**(2)**](http://ecode360.com/8628300#8628300)All dumpsters or similar large collection receptacles for trash or other waste must be located on level surfaces which are paved or graveled. Where the dumpster or receptacle is located in a yard which abuts a residential or institutional use or a public street, it must be screened by fencing or landscaping.

[**(3)**](http://ecode360.com/8628301#8628301)Where a potential safety hazard to children is likely to arise, physical screening sufficient to deter children from entering the premises must be provided and maintained in good condition.

[**G.**](http://ecode360.com/8628305#8628305)**Water supply:** must comply with § [**170-106B(6)**](http://ecode360.com/14420798#14420798), except that the development shall be served by public water if it is available within 500 feet of the project parcel.

[**H.**](http://ecode360.com/8628324#8628324)**Sewage disposal.**

[**(1)**](http://ecode360.com/8628325#8628325)Must comply with § [**170-106B(7)**](http://ecode360.com/14420804#14420804) except that the development shall be served by public sewer if it is available within 500 feet of the project parcel. The Planning Board may waive this requirement if the use is already served by a properly functioning subsurface disposal system that is properly sized for the projected flows, provided that connection to the public system must occur if and when the subsurface system needs to be replaced.

[**(2)**](http://ecode360.com/8628326#8628326)When two or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to assure proper maintenance of the system.

[**(3)**](http://ecode360.com/8628327#8628327)Industrial or commercial wastewater may be discharged to public sewers in such quantities and/or of such quality as to be compatible with sewage treatment operations. Such wastes may require pretreatment at the industrial or commercial site in order to render them amenable to public treatment processes. Pretreatment

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includes, but is not limited to, screening, grinding, sedimentation, pH adjustment, surface skimming, chemical oxidation and reduction, and dilution.

[**I.**](http://ecode360.com/14420357#14420357)**Utilities.** The development must be provided with electrical, telephone, and telecommunication service adequate to meet the anticipated use of the project. New utility lines and facilities must be underground.

[**J.**](http://ecode360.com/14420358#14420358)**Natural features**. The landscape must be preserved in its natural state insofar as practical by limiting tree removal to access, parking areas, utility installation and areas within 25 feet of a building unless approved by the Planning Board as part of a landscaping plan. In addition, disturbance and compaction of soils shall be minimized and existing vegetation shall be retained insofar as practical during construction. No trees shall be removed prior to final approval. Extensive grading and filling must be avoided as far as possible.

[**K.**](http://ecode360.com/14420359#14420359)**Water quality protection.** All aspects of the project must be designed so that:

[**(1)**](http://ecode360.com/14420360#14420360)No person shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that may run off, seep, percolate or wash into surface or ground waters so as to contaminate, pollute or harm such waters. No person shall cause nuisances, such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness, or be harmful to human, animal, plant or aquatic life.

[**(2)**](http://ecode360.com/14420361#14420361)All storage facilities for fuel, chemicals, chemical or industrial wastes and biodegradable raw materials must meet the standards of the Maine Department of Environmental Protection and the State Fire Marshal's office.

[**L.**](http://ecode360.com/14420362#14420362)**Hazardous, special and radioactive materials.**

[**(1)**](http://ecode360.com/14420363#14420363)The handling, storage and use of all materials identified by the standards of a federal or state agency as hazardous, special or radioactive must be done in accordance with the standards of these agencies.

[**(2)**](http://ecode360.com/14420364#14420364)No flammable or explosive liquids, solids or gases shall be stored in bulk above ground unless they are located at least 75 feet from any lot line, or 40 feet in the case of underground storage. All materials must be stored in a manner and location which complies with appropriate rules and regulations of the Maine Department of Public Safety and other appropriate federal, state and local regulations.

[**M.**](http://ecode360.com/14420365#14420365)**Shoreland relationship.**

[**(1)**](http://ecode360.com/14420366#14420366)The development must not adversely affect the water quality or shoreline of any adjacent water body or wetland. The development plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.

[**(2)**](http://ecode360.com/14420367#14420367)When a proposed development is immediately visible from a great pond, river or stream, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of the development and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new developments when viewed from the water must be compatible with the existing visual character in terms of scale, massing and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

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[**N.**](http://ecode360.com/14420368#14420368)**Capacity of the applicant.** The applicant must demonstrate that he/she has the financial and technical capacity to carry out the project in accordance with this chapter and the approved plan.

[**O.**](http://ecode360.com/14420369#14420369)**Solid waste management**. The proposed development must provide for adequate disposal of solid wastes. All solid waste must be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.

[**P.**](http://ecode360.com/14420370#14420370)**Historic and archaeological resources**. If any portion of the site has been identified as containing historic or archaeological resources, the development must include appropriate measures for protecting these resources, including but not limited to modification of the proposed design of the site, timing of construction and limiting the extent of excavation. All work shall be in accordance with the Secretary of Interior's Standards for the Treatment of Historic Properties.

[**Q.**](http://ecode360.com/14420371#14420371)**Floodplain management.** If any portion of the site is located within a special flood hazard area as identified by the Federal Emergency Management Agency, all use and development of that portion of the site must be consistent with the Town's floodplain management provisions.[**[1]**](http://ecode360.com/8628292#ft14420371-1)

[[1]](http://ecode360.com/8628292#ref14420371-1)

*Editor's Note: See Art. VII, Floodplain Management.*

[**R.**](http://ecode360.com/14420372#14420372)**Additional Route 27 design standards.** Notwithstanding the general provisions of Chapter [**170**](http://ecode360.com/8627687#8627687), Land Use, and the technical standards of Article [**V**](http://ecode360.com/8628247#8628247), Site Plan Review, development and redevelopment within 500 feet of that portion of Route 27 extending from the Boothbay Town line to Route 96 shall be consistent with the following standards.

[**(1)**](http://ecode360.com/14420373#14420373)Nonresidential parking areas shall be located at or behind the facade of the principal building.

[**(2)**](http://ecode360.com/14420374#14420374)Direct access to Route 27 shall be limited to no more than one per property unless adjacent properties share an access, in which case a property may have one dedicated access and one shared access to Route 27.

[**(3)**](http://ecode360.com/14420375#14420375)Parking areas on adjacent properties shall be interconnected with internal vehicle and pedestrian accesses.

[**(4)**](http://ecode360.com/14420376#14420376)Parking spaces for seasonal uses may be developed on grass surfaces or other pervious surfaces designed for parking.

[**(5)**](http://ecode360.com/14420377#14420377)The minimum number of parking spaces required in § [**170-50I**](http://ecode360.com/14419555#14419555) may be reduced by the Planning Board if the parking lot is to be shared by two or more uses that require parking during different time periods.

[**S.**](http://ecode360.com/14420378#14420378)**Off-site improvement**s. All off-site improvements required by the Planning Board, including but not limited to roads, intersections, signalization, sidewalks and drainage, shall be installed by the applicant at his or her expense.

# Conclusions

Based on the above stated facts, the Planning Board makes the following conclusions:

**Site Plan Review Standards**

The applicant \_\_X\_\_***has/***\_\_\_\_\_\_***has not*** satisfied Site Plan Review Standards on the property in question.

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**Motion made by** \_\_\_Chris Swanson\_\_\_, **seconded by** \_\_\_Vice Chairman Hamblen \_\_\_

**Vote**\_\_\_ALL\_\_\_\_\_X\_**In Favor** \_\_\_\_\_\_**Against**

**If the criteria have not been met, the reasons are explained below;**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Conditions of Approval or Addendums**

\_(None)\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Decision**

Based on the above findings of fact and conclusions, the plans and supporting information submitted, testimony and evidence submitted at the Planning Board meetings on the application, on motion made by \_\_\_Chris Swanson\_\_\_,and seconded by \_\_\_Margaret Perritt\_\_\_, the Planning Board

\_\_\_X\_\_\_**Approves**  \_\_\_\_\_\_\_\_\_\_\_**Denies**

this application subject to the conditions of approval set forth above, all for the reasons set forth in the findings and conclusions.

**Vote**\_\_\_ALL\_\_\_\_\_X\_**In Favor \_\_\_\_\_\_Against**

The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.

The application was approved.

\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*\*

Chairman Churchill stated they would move on to Other Business and asked if there was anyone present to represent Paul Coulombe, at which Melissa Neel acknowledged that she as Paul's Vice President of Operations, Dan Bacon of Gorrill Palmer and Rick Shenay of Drummond Woodsum Law were there to represent him. Melissa stated that Paul and their whole team wanted to thank the Planning Board as well as the Select Board for arranging working groups so they could work together for the best solutions for the east side of the harbor.

Dan Bacon added that they were hoping to work out high level goals for opportunities of a broader mix of uses on the east side.

Chairman Churchill stated the east side zoning was created in the 1980's as a **Maritime/Water Dependent** zone after many hotels and restaurants had already been

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built there. This caused these businesses to be non-conforming which created a problem when they wanted to make improvements or even to just do general maintenance upkeep. The zone extends from the footbridge to the Carousel Marina. Therefore the Planning Board, on an advisory capacity, is going to examine the zone in a working group. This group will be headed by incoming Chairman of the Board, Bill Hamblen, who will explain how the process has been planned with a slide presentation.

Before beginning his presentation, Bill Hamblen added that Planning Board recommendations are based on the Comprehensive Plan as well as public input. The Board also often becomes aware of ordinances in need of updating or clarification during routine review of applications that result in recommendations. Any recommendation goes to the Select Board who, if they approve the recommendation, prepares a warrant for the general public to vote on at a regular or special town meeting. The process is subject to continuous review by the town attorney and state agencies (plus review by the DEP following the vote).

Bill stated the Planning Board wanted to see the best possible public access coming out of any and all changes to the zoning on the east side of the harbor. While prioritizing and protecting the maritime/water dependent uses, the rights of the existing businesses to renovate, relocate and build should also be considered. Secondary concerns were for increasing the safety of sidewalks along Atlantic Avenue, storm water management and anticipation of future extreme weather conditions.

Zoning Process Overview

Planning Board formulates proposed changes based on

• Comprehensive Plan

• Public Input

• Application History

One or more Planning Board Public Hearings for review and comment

• Revisions if needed/warranted

Proposed changes forwarded to Selectboard for inclusion in the warrant

• Selectboard Public Hearings on the Warrant

• Scheduled for Town Meeting vote

• Special Town Meeting or referendum vote can be scheduled at any time

The voters decide.

Legal review and State review at multiple times throughout the process

Top Level Goals for East Side Zoning

• Protect and encourage existing maritime/water

dependent uses; "do no harm“

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• Allow existing businesses to renovate, relocate,

rebuild, and reinvest so that their businesses

might flourish.

• Create public access to the harbor.

Second Level Goals for East Side Zoning

• Improve pedestrian access and safety along

Atlantic Avenue.

• Reduce impervious surfaces and improve

storm water management.

• Require new construction to be resistant to sea

level rise and storm surge.

• Manage building heights to enhance and/or

protect views.

• Reduce setbacks from side yards and streets to

encourage flexibility in design.

• Setback new construction from high water.

• Review and amend permitted uses in the district,

including residential uses.

• Seek to link public access on adjacent properties.

Advisory Workgroup

Publicized Meetings - Open to the Public

Work through Details - Refine Lower Tier Goals

Develop Implementation Strategies

Return to full Planning Board for Formal Action

• BBH Planning Board Member(s) - Chris Swanson

• Code Enforcement Officer – Geoff Smith

• Select Board Member - Mike Tomko

• Lincoln County Planner – Bob Faunce

• Gorrill Palmer Planner - Dan Bacon

• East Side Representatives

Tim Brown, Brown's Wharf

Jeanne Fuller, Harbor Bait on the Fish Pier

Bill stated he was asking the Planning Board members to endorse this committee for the purpose of holding working group meetings. His desire was to have a brief kick-off

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meeting on Wednesday, December 20th at 7:00 p.m. to get something done before the holidays.

Margaret Perritt **motioned** to endorse the advisory committee and move forward with it. John Hochstein **seconded**. **Unanimous approval**.

Margaret Perritt informed the audience and listening public that they could find the Comprehensive Plan on the town's website if they would like to read it.

Bob Faunce, Lincoln County Planner, stated that the Comprehensive Plan is reviewed and revised every ten years. Bob explained that the Lincoln County Commission is asked to do a variety of things such as currently replacing the siphon in West Harbor Pond. Bob then showed slides of the east side of Boothbay Harbor taken as early as 1885, as well as boat building shops from 1957 and 1960 that no longer exist, to demonstrate why it is time to re-examine the "Maritime/Water Dependent District" and the "General Residential" zones on the east side.

Chairman Churchill read the ordinance for "Marine/Water Dependent District" under Land Use, Chapter 170 - 25§D (purpose of districts) while BRCTV was setting up a microphone for people in the audience to use during the next part of the meeting for public input.

*The purpose of the Maritime/Water Dependent District is to reserve a reasonable portion of the Boothbay Harbor waterfront for traditional water-dependent uses. The intention of this land use district is to protect traditional commercial water-dependent uses such as commercial fishing, boat building, marine service and repair, etc., from other competing but incompatible uses; to conserve points of public access to coastal waters; and to give preference in identified areas to commercial water-dependent uses over recreational and residential uses.*

Many people had opinions they were happy to be able to voice.

(Advance apologies for any misspelled names and especially for any misquotes

since in such a vast space, voices were very difficult to hear.)

1. Mike Fritz did not believe Paul Coulombe would ever see a return on his investment so his motives should be viewed as being good.

2. Dave Eastwood felt he would have a better opinion if there was more specific information; that it was too vague.

3. Doug Carter stated he knew more about fisheries than anyone else, was pleased that Tim Brown and Jeanne Fuller would be part of the committee and believed the Planning Board was on the right track.

4. Tom Myette, owner of The Boardroom, was encouraged that so many facets of the community would determine whatever changes would be made.

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5. Tom Philbrick, owner of the Boothbay Lobster Wharf, found Paul Coulombe to be forthright and hoped the public would do what is best for the town.

6. Dawn Weiss, owner of the Lobster Dock, stated change is going to happen whether it is because of Paul Coulombe or someone else and another investor may not be as generous.

7. Linc Sample advised setting up a timeline so this issue would not drag on for years.

8. John Seitzer, co-owner of Joy to the Wind Gallery, was concerned about the possibility of having a private resort across the street from his property where the public would not be able to go.

9. Julie Roberts, owner of Coastal Maine Popcorn, has formed a group called, "People For Positive Change" that represents approximately 200 people to date who want to see Boothbay Harbor move forward.

10. Sam Fuller, son of Harbor Bait owners, stated there were year-round employees on the working waterfront.

11. Bob McKay wanted to see public access on the east side and was against building condominiums there.

12. Harvey Oest stated he would like to see a public walk along the harbor (on the east side).

13. George \_\_\_\_\_\_\_ thought it was a good opportunity for the town.

14. Bob Foster believed the days of boat building on the east side were gone. Bob also reminded everyone how Mr. Coulombe opened his hotel back up to provide a warm shelter for many families after power was lost in the wind storm.

15. Jeff Curtis, owner of Sherman's Book Store, stated it is time to change the codes on the east side.

16. Norm Pierce, who had worked for twenty-six years at Cap'n Fishes stated he was not against change but there was a lot for Paul Coulombe to learn.

17. Donna Piggott, owner of Atlantic Arc across from Cap'n Fishes, stated Paul Coulombe had made some nice improvements but supported those who felt they should take their time and do things right.

18. Denise Griffin wondered about the difference between the design concept and the design plan.

19. Lynn Seitzer, co-owner of Joy to the Wind Gallery, cautioned against one person developing more properties than they can sustain.

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20. A unidentified person expressed unhappiness about not being able to afford to golf at the Boothbay Harbor Country Club.

21. Christopher Brandt pointed out the hotels on the east side are run down which should be more of a concern to people than what Paul Coulombe might do with them.

22. Laura Honey stated she felt they needed to take the personalities out of this debate and allow change so young people can have a future in our community.

23. Lucy Cressey stated change was going to happen with or without Paul Coulombe and hoped they would be going to go forward.

24. Tom Irish stated he came to Boothbay Harbor because of how wonderful it is and is excited about the future.

22. Wendy Wolf stated they'd heard some thrilling stuff this evening, all focused on the same goal, but we have to have the commitment of the town. There has to be a partnership and courage to move forward.

23. Anya Reid hoped they could all agree to work together.

Chairman Churchill concluded the public discussion by saying, "The devil, as they say, is in the details and it will be a long road to n ordinance that everybody likes. Whatever the end result is I am sure is going to be better than what we have now."

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The Planning Board reconvened in town hall for a workshop with Lincoln County Planner, Bob Faunce, to discuss "uses" and business density in the Downtown District.

Bob Faunce suggested doing away with lot size when determining how many "uses" a property can support.

Discussion ensued as to how to handle residential use in the Downtown District.

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Before the meeting adjourned, Vice Chairman Hamblen thanked Chairman Churchill

for his fine service as Chairman of the Planning Board for nearly two years.

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ADJOURN

The meeting was adjourned at 9:54 pm.

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Thomas Churchill, Chairman Kellie Bigos, Recording Secretary