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**OGUNQUIT PLANNING BOARD
PUBLIC HEARING and REGULAR BUSINESS MEETING
MINUTES
DUNAWAY CENTER MAIN AUDITORIUM
MAY 22, 2017**

PUBLIC HEARING

RUPERT REALTY LLC / ROOST CAFÉ AND BISTRO – 262 Shore Road - Map 5 Block 28 – LB. Site Plan Review for a post 1930 structure. Application for change of Use from a Type 1 Restaurant to a Type 2 Restaurant with outside dining.

Mr. Wilkos asked if there was anyone who wished to speak for, or against, this application, or if anyone had any questions for the Applicant. There was no one and the Public Hearing was closed at 6:02 p.m.

REGULAR BUSINESS MEETING

A. ROLL CALL –

Members Present: Steve Wilkos (Chair)
 Rusty Hayes (Vice Chair)
 Muriel Freedman
 Jackie Bevins
 Mark MacLeod
 Priscilla Botsford (1st Alternate)

Also Present: Scott Heyland, Code Enforcement Officer
 Maryann Stacy, Recording Secretary

B. PLEDGE OF ALLEGIANCE -

C. MISSION STATEMENT – The Mission Statement was read by Mr. MacLeod.

D. MINUTES –

March 13, 2017 Workshop.

**Mr. Hayes Moved to Accept the Minutes of the March 13, 2017 Workshop as Amended.
HAYES/BEVINS 5:0 UNANIMOUS**

May 8, 2017 Workshop.

**Mr. Hayes Moved to Accept the Minutes of the May 8, 2017 Workshop as Amended.
HAYES/BEVINS 5:0 UNANIMOUS**

May 8, 2017 Public Hearing and Regular Business Meeting.

**Mr. Hayes Moved to Accept the Minutes of the May 8, 2017 Public Hearing and Regular
Business Meeting as Amended.
HAYES/BEVINS 5:0 UNANIMOUS**

E. PUBLIC INPUT – For any matter NOT already on this Agenda.

F. UNFINISHED BUSINESS –

Mr. Wilkos asked if there was anyone who wished to be heard on any matter not on this meeting's agenda. There was no one.

Mr. Wilkos read the following statement into the record:

“The Ogunquit Planning Board is held to a high standard, in some cases higher than other Boards and Committees in Ogunquit. Members of the Planning Board shall not engage in ex-parte communication. Ex-parte communication is defined as:

A member shall not discuss an issue of fact or law concerning a case which comes before the Board, except with notice and opportunity for participation by all parties. This rule shall not be construed to limit a discussion that does not relate to the merits of a case, such as scheduling or procedural issues. A member shall not be limited from discussing a case at meeting with the attorney for the Board.

Maine Gov

“an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by 5 USCS §§ 551.” (5 USCS § 551)
Federal Definition

All Board members should refrain from discussing active applications that are before the Planning Board with each other outside of Planning Board meetings. Communications with residents regarding active applications before the Planning Board should also be avoided. If ex-parte communication takes place inadvertently the communication should be disclosed to the Planning Board in public session.”

It was alleged by a business owner that one member of the Planning Board engaged in ex-parte communication on two applications before the Planning Board. This allegation has not been proven to be either true or false, so the Planning Board member will not be named.

In conclusion, I want to remind Planning Board members not to engage in ex-parte communication.

1 RUPERT REALTY LLC / ROOST CAFÉ AND BISTRO – Map 5 Block 28 – LB. Site Plan Review for a post 1930 structure. Application for change of Use from a Type 1 Restaurant to a Type 2 Restaurant with outside dining.

Mr. Wilkos noted that the Board held a Site Visit to this property earlier in the day, and a Public Hearing just prior to this meeting.

Mr. Heyland reminded the Board that they still needed to act upon Application Submissions:

6.6.C.3.T – An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours;

and

6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (*for projects requiring 10 or more parking spaces, or projected 50+ trips per day*).

Mr. Heyland noted that the Board determined, at the last meeting, that they would act upon these two submission items after the Site Visit and Public Hearing.

Regarding 6.6.C.3.T – An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

Mr. Wilkos asked if there is a requirement in the Ordinance for Item 6.6.C.3.T.

Mr. Heyland responded that there is not. The Board has the authority to waive this item. He noted that the maximum number of seats for the Applicant's business is 180 and this amount of seating will not change as a result of this application.

Mr. MacLeod noted that the number of parking spaces is not changing.

Mr. Wilkos asked if the number of seats would be increasing with the additional outside dining.

Mr. Heyland responded that it will not. The interior seating will be rearranged to accommodate the outdoor seats, and the final seating count will not exceed what the Applicant has already been approved for. Although it appears to be an increase in seating it is only a reallocation of seating.

Mr. Wilkos confirmed that there will be no increase in the number of seats, only a rearrangement of seats.

Mr. Heyland confirmed this to be true and added that the reason the applicant is before the Board is for a change of use from a Type 1 Restaurant to a Type 2 Restaurant, and the reason there is no increase in traffic is because there is no increase in the number of seats or parking spaces.

Mr. MacLeod Moved to Grant a Waiver for Submission Item 6.6.C.3.T – An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours,

based upon the fact that no additional parking spaces are required and no additional traffic will be generated.

MACLEOD/HAYES 5:0 UNANIMOUS

Regarding Submission Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (*for projects requiring 10 or more parking spaces, or projected 50+ trips per day*).

Mr. Heyland summarized that the ten parking spaces triggers a situation whereby the Board could request a traffic study. Between ten (10) and thirty (30) parking spaces the Board may waive the requirement, however over thirty parking spaces requires the Board to obtain a traffic study and the traffic study standard may not be waived.

Mr. Heyland stated that this application involves no increase in traffic and the Board has the ability to waive the requirement.

Mr. Wilkos summarized that the applicant is required to have twenty-eight (28) parking spaces, which places it between ten (10) and thirty (30) allowing the Board the ability to waive Item 6.6.C.3.U. There will be no additional traffic spaces or traffic generated.

Ms. Freedman noted that the parking plan indicates thirty-one parking spaces.

Mr. Heyland responded that the Applicant is only required to have twenty-eight parking spaces and he can't be penalized for the three extra spaces.

Mr. MacLeod Moved to Grant a Waiver for Submission Item 6.6.C.3.U - A traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering (*for projects requiring 10 or more parking spaces, or projected 50+ trips per day*) based upon the fact that no additional parking spaces are required and no additional traffic will be generated.

MACLEOD/FREEDMAN 5:0 UNANIMOUS

Mr. Heyland noted that the plan indicates arrows painted on the parking area to direct a one way flow of traffic. He suggested this be included as a condition of approval.

Mr. MacLeod agreed, stating that he exited the property from the "exit" and the vegetation on the adjacent property interferes with the line of site at that location.

Mr. Heyland suggested the Applicant speak to the property owner to clear a line of site from that exit.

Ms. Botsford reminded the Board that the parking stall lines need to be extended.

Mr. Heyland agreed and asked the Applicant to be sure the stalls are 18.5 feet in depth when he restripes the parking lot. He thanked the Applicant for the two Handicapped Parking spaces.

At this time the Board reviewed the Standards of Article 6.5 of the Ogunquit Zoning Ordinance and found all sixteen standards to have been met.

Mr. MacLeod Moved to Approve the Application for RUPERT REALTY LLC / ROOST CAFÉ AND BISTRO – Map 5 Block 28 – LB. Site Plan Review for a post 1930 structure. Application for change of Use from a Type 1 Restaurant to a Type 2 Restaurant with outside dining, with the following conditions of approval:

1. Total number of seats not to exceed the State Licensing threshold of 180;
2. Directional arrows to be painted on the parking area to indicate a one-way flow of traffic;
3. All restrictions of a Type 2 Restaurant in the Limited Business District shall be adhered too:
 - a. The exterior seating area shall be limited in size to no more than 600 square feet;
 - b. Outdoor serving shall not begin before 7:00 a.m. and no outdoor serving is allowed after 9:00 p.m.:
 - c. There shall be no outside music or outside entertainment allowed at any time.

MACLEOD/HAYES

Mr. Wilkos called for discussion on Mr. MacLeod’s Motion. There being none he called for a vote.

Mr. MacLeod Moved to Approve the Application for RUPERT REALTY LLC / ROOST CAFÉ AND BISTRO – Map 5 Block 28 – LB. Site Plan Review for a post 1930 structure. Application for change of Use from a Type 1 Restaurant to a Type 2 Restaurant with outside dining with the following conditions of approval:

- 1. Total number of seats not to exceed the State Licensing threshold of 180;**
- 2. Directions arrows to be painted on the parking area to indicate a one-way flow of traffic;**
- 3. All restrictions of a Type 2 Restaurant in the Limited Business District shall be adhered too:**
 - a. The exterior seating area shall be limited in size to no more than 600 square feet.**
 - b. Outdoor serving shall not begin before 7:00 a.m. and no outdoor serving is allowed after 9:00 p.m.**
 - c. There shall be no outside music or outside entertainment allowed at any time.**

MACLEOD/HAYES 5:0 UNANIMOUS

G. NEW BUSINESS –

- 1. LOVELEENA KALLA – 275 Shore Road - Map 5 Block 19 – LB. Design Review for a post 1930 structure. Application for a 14’x17’ addition on rear of Unit #2.**

Dennis Lamonica from DML Building addressed the Board as the Applicant’s representative (contractor). Mr. Lamonica summarized that he was hired to construct a small sunroom onto an existing condominium unit which was once part of a single family home. He noted that this is his first time working in Maine. The project looks like it conforms to the proper setbacks

however he may be required to have a surveyor pin the foundations to confirm that the addition will not exceed the setbacks. He is guessing on that.

Mr. Heyland stated that the proposed structure is a one story 17'x17' sunroom. The reason the Applicant is before the Board is because the property is located in the Limited Business District and the addition will be visible from a public way (Ledge Road), it is also a material change.

Mr. Wilkos asked if the application fee had been paid.

Mr. Heyland responded that it had not.

Mr. Lamonica informed the Board that originally his wife submitted the application packets and she did not have the fee. By the time she came back with the fee the Town Office was closed. He overnight mailed the check to 23 School Street and it was returned because it wasn't sent to the Post Office Box. Two days ago he notified Mr. Heyland that he had received the check back. He intended to bring the check tonight and he forgot it on this desk. He asked if there was any way he could pay tonight.

Mr. Heyland responded that the Clerk's Office handles all payments and her office is currently closed. Mr. Heyland confirmed that the Board does not generally hear applications until the fee is paid. This situation is somewhat unique because of the confusion regarding the mailing address. Typically all the paperwork is complete and paid for before being placed on the Board's agenda.

Mr. MacLeod asked if the Board has ever made an exception in the past.

Mr. Heyland responded; "no". He added that it will be up to the Board whether or not they want to hold a public hearing on this particular application.

Ms. Botsford asked if the abutters were notified.

Mr. Heyland responded that they were; one abutter came in to look at the plan and didn't express any opinion. Mr. Heyland confirmed that abutters are notified of all Planning Board applications.

Mr. Hayes stated that if the Board has not heard an application in the past without having the fees paid, he didn't think they should do so now.

The Board agreed that they could not hear an application until the fee has been paid.

Mr. MacLeod Moved to Table the Application to the June 26, 2017 Hearing pending receipt of the Site Plan Review Fee.

MACLEOD/HAYES 5:0 UNANIMOUS

Mr. Heyland informed the Applicant's representative that he would need to have the fee submitted to the Land Use Office prior to June 26th.

H. CODE ENFORCEMENT OFFICER BUSINESS – None

I. OTHER BUSINESS –

1. Discussion of Legalization of Recreational Use of Marijuana 2nd Workshop.

Mr. Wilkos noted that a 2nd workshop had been held earlier in the evening and there were only four members of the public in attendance. The options include:

Having Ogunquit be a “dry town”
Control marijuana businesses by zone.

Mr. Wilkos stated that the Planning Board appears to be leaning toward making Ogunquit a dry marijuana town.

Mr. Heyland responded that if that were to happen the Town could always relax certain standards in the future opening up specific uses. If the Town allows the use to come in it is difficult to remove them once they are established.

Mr. Hayes asked how medical marijuana, and personal use, would be effected if Ogunquit were to become a “dry town”.

Mr. Heyland responded that the State hasn’t resolved those types of questions. Personal use of marijuana would not be effected at all. Individuals would still be allowed to: possess, grow, or use marijuana in their own homes.

J. ADJOURNMENT –

**Mr. Hayes Moved to Adjourn at 6:55 p.m.
HAYES/MACLEOD 5:0 UNANIMOUS**

Respectfully Submitted

Maryann Stacy

Maryann Stacy

Planning Board Recording Secretary

Approved on June 26, 2017