

Union Planning Board Minutes
Thursday, April 11, 2024, 6:30 p.m.
William L. Pullen Municipal Building Downstairs Meeting Room

Present: Glenn Taylor, Jerry Brooks, Mike Johnson, Dale Flint, John Mountainland

Others Present: CEO Grant Watmough, Maxwell Johnstone

1. **Meeting called to order:** 6:30 p.m.
2. **Discuss and/or vote on changes to the Land Use Ordinance regarding conforming with LD 2003:**

Jerry introduced Maxwell Johnstone of MCOG for a discussion on the changes to the Land Use Ordinance re: LD 2003. The board had copies.

Maxwell said last time he was here he went over the three main categories: ADUs (Accessory Dwelling Units), the multiple dwelling unit item, and the affordable housing project. He said we don't have to worry about the multiple dwelling unit item.

Jerry brought up high elevation. Maxwell said re: multiple dwelling unit, nothing really has to happen as it still has to follow that density requirement of three acres. He added that seems to be the big difference between that and anywhere else in town. Re: affordable housing project, there is no impact to that whatsoever because that overlay zone is not in your growth development area as identified in your Comprehensive Plan; an affordable housing project would not be permitted up there. Re: ADUs, he was informed that is already permitted up there as a residential structure. The only thing he has to figure out with the state is the density item and parking, since LD 2003 makes it so that someone can have an accessory apartment and not have to follow that density item.

Jerry mentioned an acronym from an email that Maxwell confirmed referred to density requirement. Maxwell said the accessory apartment just means I can have my single family home and my accessory apartment on a three-acre parcel, whereas normally you have your single family home and your accessory apartment which means you'd need six acres; LD 2003 now makes it just three acres.

Grant said even though our ordinance in high elevation says one dwelling per three acres, an accessory dwelling in our ordinance is defined as being still part of a single family dwelling, even if over a garage or something of that sort. It's still treated as one family dwelling, so even with ADU we treat that as one dwelling on three acres. Maxwell said he just needed to check with the state on that, but they are only really different with Shoreland Zone.

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Maxwell pointed out changes in red for the accessory apartments. Jerry asked for questions, which were discussed at the previous meeting. Glenn said it made sense to him. Maxwell went over minor corrections: 8.5.3 is talking about driveway and parking, just saying that the accessory apartment has to have access to one of those spaces. 8.5.4 is reducing the minimum SF from 425 to 190. Cannot exceed 800 SF, 33% floor area of the home. 5.6 and 5.7 are the additional items. 5.6 clears up potential confusion in the future – it's exempt from minimum lot size as defined under 1.10.2, outside the Shoreland Zone Jerry confirmed, and the accessory apartment shall still comply with all the other standard dimensional requirements.

Maxwell said 5.7 is just knowing that it's still applicable to subdivision standards. It's just giving an example: an individual who builds two separate single family dwelling units then decides to do an accessory apartment within a five year period would be subject to subdivision approval. He confirmed this was correct, saying some towns do want to specify whether an accessory apartment counts toward subdivision review or it's an accessory apartment and they don't want to have it count toward that. Glenn said that makes sense.

Grant said a little explanation of why that might be there: the state's definition of a subdivision is the division of a tract or amount of land into three or more parcels or dwelling units in a five year period.

Jerry brought up whether or not they would have to modify that subdivision ordinance at all noting this would still come under the minor subdivision. Grant said in reality if an application came in, more than likely we'd review it under site plan review, because if your review of something that fits in subdivision is as stringent as the subdivision review, it meets the criteria. So you review it under site plan review even though we're saying it's a subdivision, you've met the criteria for reviewing it properly in his opinion, without some of the cumbersome parts of subdivision.

Glenn noted it said it should be applicable, it doesn't say it should be reviewed, according to the subdivision standards.

As an example, Grant brought up a multi-family dwelling, an apartment with four or five units in it – you'd get that under site plan review, but it meets the criteria of subdivision. So as long as your review is stringent enough to say you reviewed it properly under site plan, it works. Consensus was good solution to that.

Maxwell asked for any other questions on accessory apartments. In answer to Dale, Maxwell said lock box goes under the affordable housing development item. It's a little

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box right in front of the entrance door with a key flap, he said, like a master key that the fire department has to access the same type of lock box around the whole town with the key to get into special buildings rather than a key ring with keys to every commercial building. Dale summarized it's a fire safety issue. Maxwell said it would just be a recommendation based on the fire chief.

Maxwell continued there are already ADA requirements. The 10x6 is what the Waldoboro EMS chief recommended so he could have a stretcher get in and easily navigate around the elevator. Jerry confirmed it could be waived by one of the heads of EMS, Maxwell said same as the lock box, and it should be by the Director of EMS.

Mike asked if this means there are two units up top and two units on bottom, they would need an elevator. Glenn's take was if there's an elevator it needs to be that size. Mike quoted, "at least two stories tall shall install the internal elevator space." Maxwell said for a two-story building with multiple units they are going to have to have an elevator. Jerry asked the code on that these days for new construction. Grant said he thought it had to meet the ADA compliant side of this if for renters; if for family, he didn't think it needed to have an elevator. Maxwell reiterated they are going to be required to have an ADA elevator, this just widens the elevator a bit more and is also optional language.

Jerry asked if any questions, other than changing that language to "Director." Glenn confirmed it could be waived by the head of EMS. John said he didn't think a two story structure should be able to be waived because that's ADA compliant, adding we shouldn't put that on EMS to be able to waive that. Jerry agreed it's an odd thing.

Maxwell suggested changing it to "at least 10x6 unless directed otherwise by the Director of EMS to the minimal ADA requirements" or something like that. Glenn said they may be able to say we don't need an elevator for the specifics of the building. John said if the second floor is also accessible ground level on the upper side. Grant said that does not work, noting the elderly housing on the Common is two story – one can be reached from the top ground level, from the bottom ground level; it's got an elevator. Common sense says it works. Life Safety code doesn't say it works. Consensus was it stays, and leave "unless directed otherwise." Grant said if we run into trouble we modify it but he doesn't anticipate that being a problem.

Grant gave an example: years ago he looked into adding onto the Warren Town Office. They were going to put a vault in the basement and a meeting room on the second floor. They had to have an elevator because the public would be able to go to that vault, even though you could walk into it from the bottom.

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John said so it stays as is. Jerry said Robin Milliken, watching at home, asked if that meant fire escapes and elevators. Grant said if it's an apartment building probably yes. Yes, echoed Jerry.

Grant said our existing structure ("the hippie high rise") does not have an elevator, but it's grandfathered. Maxwell said the lock box and the elevator weren't really because of LD 2003.

Re: affordable housing development, Maxwell said this is language from LD 2003 which he went over.

1.10.3.8.7 Affordable Housing Development

.1 Location

.1.1 The proposal must be located in a Designated Growth Area that is cited in the most recent Comprehensive Plan that has been approved by the Town of Union.

.1.2 The proposal must be located in an area in which Multi-Family dwellings are a permitted use and shall comply with the standards listed under 1.10.3.8.3 (Multi-family Dwelling).

.2 The applicant must execute a restrictive covenant, recorded in the Knox County Registry of Deeds, for the benefit of and enforceable by a party acceptable to the Planning Board, to ensure that for at least thirty (30) years after completion of construction:

.2.1 For rental housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 80% of the local area median income at the time of initial occupancy; and

.2.2 For owned housing, occupancy of all of the units designated affordable in the development will remain limited to households at or below 120% of the local area median income at the time of initial occupancy.

.3 Density

.3.2 The dwelling unit density shall be 2 ½ times the base density that is otherwise allowed in that location. If fractional results occur when calculating the density bonus, the number of units is rounded down to the nearest whole number. Example: In the Village District, 2.5 units will be permitted for every 5,000 square feet if the parcel is connected to centrally managed water and comparable sewer systems.

.4 Parking. An Affordable Housing Development must provide at least two (2) off-street parking spaces for every three (3) proposed units that are affordable.

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Jerry said he did not understand the parking. Maxwell said it's in the state statute. In answer to Grant, re: the 80% and 120%, the applicant would have to supply and approve that, but you could also get it from Maine State Housing which Jerry confirmed is the control authority.

Maxwell asked for questions on affordable housing – none.

Re: off-street parking, Maxwell said it's just adding in the affordable housing development item and includes a segment that says, "Single-family and two-family dwellings shall be provided with two (2) off-street parking spaces per dwelling unit. This shall not apply to one (1) accessory apartment located outside the designated Shoreland Zone." He confirmed you can require that inside the Shoreland Zone. He added that's why he has early on that for an accessory apartment, whoever has it still has to prove that the person has access to one of those two parking spaces.

Maxwell then got into the definitions. He brought up the accessory apartment definition (an ADU is an accessory apartment) and one sentence being corrected: "The unit may also be detached from the existing single-family residence if it meets the setback requirements." He said everything else is he believes word for word what he has from state guidance plans. He said the board may amend the language as it likes as long as the intent is still there. No more questions or comments, and Jerry said great job.

Motion we vote to recommend the changes to the Land Use Ordinance regarding conforming with LD 2003 as presented very nicely to us by: Glenn Taylor
2nd by: John Mountainland

Maxwell said he didn't think it was called LD 2003 anymore, as we're in a new year.

Amended motion we vote to recommend the changes to the Land Use Ordinance regarding conforming with LD formerly known as 2003 as presented very nicely to us by: Glenn Taylor
2nd by: John Mountainland

Dale confirmed this goes to the select board to put on the warrant for the voters.

2nd by John Mountainland
5-0

Maxwell said he is available if needed for the public hearing or anything. He will forward anything he finds out re: high elevation.

Grant said as it stands now the public hearing will be on May 9. Maxwell said he has Waldoboro Planning Board that night but offered to help as needed with select board, etc.

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3. Discuss and/or vote on changes to the mining ordinance:

Jerry said this is to the Mining Ordinance itself, not the Land Use. Grant said they had three proposals and described them, saying the one with colors is a combination of the first one and the second one which will be presented to the voters so they can see what all the changes turned out to be, which we've already gone through Glenn said. Grant said Cameron did this for us today. Consensus was the board has been through it and hashed it over for hours.

Jerry said at some point they will have to make a recommendation re: fees. Grant said one thing this does: our existing ordinance has fees set in it. Cameron said usually an ordinance says the select board sets the fees, as things change – values, etc. So this gives the select board the ability to change what the fees are as time goes by and things change.

Glenn pointed out that most everything we have says the select board sets the fees for permits and everything else. That makes sense. Grant said at some point they are probably going to ask us to make a recommendation as to what those fees should be.

Grant said his thoughts were let's see what Warren does, and if it makes sense we do the same thing; if not we do our own.

John noted the fees are consistent with Union, Warren, and Hope. It would be very hard for any mining company to have an issue with our fees. Grant said his thoughts exactly. John thought the select board should set that.

Jerry brought up under Penalties, we went from \$10,000 to \$5,000. Grant said those kinds of things are set by statute, and he references the statute – 30-A MRSA §4452. Grant clarified this is per day, and every day is a separate violation.

Glenn began to make a motion that we recommend to the select board the changes to the Metallic Mining Ordinance as presented to us, the final.

Jerry confirmed we are going to say “Metallic Mining Ordinance.

Motion that we recommend to the select board the changes to the Metallic Mining Ordinance as presented to us, the copy that Grant has labeled #3 by: Glenn Taylor
2nd by: John Mountainland

5-0

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4. Discuss and/or vote on changes to the Land Use Ordinance regarding Industrial Metallic Mining:

Jerry said, bear in mind what was voted in at the last election, this is actually allowing metallic mining potentially in the floating industrial zone, only said Glenn. Jerry added it has to be voted on prior to any authorization as a district.

Glenn said our floating industrial zone is not very attractive to people coming in wanting to mine.

Grant said in our current ordinance the floating industrial zone is on 17 almost to Washington, in that small area right there. This is why the underlined has been added: this will allow it in the rural zone anywhere in town with voter approval of changing the zone to industrial. Glenn said which they'll never do. Dale said so it will go back to the voters.

Grant said we've got an application for a month in the rural zone – it's not allowed, it's got to be in the industrial zone. Somebody has to present a change to the zone. "Floating" means it's undetermined exactly. It's going to actually be determined. That goes to the voters to change the zone or we could say yes to any mine. Just for that area, Jerry said, which is right now it's under the cognizance of the rural district until it changes potentially.

Motion that we present this to the select board to discuss and put on the warrant – changes to the Land Use Ordinance re: Industrial Metallic Mining – by: Glenn Taylor
2nd by: Dale Flint
5-0

Grant added that our attorney talked to Bill Kelly, Warren's attorney. Jerry said on the record that Cameron Ferrante did an outstanding presentation and just incredible work, echoed by Glenn, Dale, and the rest of the board.

5. Accept minutes of February 29, 2024:

Motion to table the minutes of February 29, 2024 by: Glenn Taylor
2nd by: Mike Johnson
5-0

6. Any other business by the board: None.

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7. Adjourn:

Motion by: Dale Flint

2nd by: John Mountainland

5-0

Meeting adjourned at 7:12 p.m.

Respectfully submitted,

Sherry Abaldo

Secretary