

# Town of Emmitsburg Planning Commission Minutes

September 26, 2022, 7:00pm

**Present:** Mark Long (Chair), Kevin Hagan (Vice-Chair), Amy Boehman-Pollitt (Secretary), Glenn Blanchard, Joe Ritz (Commissioner Liaison)

**Staff Present:** Zach Gulden (Town Planner), Leslie Powell (Town Attorney), Cathy Willets (Town Manager), and Amy Nail (Code Enforcement Officer)

## Call to Order

- a. Chair Long called the meeting to order at 7pm

## 2. Opening

- a. The pledge of allegiance was held.

## 3. Review and Approval of Minutes for July 25, 2022

- a. Motion to approve minutes by Vice-Chair Hagan
- b. Second by Commissioner Ritz
- c. Changes: none
- d. Approved: The minutes were approved unanimously.

## 4. Public Comment: None

## 5. Old Business: None

## 6. New Business:

### ***a. Proposed Ordinance 22-10, Zoning Text Amendment Application, File No. 2022-17***

- i. Mr. Gulden summarized the proposed text amendment, which would allow for public or private shooting ranges in the industrial zone within town limits, as well as recommended comments from town staff for the planning commission to consider.
- ii. Commissioners discussed which guidelines should be followed for shooting ranges: DOE or Army Corps Engineers.
- iii. Mr. Kirby Delauter explained the range would be used to complete the required qualification course to possess firearms.
- iv. Ms. Kathleen O'Connor, who would be supervising and managing the proposed range, explained the need for a private, qualifying range in the

local area and provided details about how the range would be constructed/set up.

- v. Vice-Chair Hagan inquired about the standard of not allowing gun ranges within 1.5 miles of a federal building.
- vi. Commissioner Ritz inquired about the staff comment that firing of rounds shall not be conducted within 2500 yards of residential areas because this would eliminate all of Emmitsburg's town limits
- vii. Ms. Powell suggested that a sound ordinance could be considered along with the proposal.
- viii. Public Comment:
  - 1. Tim Bieber (on behalf of Rutters): Concerned with safety, sound, public perception since there are no details included with the text amendment.
  - 2. Richard Lindsay (16737 Creamery Road): concerned with days/hours/frequency of the range along with the noise that is associated with each type of firearm. He pointed out that hunting is allowed in the town limits near the waste water plant. The noise from hunting near his property is problematic for his horses.
  - 3. Diane Walbrecker (535 W. Main Street): Concerned with the generality of the text amendment and how it will impact the rest of the town.
  - 4. Mike Hillman: Other gun ranges are built many miles away from houses, and noise will be an issue for horse owners.
- ix. Chair Long noted that the applicant, Mr. Delauter, had already begun work on the shooting range on the property he did not yet own and without the required permits, and expressed concern that this may be a reflection of how the applicant conducts business.
- x. Town Attorney, Ms. Powell, also followed up by stating that the owner of the property, Federal Stone, was fined for this. Mr. Delauter stated that he had paid the fine since his company had completed the work.
- xi. Given the general nature of the proposal, the commissioners suggested adding more details before moving forward with a decision. Mr. Delauter withdrew his proposal to make changes and will resubmit at a later date.

***b. Emmitsburg East Industrial Park II, Final Forest Conservation Plan for Lots 5, 6, & Remainder, File No. 2022-18***

- i.* Bob Barrick: stated Federal Stone is in agreement with all of the staff comments.

*ii.* Commissioner Ritz motioned to approve the Emmitsburg East Industrial Park II's Final Conservation plan with the following conditions (see below)

1. According to the Forest Conservation Long Term Protective Agreement recorded in P.B. 16038 P.G. 243: "The [Forest Conservation] Easement Area may not be divided or subdivided." The proposed subdivision line and plan shall be updated accordingly.
2. The current fee in-lieu rate is \$0.305 in accordance with Town Code 516.48.140.B.1.; therefore, the "fee in-lieu calculations" box shall be corrected accordingly.
3. The "fee in lieu calculation total fee required" shall be corrected to read \$39,458.77.
4. The "fee in-lieu calculations" boxes shall be changed as follows (changes in bold):

Lot #	Lot area (AC)	% of total lot area	Mitigation required as % of total lot area (sq. ft.)	Fee in-lieu requirement per lot	Remarks
3	2.9	8%	<b>10,349.84</b>	<b>\$3,156.70</b>	P/O Remainder
4	2.9	8%	<b>10,349.84</b>	<b>\$3,156.70</b>	P/O Remainder
5	13.8	40%	<b>51,749.20</b>	<b>\$15,783.51</b>	-
6	7.2	21%	<b>21,168.33</b>	<b>\$8,286.34</b>	-
<b>Combined 7 &amp; 8</b>	<b>8.1</b>	<b>23%</b>	<b>29,755.80</b>	<b>\$9,075.52</b>	<b>Paid</b>
TOTAL	34.9	100%	<b>129,373 sq. ft.</b>	<b>\$39,458.77</b>	-

5. The owner shall contribute to the Town's Forest Conservation Fund in the amount of \$30,383.25. This contribution to the Fund shall be paid within 90 calendar days of the approval of the grading plan in accordance with Town Code Section 516.48.140.C.
6. Include note about critical habitat. Town Staff will provide the letter from the state acquired by the previous property owner.
7. The limit of disturbance is not clear on the plan. The line type is similar to the FEMA 100-year floodplain limit.
8. Add a scale bar
9. Remove the abandoned 12' sanitary sewer easement from the plan, and show the full existing easement.
10. Show existing locations and types of protective devices (signs) used during construction activities to protect trees and forest designated for conservation in accordance with Town Code 516.48.090.B.2.

11. Include the substantive elements required under Subsections 516.48.080.B.2.-5., 7.-9., and 11. in accordance with Town Code 516.48.090.B.2. In particular:
  - a. Approved forest stand delineation for the site; and
  - b. Proposed stockpile areas.
12. Label the specimen trees, show/label the critical root zones for both trees, and show/describe how trees will be protected during construction.

Administrative

13. The owner shall provide the Town 2x paper and 1x PDF copies of the signed plan.
14. No permits will be issued until all regulatory requirements have been met, including but not limited to: adequate public facilities ordinance (APFO), forestation, water, sewer, etc.
15. Planning Commission approval is conditioned upon the acceptance of an improvement plat in conformance with the Town of Emmitsburg and all other governmental agency requirements.
16. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
17. It is the developer's obligation at its cost to repair Creamery Court for any damage arising out of development.

*iii.* Vice-Chair Hagan seconded the motion.

*iv.* Motion carries unanimously

***c. Emmitsburg East Industrial Park II, Final Subdivision Plat for Lots 5, 6, & Remainder, File No. 2022-19***

- i.* Commissioner Ritz motioned to approve the Final Subdivision Plat for Lots 5, 6, and Remainder for FS Creamery, LLC. with the following conditions:
  1. According to the Forest Conservation Long Term Protective Agreement recorded in P.B. 16038 P.G. 243: "The [Forest Conservation] Easement Area may not be divided or subdivided." The proposed subdivision line and plan shall be updated accordingly.
  2. Include the landscape and stream buffer easements on the plan.

3. Include the liber (book) & folio (page) numbers for all easements.
4. Clearly label the utility easement's widths.

Administrative

5. The owner shall provide the Town 2x paper and 1x PDF copies of the signed plan.
  6. Planning Commission approval is conditioned upon the acceptance of an improvement plat in conformance with the Town of Emmitsburg and all other governmental agency requirements.
  7. No permits will be issued until all regulatory requirements have been met, including but not limited to: adequate public facilities ordinance (APFO), forestation, water, sewer, etc.
  8. The developer shall pay such fees that are charged from time to time by the Town of Emmitsburg for further reviews or permits as may be required concerning the proposed development.
  9. It is the developer's obligation at its cost to repair Creamery Court for any damage arising out of development.
- ii. Second by Secretary Boehman-Pollitt
  - iii. Motion carries unanimously

**7. Other Business:**

- a. Board of Appeals' review request – corner lot fences.
  - i. Mr. and Mrs. Turnquist (4000 Carrick Court) are requesting a text amendment to allow fences on corner lots higher than 4 feet. Robert Turnquist was prepared with a formal presentation.
  - ii. Diane Walbrecker, 535 W. Main Street: (Board of Appeals Chair) Corner lots have 2 front lawns. Since many are located on busy through streets, this will be an issue that will come up in the future.
  - iii. Valerie Turnquist (4000 Carrick Court) provided additional background on how her house has two front yards and no rear yard.
  - iv. Vice-Chair Hagan made a motion for the board to review the zoning codes for corner lots with 4 foot and higher fences.
  - v. Secretary Boehman-Pollitt seconded the motion
  - vi. Motion passed with Commissioner Ritz abstaining.

**8. Next Meeting Date:** Tuesday, Oct. 25

## **9. Adjournment**

- a. Chair Long adjourned the meeting at 9:21pm.