

## Town of Eden - Planning Board Minutes

February 2, 2022 7:00 pm

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**MEMBERS** William Mahoney, Chairman

**PRESENT** Brian Reed  
Joe Eppolito  
Marc Timblin  
Andrew Tarasek  
Bill Zittel

**EXCUSED:** Frank Meyer, DDS  
Dave Brodzinski  
Andy Romanowski

**OTHERS:** Town Engineers – Ted Donner  
Town Council – Rich Ventry, Susan Wilhelm  
Code Enforcement Officer – Dave Rice  
Highway Superintendent – Ron Maggs  
FOP Holdings, LLC / Kelly’s Place Apartments – Kim Bingman

Mr. Mahoney called the meeting to order at 7:00pm and asked for comments on the January minutes. A correction was made in reference to the type of materials being stored by Crescent Manufacturing.

### **January Minutes:**

**Mr. Eppolito made a motion to approve the minutes from the January 5, 2022 meeting. Seconded by Mr. Reed; Motion approved unanimously.**

### **FOP Holdings, LLC / Kelly’s Place Apartments – Special Use Permit Renewal for 8121 N. Main Street:**

Kim Bingman, property manager for Kelly’s Place apartments, explained that they were unable to complete the originally proposed project within the 5-year timeline because they have been wrapped up in legal fees associated with the assessment of the property and paying higher taxes than expected. The original Special Use Permit was approved and issued on 8/10/2016 with the following conditions:

#### CONDITIONS FOR SPECIAL USE PERMIT

##### KELLY’S PLACE APARTMENTS

1. **TIMEFRAME** – The special use permit shall expire after a period of five years (8/10/2021). If the proposed development has not been fully constructed as approved by the Planning Board under site plan review, the applicant will be required to renew the special use permit or undeveloped areas of the site will be restored to its natural setting.
2. **SENIOR HOUSING** – As a condition of this Special Permit, developer/permittee understands and agrees that at least 18 of the units shall be designated as “Senior Units.” Such designation shall mean that occupancy of 18 of the units shall be reserved exclusively for tenant’s age 55 or older. Upon request of the Town of Eden code enforcement department, the permittee shall provide documentation, in form satisfactory to the town code enforcement department, as may be required to verify compliance with this condition.

3. BUFFERING - Additional buffering from neighboring properties will be provided as determined by the Planning Board under site plan review. Such buffering will be consistent with existing vegetation and other landscaping and shall blend surrounding neighborhood.
4. RECREATION - The child play space requirement shall be waived for payment in lieu of a playground and an increase in the usable recreational area for the proposed development. The usable recreational area shall include walking trails and other associated amenities as approved by the Planning Board under site plan review.

The Planning Board approved the site plan for Kelly's Place Multi-Dwellings contingent upon additional landscaping placed on the right corner of the first townhouse at the entrance to break up solid wall and architectural stone on buildings where brick or stone was shown.

Approval October 5, 2016

Ms. Bingman confirmed that 75% of the apartments are rented to senior citizens. Mr. Mahoney asked if they were storing construction materials on the site. Ms. Bingman explained that there is mulch and top soil stored at the site. Mr. Mahony asked Mr. Maggs to inform the board on the status of the Storm Water Prevention Plan. Mr. Maggs explained that the SWPPP was opened for constructing the entire project as shown in the approved site plan and requires regular inspections to be performed by an engineer. Bill Solak, Project Manager, requested a shutdown on October 4, 2018 to save on engineering fees. The shutdown was accepted and given an expiration date of October 4, 2020. Mr. Solak requested an extension in October of 2020. New York State DEC advised not to issue an extension, but Mr. Maggs did grant them another 6-month extension which expired on April 4, 2021. Mr. Maggs stated that the SWPPP needs to be addressed, close it out or start it up again, before considering a Special Use Permit renewal. Mr. Mahoney added that the new Comprehensive Plan supports dense housing in the Hamlet and the new Mixed-Use code would not require a Special Use Permit for further development at this property. The board discussed returning the undeveloped area back to its original state – remove obstacles, spoil piles and debris. Also, provide an as-built site plan showing the property as it is developed today and close out the SWPPP. Ms. Bingman agreed to follow up with Mr. Solak regarding next steps.

**Mr. Mahoney made a motion to provide the following Planning Board recommendation to the Town Board:**

The Planning Board of the Town of Eden has completed its review of the Special Use Permit application for Kelly's Place as requested by the Town Board. The applicant has no clear definitive plans to complete the project as originally proposed, therefore we suggest the conditions set on the original special use permit be followed. In addition, we would ask the Town Board to consider the following items while reviewing this application:

- Condition #1 of expired Special Use Permit.
  - “The special use permit shall expire after a period of five years if the proposed development has not been fully constructed..... or undeveloped areas of the site will be restored to its natural setting.” Based on the fact that the applicant has no definitive plans to complete the project, the site should be restored to its natural setting by removing all construction spoils, non-natural materials and implement a planting that would provide for the restoration of the site to its natural setting.

- The Town Board should consider the issues as expressed by Mr. Ron Maggs, Highway Superintendent, regarding the SWPPP and the fact that the applicant has not appropriately closed the SWPPP, even after additional extensions have been provided on multiple occasions. The following items should also be considered as it relates to the storm water systems and SWPPP.
  - Applicant should be required to take all actions as appropriate to close the SWPPP
  - Confirm that the storm water management system that was constructed was done in accordance with the original approved site plan drawings. Confirm this is appropriate for the development area that has been built and provide a certification from the applicants Civil Engineer of all items. If the storm water systems were not built in accordance with the approved site plan, the applicant's civil engineer needs to provide updated documents for the Town's review and approval. The applicant would then need to implement the changes.
  - Provide as-built plans of the final system.
  
- Any future developments at this site would require a new submission in accordance with the Town of Eden's zoning and code regulations.

**Seconded by Mr. Zittel; All approved. Motion approved unanimously.**

**Code Review Recommendations:**

Multiple code recommendations were reviewed:

- Fire Department Rapid Entry System
- Transient Retail Merchants
- Peddling and Soliciting
- Mobile Food Vending
- Schedule of Fees
- Solar Code

Planning Board members discussed the new and evolving code changes and worked to provide recommendations back to the Town Board and the Code Review Committee:

**Mr. Mahoney made a motion to provide the following Planning Board recommendation to the Town Board and Code Review Committee:**

The Planning Board of the Town of Eden would like to thank the code review committee for all of their efforts and the Town Board for asking for the Planning Board's input. The Planning Board has completed its review of the suggested code changes and wishes to provide the following feedback for appropriate consideration:

1. Fire Department Rapid Entry System
  - Recommend implementing this code for commercial properties
  
2. Transient Retail Merchants
  - Require the property owner where the vendor will be set to obtain a permit, annually or per event for the property, not the merchant.
    - Consider exempting non-profit organizations
  - Recommend that the Town Board determine appropriate fees in consideration of the time invested by the Town Clerk's Office and the Building Department

- Recommend that the Town Board determines appropriate time frames and renewal durations, so that the Town's resources are maximized and not overburdened with continuous renewal requests.
3. Peddling and Soliciting
- Recommend implementing the proposed code if the Town wishes to allow Peddling and Soliciting. Consideration should be provided as it relates to the appropriate time frames and renewal durations, so that the Town's resources are maximized and not overburdened with continuous renewal requests.
4. Mobile Food Vending
- Require the property owner where the vendor will be set to obtain a permit, annually or per event for the property, not the merchant.
    - Consider exempting non-profit organizations
  - Require that each individual mobile food vending vehicle obtain a permit annually.
  - Recommend that the Town Board determine appropriate fees in consideration of the time invested by the Town Clerk's Office and the Building Department
  - Recommend that the Town Board determines appropriate time frames and renewal durations, so the town's resources are maximized and not overburdened with continuous renewal requests.
5. Schedule of Fees
- Recommend that the Town Engineer provide comparable fees used in similar towns and provide recommendations as it relates to their efforts and cost associated with each action and corresponding fees.
  - Establish a process that allows for appropriate fees to be paid prior to the Town or their engineers accepting the application.
  - Finalize fees based on anticipated costs verified by actual cost to ensure the Town is compensated for the efforts associated with each application while balancing the cost so applicants aren't deterred from submitting the application.
6. Solar Code
- Recommend implementing the proposed code

**Seconded by Mr. Reed; All approved. Motion approved unanimously**

**Mr. Mahoney made a motion to adjourn the Planning Board meeting. Seconded by Mr. Eppolito; Motion approved unanimously.**

The next meeting is tentatively scheduled for March 2, 2022 at 7:00 pm.

Respectfully submitted,  
Jen Crowe, Secretary