

TOWN OF CAPE ELIZABETH
MINUTES OF THE COMPREHENSIVE PLANNING COMMITTEE

January 10, 2007

7:00 P.M. Jordan Conference Room

Members present: Barbara Schenkel, Chair
Frank Strout
John Herrick
Elaine Moloney
Marybeth Richardson
Skip Murray
Robert Dodd
Mary Ann Lynch
Anne Swift-Kayatta

Also present was Maureen O’Meara, Town Planner.

The minutes were amended and approved following a motion made by Ms. Lynch and seconded by Mr. Herrick.

Egan Presentation

Mr. Tom Egan of Hannaford Cove Rd requested that he be allowed to make a presentation of the interpretation of wetland boundaries under the current regulations. Mrs. Schenkel agreed to allow him 10 minutes for a presentation immediately preceding the committee’s review of the Critical Natural Resources Chapter, which includes wetlands.

Mr. Egan handed out materials and explained that his presentation would (1) explain his motivation by using an example, (2) not deal with a specific situation, (3) reference relevant standards in the Resource Protection regulations, (4) provide a sample ordinance, and (5) address unintended consequences of a problem.

Mr. Egan distributed photos of a proposed RP2 wetland crossing and explained that causeways are allowed across RP2 wetlands, but not RP1 wetlands. On a lot adjacent to his home, the Planning Board approved a 120’ long causeway with an 18” culvert for a 50’ to 60’ wide wetland area. His 11-page handout includes a graphic example of a Planning Board approved causeway that has not yet been built. He stated the causeway is not ecologically sound and aesthetically not pleasing. He suggests that town policy be revised that conditions *shall* be imposed to require causeways. He cited model policy language used by Scituate, Massachusetts, Florida State Government, and comments made by a Cape Elizabeth Planning Board member in 2003 during the review of the Blueberry Ridge project.

Mr. Egan wants language that would encourage the Planning Board to require a bridge or box culvert. He noted that structures that are built last longer than the current generation of residents and the kind of structures we allow to be built in wetlands indicate what we think about wetlands.

Mr. Herrick asked if the wetland was classified RP2 and was told yes.

Critical Natural Resources

The Committee began their review of the Critical Natural Resources chapter.

Ms. Lynch was concerned that the description on p. 116 of rare plant and animal habitat locations was broad. Mr. Herrick noted that we have been planning for habitat for the New England Cottontail. The committee discussed breaking up the description of habitat at Pond Cove, but decided to leave it as is because Pond Cove has animal and bird habitat identified there.

Mr. Dodd proposed a new implementation step that current regulations and uses will not be changed in the residential areas. The committee agreed that this would emphasize that there are very little changes to the Resource Protection regulations proposed and agreed to add the implementation step.

Regarding bridges over wetlands, Mrs. Schenkel noted that the Planning Board can require bridges under the current regulations. She noted that she did not think a bridge was compatible with a residential area. Mr. Murray suggested that a box culvert can be just as ugly as a causeway.

Some members expressed discomfort with the site specific nature of the comments received.

Ms. Lynch said she had not studied the existing regulations but that she was not supportive of requiring bridges instead of culverts.

In response to a question regarding the difference, Mrs. Richardson said a bridge can allow more natural flow of the wetland.

Mrs. Swift-Kayatta said that aesthetics are in the eye of the beholder. She is sympathetic to concerns regarding the unintended consequences of requiring bridges instead of allowing culverts. This is too close to an ordinance level of detail for this committee. We are policy and the Planning Board can already require a bridge. Any citizen can bring any idea for an ordinance change to the Town Council. Then everybody can weigh in. She is not supportive of adding bridge requirements now.

Mr. Herrick noted that the Conservation Commission is concerned with any fill and builds bridges for trails. Bridges are aesthetically more pleasing. He noted that the Spurwink River pedestrian bridge was required to be elevated by the DEP more than the town thought necessary. He said that a bridge is better than a causeway and it is ok to include this issue in the Comp Plan because this is a vision. There should be a general attitude to encourage bridges over causeways and filling.

Mr. Strout pointed out that the current regulations allow this.

Mrs. Swift-Kayatta said the telephone survey also showed support for affordable housing. Bridges are more expensive than causeways. Some may find a bridge more aesthetically pleasing, but affordability is also an important component. Requiring a bridge may encourage more expensive housing.

Ms. Lynch wants to stay with the current regulations. She respects the Planning Board. They are sensitive to these issues and she would need to determine that something is lacking before she would make a change.

Mrs. Schenkel said she thinks the Planning Board has the authority now.

Mrs. Richardson said that if the current standards have the typical avoid, minimize language, then there is no need to go further.

Mr. Dodd said Mr. Egan's concerns appear to be with the current regulations.

Mrs. Swift-Kayatta moved that we don't add an implementation step to encourage the use of bridges over wetlands instead of causeways. Mr. Murray seconded.

Mr. Strout noted that he represents the seller of the lot identified in Mr. Egan's presentation. If the committee addresses this, it looks property specific. He thinks it is ok if the current rules address this.

The vote to not add an implementation step passed 9-0.

Land Use

The committee began their review of the Land Use Chapter.

Mr. Strout asked how the Sprague property was factored into the buildout. Ms. O'Meara noted that the town has on file documentation about the conditions under which lots could be sold to the general public. The restrictions make development of the Sprague land unlikely and the committee had consequently estimated that 5 lots would be developed on the Sprague land during the 2007-2020 planning period. It was noted that some of the Sprague land was a designated TDR area.

Mrs. Swift-Kayatta asked about the TDR map. Ms. O'Meara explained this map was adopted by the Town Council in 1997 as part of the TDR provisions and was stored in her office.

Mr. Murray suggested that the BB District be treated the same way as the RB District, in that it be designated a sewer service area. Staff was directed to add this as an implementation step in the Economy chapter.

Mrs. Swift-Kayatta asked that additional language be added to explain the confusion between lot size and density.

Ms. Lynch asked for an explanation why implementation step #74 would not result in less open space. Ms. O'Meara explained that the current Cluster development/Open Space standards require 40% open space and the new implementation steps recommend increasing that to 45% open space. Not applying the open space impact fee is needed to achieve the density increase proposed in the RB. If density in the RB is increased, less land town-wide will be needed for expected new development, resulting in more undeveloped open space. Ms. Lynch said she would support this if it meant more open space.

Mrs. Swift-Kayatta also noted that clustered development also creates efficiency in service delivery.

Mrs. Schenkel questioned what the minimum lot size would be with the new RB density and was told 7,500 sq. ft.

Mr. Herrick said that he is still opposed to this clustered provision. Councilor McKenney said at a meeting that he sighs when he gets to Cape. Mr. Herrick has 2 children and 3 grandchildren living with him who want to live in Cape, not South Portland. There is a comfortable feeling to Cape, as well as the school system quality.

Mrs. Schenkel said the increase in RB density is contrary to what the public wants.

Mr. Herrick said he likes the line drawn in the sand now.

Mr. Strout doesn't disagree with the aaah feeling. He doesn't think people will build on small lots and the market will dictate.

Ms. Lynch said she supports more open space.

Mrs. Swift-Kayatta said that if all the remaining land is divided into 2 acre lots, there will be no public open space. Walkers will not be able to tromp around. It's more aesthetically pleasing to have open space for the public to use.

Mr. Herrick countered that a mix is needed. Clustered development is ok in some areas, but don't like forcing all development in one direction.

Ms. Lynch emphasized that clustered development results in more open space.

Mrs. Schenkel stated that sometimes the Planning Board is not effective in obtaining quality open space. She does not see value in strips of land located in back of lots.

Mrs. Swift-Kayatta expressed concern with the complexity of the issue and said the document should be written to answer anticipated questions. She suggested a new implementation step similar to the treatment Mr. Dodd used for wetlands. She proposed a

new implementation step #74, Maintain the same lot size and density in the RA District, which is 50% of the town, to ensure a range of choice for residents.

Ms. Lynch suggested that Goal 1 be revised to add balance.

Mr. Murray, referencing an email from Mr. Clay, noted that once land in a development is set aside as open space, it is permanently preserved. You can't walk and park in Broad Cove, but you can do that in the open space in Cross Hill. The Planning Board can be site specific in what land is set aside as open space.

Mrs. Richardson suggested that Goal 1 include preserve open space.

Mr. Dodd suggested including public access to the open space.

Mrs. Maloney asked about the height in implementation step #76 and was told that a new height limit would be created rather than just leaving it open ended in the ordinance.

Mr. Murray moved acceptance of the revised Goal 1 and all the implementation steps through #79. Mrs. Swift-Kayatta seconded and they were unanimously approved.

Mrs. Swift-Kayatta moved acceptance of Goal #2 and all the implementation steps save #80. Ms. Lynch seconded. They were unanimously approved.

Mrs. Swift-Kayatta moved that extending sewer to the BB District be added to the economy chapter and it was agreed.

Mr. Dodd asked that it be clarified that #83 referred to new subdivisions.

Mrs. Swift-Kayatta moved that Goal 3 and all the implementation steps be approved. Mr. Murray seconded. They were unanimously approved.

Priorities

The committee began a review of the priority list for implementation steps. Members discussed the difference between Ongoing important priorities and New priorities. Should they be merged or placed in separate groups?

A summary of the numerical rankings of the priorities by individual committee members was distributed.

Mr. Strout noted that he had received several critical comments regarding the priority list posted on the website. Ms. O'Meara explained that the list is prioritized by group. Under each heading of First, Second, Third or Ongoing, however, the list is not prioritized but rather listed by chapter in the order the chapters appear in the plan. The committee decided they did not have time at this meeting to create a priority list. They decided to

pull the draft priority list from the website. The committee would establish priorities at a later meeting, but would accept comments regarding priorities at the public forum.

Next Meeting

The committee agreed to schedule another meeting for Thursday, February 1st. At this meeting, the committee would review the plan in light of the comments made at the public forum. At the February 8th meeting, the committee would, as a group, assign each recommendation a priority.

Public Forum

The committee discussed the format of the public forum. Emphasis was placed on allowing time for comments rather than a lengthy presentation. It was agreed that Ms. O'Meara would provide an overview of the Land Use Chapter and that Mrs. Schenkel would present the Goals and Implementation Steps. Copies of a list of the Goals and Implementation Steps would be placed at the Library and Town Hall for the public. The draft plan is posted on the website. Committee members would be provided a clean copy of the draft plan prior to the public forum.

The meeting was adjourned at 10:00 p.m.

Respectfully submitted,

Maureen O'Meara
Town Planner