

TOWN OF CAPE ELIZABETH
MINUTES OF THE COMPREHENSIVE PLANNING COMMITTEE

February 1, 2007

7:00 P.M. Jordan Conference Room

Members present: Barbara Schenkel, Chair

Julia Beckett
Robert Dodd
John Herrick
Jay Chatmas

Elaine Moloney
Anne Swift-Kayatta
Mary Ann Lynch

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel called the meeting to order and welcomed the people in the audience. She informed the people in attendance that the Committee would need to discuss and deliberate, and then at the end of the meeting the residents would have an opportunity to speak to the Committee.

The minutes of the January 10, 2007 meeting were amended and accepted.

The minutes of the January 25, 2007 public forum were adopted as notes.

Review of Public Forum Comments

Mrs. Schenkel suggested that the Committee look at the topics raised in the public forum and in the emails received.

Ms. Lynch suggested that the list of topics fall into certain groups. The expansion of the Shore Road business area, BA District in general, wetlands in the business districts, density and bonding are the most often mentioned.

Mr. Herrick also added that there are comments that indicate that commercial expansion will not help with the tax burden. He noted that he has experience with that in other places he has lived and believes it to be true.

Ms. Lynch added WiFi to her list of subjects she wants to discuss within the Plan.

Mrs. Schenkel added the vision statement to the list of items to be discussed. She also wants the Committee to look again at implementation Step 77, which recommends increasing density in the RB district. She also questioned the inconsistency of the numbers in areas of the Plan.

Ms. O'Meara noted that population projections can come from the State, HUD and our own projections.

Mrs. Schenkel asked to include a paragraph that says we are using our own projections. Ms. O’Meara noted that as the population of Cape Elizabeth is aging and selling their homes, we have larger families purchasing those homes and moving into town.

Mr. Herrick addressed the topic that several residents had wanted the Committee to prioritize recommendations according to the telephone survey. He does not necessarily agree with that approach.

There was a discussion of vision statements. Several residents have come forth with proposals of alternative vision statements. After a brief discussion of a vision statement brought forth from the audience by Becky Fernald, Mr. Dodd suggested that the Committee review the vision statement after they establish priorities at the next meeting. The committee agreed.

Ms. O’Meara reminded the Committee that they are required to set priorities. The Committee has a choice on how to present them.

It was noted by the Committee that if they put the priorities at the beginning of the Plan, the risk is that the only thing people will read is the priorities. It was agreed to put them at the end of the Plan with the hope that people might read at least part of the Plan first.

The Committee then began a chapter-by chapter review of parts of the Plan.

Demographics

Ms. O’Meara wants to add a paragraph that mentions the aging population and its effect on the population as they sell their homes to larger family units.

Mr. Herrick wants to rename the chapter Introduction and Demographics.

Ms. O’Meara replied that this is not a chapter of policy, but of statistics, and does not reflect the policy recommendations in the following chapters.

Economy

Mrs. Schenkel drew the Committee’s attention to Page 26 and the statement in bold type about expanding the commercial tax base. She suggested taking that statement out of the Plan.

Mr. Herrick opined that commercial development does not reduce the property tax, and sometimes it increases it.

There was also a discussion of the commercial development at the intersection of Route 77 and Spurwink Road. There is a doctor’s office and a farm market and a horse stable

there in that area, and maybe it should be called a business district. A request was made at an earlier public forum to make that area a new business district.

Ms. Lynch wants to leave in the sentence on Page 26. She feels that small scale commercial development avoids many of the costs of residential development. Small scale commercial development can also enhance the quality of life for the Town.

The committee wants to stress the idea of modest commercial development within the character of the Town. It was agreed to modify the statement to read. Cape Elizabeth should also consider modestly expanding its commercial tax base, to diversify the tax base. And this statement to be in plain, not bold type.

Goal 1.

Mrs. Beckett wanted to know where the Town Center Master Plan came from.

Ms. O'Meara and Mrs. Swift-Kayatta gave a brief reply to that and it was agreed that Ms. O'Meara will add a paragraph of background on the TC plan under the Goal section.

Goal 2.

Mrs. Schenkel noted that at the second public forum a group of people came forward and wanted to have 553 Shore Road included in the BA District. Now the neighbors are coming forward and protesting such a step.

The history of this project is that the owners came to the Planning Office to have the property re-zoned. The owners were told that the Town Council would be reluctant to consider a zoning amendment during the comprehensive plan process and they should become involved in the comprehensive plan process. The owner has provided written comments to the committee and attended the June public forum.

When the Committee asked what power they have over this subject, Ms. O'Meara replied that if the Comprehensive Plan says changes may not be made to the boundaries, then that will dictate that zoning changes cannot be made. This group cannot change the zoning, just recommend a review.

Mrs. Swift-Kayatta did not agree that if the Comprehensive Plan says do not change the boundaries, that it will not be possible to do just that.

The Committee discussed the problem from several points of view. It was pointed out that the implementation step does not say a zoning change must be made. This step only allows this to be possible, but does not mandate a change.

The boundary of the BA District was challenged by Emily Materson. She insisted that there is a residence in part of the area shown as a Business zone.

Mr. Dodd noted that since there is a residence in this BA District, when a review of the boundaries of the District is done, maybe the boundaries will be reduced, not enlarged.

Mr. Herrick was concerned about focusing on one property alone.

It was noted that when a specific request to change the zone is made, it will go first to the Planning Board, then to the Town Council. This Committee is opening the door to review, but not saying it must be done. It is not closing the door to such review. It was the consensus of the Committee to leave the Implementation step as written. They also pointed out that when the Irving Oil proposal came forth a few years ago, there were fewer tools to fight the proposal. This step will make the design standards a part of the requirements for any proposal in the future. It will insure that any new proposal must fit in with the existing neighborhood.

Implementation Step 8 was discussed at length. The area to be affected includes Rudy's, the Agway and the Good Table. These three businesses are in the BA District located on Route 77. The BB District covers the Inn by the Sea, and the Earthworks Contractors on Fowler Road.

The discussion included the points that the State buffer is only 100 ft., not 250 ft as in the Cape. It is believed that the runoff from a parking lot is less toxic to the wetland than the possible runoff from a septic system. The reduction in the buffer is tied to the connection to sewer lines. It was also mentioned that the buffer has already been disturbed in almost every one of these cases. They are all legal non-conforming uses.

There was a concern that we will be opening a precedent to reducing the 250 ft. buffer in other parts of Town. The Committee made certain that the 250 ft. buffer is to stay in place for residences and recommends that as an implementation step in the Critical Natural Resources Chapter.

From a town-wide perspective, it makes sense to keep business areas compact and one way to resist the pressure to expand business areas is to allow more concentrated development within existing business areas. After further discussion of these points, the committee agreed that they want to leave this provision in as Implementation Step 8.

Public Facilities

Ms. Lynch wants to explore the idea of having the entire Town be WiFi capable. She admits she doesn't know how to get there, but she wants the suggestion to be considered. It was suggested that they recommend formation of a committee to explore the benefits to the Town of becoming a WiFi Town.

A new Implementation Step number 36 will be added.

Form a committee to explore the costs and benefits to residents of providing town-wide WiFi internet access.

A committee member asked if this would require more towers and was told that existing structures, like telephone poles would be used. Another questioned the cost to the town. Ms. Lynch said that is why a committee should look at the costs and benefits.

The Committee voted unanimously to adopt the Implementation Step.

Fiscal Capacity

Mrs. Moloney spoke about bonding. At the public forum, it was suggested that the Town consider bonding for acquisition of open space. Mrs. Moloney suggested we should be looking at bonding for other items than just land acquisition. Capital improvements, such as dump trucks or other large purchases, could also be financed by bonding.

Ms. O'Meara expressed concern about the Committee saying how the Town funds the recommendations of the Plan. She suggested that the comments regarding bonding be split into two issues. One is the use of bonding to finance town activities. The other is a more proactive recommendation to purchase open space.

Mrs. Swift-Kayatta agreed with Mrs. Moloney on bonding for all projects, but does not think it is a good idea to tell the Town it should bond. This step is not within our expertise.

Mr. Chatmas wondered if there is anything currently in place that prohibits bonding?

Ms. O'Meara replied that it is a financial decision.

Mr. Chatmas thinks the Comprehensive Plan does not need to address that topic at all.

Ms. Lynch also noted that the telephone survey had some conflicting results. The residents want open space, but do not want any increased taxes to pay for it.

Mrs. Schenkel requested that the Committee should eliminate Implementation Step no. 44 on page 94. (Expand the tax base with appropriate businesses that are compatible with community character)

Mrs. Swift-Kayatta said she thinks it is fine just the way it is.

Mr. Dodd suggested that it say expand the share of the tax base.

Mr. Herrick thinks the wording is fine just the way it is.

The vote was 7 in favor, 1 against, to keep it in as it is.

Recreation and Open Space

Ms. O'Meara reviewed Goal 1 and implementation step 46. She asked if the committee wanted to increase the current standard of open space or be more proactive with purchase of more than just unique open space as described in step 46.

Mrs. Swift-Kayatta wants the focus to be on connecting new open space to existing trails. She likes the wording of the goals in this section.

The committee agreed that the implementation steps as written were appropriate.

Mr. Herrick said that the implementation step as written could be made a top priority.

Mr. Dodd agreed that priority setting could strengthen the recommendation.

Land Use

Mrs. Swift-Kayatta wondered if the map of TDR areas should be added to this chapter. Since no one else was eager to add it, the idea was dropped. Ms. O'Meara noted that the map is available from her office if anyone wants to look at it.

Mrs. Schenkel wants to add a new Implementation Step to set standards on the open space obtained from cluster developments.

Ms. O'Meara read the existing standards.

Ms. Lynch then suggested that we recommend a review of the open space standards in the RB District.

A new implementation step will be drafted by Ms. O'Meara for review at the next meeting.

Mrs. Swift-Kayatta raised the topic of increasing density in order to increase open space.

Ms. Lynch then addressed the suggestion made at the public forum that we increase lot size to 2 acres. She noted that people do not like small lots and they do not want growth. They like things just the way they are now. However, we are legally required to put development somewhere.

Mr. Herrick said clustering is okay for some areas and not for others.

Mrs. Moloney noted that she had supported this recommendation so we could accommodate more affordable housing for older people.

Ms. Lynch said that there had been 15 comments against this proposal. She noted that the people who think it's okay do not come out.

With the exception of Mrs. Schenkel and Mr., Herrick, the Committee is okay with Implementation Step number 77 (increasing the density of the RB District).

Implementation Step 79(Multiplex developments, and increase in the height limit in certain cases) drew comment from Mr. Chatmas. He feels it is quite outside the Cape Elizabeth envelope.

Ms. O'Meara replied that if you get rid of #79, you will not have any way to make Agricultural TDR work.

Ms. Lynch wondered if it might be a good idea to tie that step to TDR.

Ms. O'Meara said step #79 is also tied to over 55 housing.

Mr. Chatmas would like Ms. O'Meara to educate him on the potential impact of this step on the Town.

It was agreed that Ms. O'Meara would provide additional information to the committee on this subject and the committee can discuss it again at the next meeting.

Next meeting and Agenda

The next meeting will be February 8, 2007 and the agenda will be to set priorities.

Citizen Comments

Edward Materson of 2 Charles Road, was the first resident to speak. He was concerned that the Committee is dealing with one single property (553 Shore Road) with the recommendation to consider the expansion of the BA District on Shore Road. He wonders why the Committee is dealing with a single parcel.

The Town Council is reluctant to make a zone change while the Comprehensive Plan is in process.

Lee Wilson, the daughter of the owner of 553 Shore Road, said they were just asking for a recommendation that the issue be left open. What we want now is to revisit the neighborhood business district. Please keep it open, not just this property, the entire neighborhood.

Emily Materson questioned if the zoning is correct. She says there is a residence in the last parcel shown on the Zoning map, and thinks the map is wrong.

David Sanford said that the Committee does have some authority in this matter. The Committee can say no additional commercial uses in this neighborhood. This is a gateway to the Town. It is a historic area with several homes over 100 years old. It is

also an extremely dense neighborhood. If 553 Shore Road goes commercial, it will have an extreme effect on this area.

Lee Wilson asked the Committee to please move forward the consideration of the zoning expansion. Business is a big word and she wants to have consideration of her proposal.

Stephen Popp of 10 Woodland Road, said he has a business. He is a Justice and has been a political consultant. He has worked for the President in Washington, D.C. and told him where to stand when he made public appearances. He told the Committee they have the power to say no to further expansion of commercial development. You are talking about changing a neighborhood. It will impact on the quality of life for me and my kids. You do have the power to say no. I am familiar with the political process and we can vote people out of office. He also said the owner of the yarn shop on Shore Road is serving in Iraq and just one phone call to her commanding officer will put this entire proposal off limits. If you decide to rezone that one parcel, you leave yourself open to having the property next to your homes rezoned. Let's not play games and mince words. Thank you.

Joyce Wilson-Sanford said she thinks the Committee is doing a great job. She understands how it is to struggle with these issues. She is a Senior Executive with Hannaford. She feels the vision statement should come first, not last. Please don't toss it away. I want you to face those trade offs, and they are hard work. She doesn't want decisions made "nibble by nibble". She doesn't want them to nibble away at a boundary. She doesn't want the South Portland virus to creep into Cape Elizabeth. The whole area needs to be looked at, and she wants no further expansion of businesses.

Becky Fernald said the vision statement sets the tone. The current Plan (1993) has no vision statement. She wants a statement about preserving the rural character even though this is not a rural community. She questioned continuing the pace and pattern of development. Why encourage development?

Mr. Materson questioned why there is no sign saying "Welcome to Cape Elizabeth" on Shore Road. He wonders if Cape Elizabeth acknowledges there is a Cape Elizabeth.

The meeting was adjourned at 9:55 pm.

Respectfully submitted,

Hiromi Dolliver

