

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

December 20, 2005

7:00 pm Town Hall

Present: David Sherman, Chair
Paul Godfrey
Barbara Schenkel
David Griffin

Peter Hatem
John Ciraldo
Jack Kennealy

Also present was Maureen O'Meara, Town Planner.

Mr. Sherman opened the meeting and asked for comments on the minutes. With one amendment noted, he asked for a motion.

Mr. Hatem made a motion to accept the minutes as amended.

Mrs. Schenkel seconded the motion. 7 in favor, 0 opposed.

Mr. Sherman reviewed correspondence and the agenda for the evening. He informed the public that all emails received through town staff get forwarded to the Planning Board and becomes part of the record.

CONSENT AGENDA

Brothers Way/Murray Private Rd Amendment - Steve Murray is requesting an amendment to the Private Rd approval for Brothers Way, located off Fowler Rd (U20-6, 11-1), to convey a portion of one lot to an abutter with no change to the Brothers Way Right-of-Way, Sec. 16-2-5, Amendment to a Previously approved Subdivision.

Mr. Sherman reminded the Board that for any substantive discussion to occur, the item would need to be removed from the Consent Agenda. Hearing none, he asked for a motion.

Mr. Godfrey made the following motion.

BE IT ORDERED that, based on the plans and materials submitted, the application of Steve Murray for an amendment to the Private Road approval of Brothers Way, located off Fowler Rd, to convey a portion of one lot to an abutter with no change to the road right-of-way, be approved as a Consent Agenda item.

Mr. Kennealy seconded the motion. 7 in favor, 0 opposed.

OLD BUSINESS

Inn by the Sea Site Plan Amendments - The Inn by the Sea is requesting amendments to the previously approved site plan to reconfigure the entrance, to adjust the building addition, to construct a mechanical building, and to establish a temporary construction entrance for the Inn located at 40 Bowery Beach Rd, (U17-39/40), Request to be Tabled.

Mrs. Schenkel made the following motion.

BE IT ORDERED that, based on the request submitted by the applicant, the application of HMH Ltd Partnership for Site Plan amendments to reconfigure the entrance, adjust the building addition, construct a mechanical building, change the landscaping and establish a temporary construction entrance for the Inn by the Sea, located at 40 Bowery Beach Rd be tabled to the June 20, 2006 meeting of the Planning Board.

Mr. Godfrey seconded the motion. 7 in favor, 0 opposed.

Spurwink Woods Subdivision - Spurwink Woods LLC is requesting preliminary Subdivision Review and a Resource Protection Permit for Spurwink Woods, a 42-unit/lot subdivision located between Killdeer Rd and Dermot Drive, Sec. 16-2-4. Subdivision Public Hearing, and Sec. 19-8-3, Resource Protection Permit Public Hearing.

John Mitchell, Mitchell & Associates and representing Spurwink Woods, LLC, introduced other members of the project team. He summarized that the proposed project will have 42 lots, with a breakdown of 23 single-family homes and 19 condominium units on 25 acres. The average lot size will be 9,000 square feet. Lots 11, 21, & 22 are designated to contain the affordable housing units.

There will be 10.5 acres of dedicated open space. There is a proposed trail system, that connects to other existing trails and Town land. He gave an overview of the wetlands and the portion of wetland to be filled. The Conservation Commission recommended approval for a wetland permit. Finally, he stated that Planning Decisions did a Community Impact study and determined that the project would yield a net positive fiscal impact of \$115,000 to the Town. He introduced Dale Brewer, who performed the wetland survey.

Dale Brewer, 35 Eastman Rd and owner of Statewide Surveys, Inc., based in Cape Elizabeth, gave an overview of his credentials. He performed wetland boundary delineations in April, May, June and July and would address any questions or comments concerning that. In his field visits, he identified no vernal pools, and has experience with vernal pool identification.

Al Palmer, Gorrill Palmer Consulting Engineers, Inc., gave an overview of stormwater changes. It was designed to have quantity control at various sites. The stormwater

analysis was done in accordance with the Ordinance. They are looking to eliminate the retention basins by using the upland buffer to reduce water flow.

Tom Gorrill, Gorrill Palmer Consulting Engineers, Inc., did a traffic impact study for the proposed project. They did an estimation of proposed traffic and the amount of trip ends to occur during peak morning and evening hours. The majority of morning traffic would empty out to Spurwink Avenue. There were no high accident locations, based on information from the MDOT. He discussed site distances and recommends stop signs in some areas. There should be some clearing of vegetation at the Spurwink Road intersection as well as the Mitchell/Columbus intersection to improve site lines. He does not believe there would be significant cut-through traffic due to the layout of the development.

Mr. Mitchell addressed some comments from the Planner's memo. The applicants do not want to improve South Street extension as the parcel was sold without clear title. They are not opposed to adding supplemental evergreen trees. He explained why the sidewalk was located as proposed. The applicants believe it is unfair that they would have to add sidewalk from Chicory Way to Killdeer Road, as it would be costly. The applicants agree with the minor suggestions from the Town Engineer and those will be addressed with the next submission.

Mr. Sherman opened the Public Hearing.

Paul Katsos, 33 Columbus Rd, wanted to join comments that were written by Richard Bryant. He believes that, after the site walk, the development would be used as a shortcut because it would be at least a mile less. Based on the proposed 42 units, he wondered if anyone had studied if there would be cut-through traffic, and if that would affect property values on the Columbus Rd side. He is asking the Planning Board to limit the size, and scale of the project with particular attention going towards traffic patterns.

Mr. Richard Bryant, 55 Spurwink Avenue, wanted to hit some highlights from the letter that he and his wife submitted. His house is on the inside of the curve on Spurwink Road, immediately across the street from Stephenson Street. They are opposed to the development and think it is too large for the property. He believes it does not meet the standards for the subdivision regulations because it adversely effects the health, safety and general welfare for the public and does not fit harmoniously into the existing environment and rural character. At least 4 standards are not met that are required by Planning Board for subdivision approval, which are noted in his letter. His biggest concern is traffic issues. Killdeer and Thrasher Roads currently serve only a limited number of houses and would have to handle traffic from the proposed 42 new residences as well as the 12 existing homes on Stephenson Street and the 50+ units that will want to travel westerly. There will be heavy cut-through traffic. Planning Board should require developer to implement sidewalks throughout the neighborhood and use sidewalks to reconfigure Columbus Road and slowdown the straightaway effect. He also believes that South Street should be improved to the standard of a Public Way as it will be utilized and will help disperse traffic. The Oakhurst neighborhood will use it as a cut through for

traffic, as it will be quicker. He will use it himself to get to Fort Williams faster. Heavy construction equipment and tradesman traffic will also be a huge impact. He urges an independent traffic study.

Claudia Dricot, 70 Columbus Road, participated in the sitewalk. She is concerned about the extensive blasting and the large amount of trees that will be cut down. The proposed trails will be very close to property lines with a small buffer. 15 acres of pine forest habitat will be destroyed. She echoed the issue of cut-through traffic and problems with site distances, especially at the intersection of Columbus and Mitchell Roads. She is strongly opposed to this development because of the negative impact it will have and it should be seriously reduced in size.

Robert Andolsek, 70 Columbus Road, is opposed to this project due to the number of proposed home on small lots, which will be void of trees. Multifamily units will reduce the value of existing homes and recent polling shows that Cape residents do not favor multifamily housing. He does not like the proposed trail system and believes the cut-through traffic will create unsafe neighborhoods. Over 750 residents have signed a petition to stop cut through traffic in connecting neighborhoods. There will also be several extremely large trees cut down and there is a possible vernal pool. He wants the project postponed until next spring to verify if the pool is vernal.

Holly Hofmann, 42 Columbus Road, purchased her home because it was in a quiet, dead-end neighborhood. The project has a negative impact on the safety of her family and the value of her property. She is not opposed to growth, development or connectivity, however, she is adamantly opposed to development that destroy character in existing neighborhoods that also damage property investments and jeopardize the safety of families. She urges the Planning Board to cut the proposed building units by half.

Lyndon Keck, 42 Columbus Road, stated in the Subdivision Ordinance, sec. 16-1-1 promotes “development that fits harmoniously into the existing natural environment and rural character of the Town”. He believes the large scale of the project does not fit harmoniously and does not believe the useable open space satisfies the requirements in the Ordinance. His calculations of open space are 3.61 acres and should be useable land and not retention basins. There is significant bedrock and urges the Board to hire an independent geologist to study. He wants the Board to review safety hazards of Chicory Way and Killdeer Road. There should be review of stream crossing. An independent traffic engineer should be hired for a traffic study as Killdeer Road is a substandard road. He is not satisfied with proposed trail system and also believes project to be too dense for surrounding neighborhoods. Elimination of retention basins would be in violation of Federal laws. He also would like the Board to look into excessive grading, and, specifically, traffic impact.

Ted Darling, 35 McAuley Road, is not opposed to development, but is opposed to the size and scope of the development. The development will increase the housing stock by 1.1%, all concentrated in 15 acres of land. He is worried about the increased traffic flow and the negative economic impact that will impose on existing property values. He is

concerned about taxes as there are already strains on Town services. He is concerned with the impact on wetlands and urges the Planning Board to reject the application.

Peg Hunter, 67 Columbus Road, is the mother of 4 children and worried of how the traffic it will affect them. This is going change her whole life. She bought this house specifically because it was on a dead end road where she could raise a large family safely. There are at least 15 kids playing around that area all the time. She is completely opposed to this project.

Dominic Tracy, formally of 20 Cheverus Road, challenges the air of inevitability that the developers and Board are taking with this project. There are reasons that prior attempts to develop this parcel didn't happen. This is an environmentally sensitive area with serious access issues. He doesn't believe that the Board broached the serious issues that surround this project. There are several parcels that have been developed with a single access point that doesn't fundamentally change Cape Elizabeth. The Planning Board should take serious consideration of the issues that have been brought up tonight.

Sharon O'Neill, 56 Columbus Road, sought out a home on a dead end road. She is opposed to a through street, which would open up the neighborhood to non-local traffic. She is concerned that Columbus Road would turn into a speedway. She is opposed to the size of the development, and the blasting and heavy equipment that will be using their streets. She would strongly advocate an emergency access. She insists on safety measures such as posted speed limits, sidewalks and street lighting.

Joseph Jones, 46 Columbus Road, stated that there is no place that he would rather live than in the neighborhood lives in. He doesn't believe that he and his neighbors should subsidize the developer's business enterprise with their inconvenience, and the degradation of their properties. He believes Mitchell Road is a treasure. He doesn't care if the developers make money, he doesn't want to subsidize it.

Ron Hoppel, 22 Salt Spray Lane, does not live in the neighborhood. He believes the project would have a positive impact on the Town with tax relief. He believes it will add diversity of housing, particularly affordable housing.

Richard Berman, 58 Hannaford Cove Road, has confidence in the Planning Board. He likes the interconnected streets that would disperse traffic. He is also a member of Growth Smart Maine. He is not sure that cut through will be an issue. He has hope that the condos would benefit the elderly. He likes the fact that the developers are local and have hired professionals to assist on the project. He believes in good managed growth.

Diane Nicholson, 243 Mitchell Road, is opposed to Spurwink Woods. She is concerned with the traffic that will happen on Columbus Road because that neighborhood is the only safe place for her kids to ride their bikes. She is concerned about property values, and the citizens that chose to live in dead-end neighborhood and wants the Board to have respect for them. Her biggest concern is the loss of the woods, as there aren't many in that part of

town. She also referenced the Comprehensive Plan Survey, where, people want to limit development, keep the rural character, and protect wetlands.

Susan Osborne, 33 Columbus Road, stated Columbus Road and Killdeer Roads contain middle class properties. She reviewed some ads from McFarlane real estate that promotes homes for sale that are on dead end streets, which shows realtors place value on dead end streets.

Jay Stackhouse, Woodland Road, will be seeking a home like this when he is ready to repurchase a home in Cape Elizabeth. He is sorry that the Cape Elizabeth Land Trust didn't do something with this property. He believes that the developers, with the Board, will make a viable neighborhood.

Alison Darling, 35 McAuley Rd, stated that Spurwink Woods will be a great place for the people that live there with the buffers in place for the condos from the houses. She doesn't believe that the proposed buffer between her house and the development will be sufficient. It will directly effect her property value for the next 8 years. She doesn't understand how this development fits in with the results from the Comprehensive Plan Survey. She urges the Board to consider reducing the size of the development and moving the access road.

Mike Ouellette, 7 Hamlin Street, addressed that the currently dangerous issues that are on Mitchell Rd, Stephenson St, and South Streets. He believes that the development should have one access with a playground.

Rob Carlson, 19 Killdeer Rd, agrees with most of the comments tonight. He has issues with drainage that currently exists and is worried about the stormwater drainage that could affect his home from the proposed development. He has concerns about his foundation from the blasting that will occur. He thinks the scale and size of the development are too big.

Jerry Angier, 32 Westminster Terrace, likes open space and through the Land Trust there is that opportunity. This property is private property. He stated that the Cross Hill development does not have much cut-through traffic. He believes the traffic study is valid. He stated that in his condo complex that majority of the residents are retirees. He believes the developers have done a good job and look forward to having them as his neighbors.

Howard Fisher, 16 McAuley Road, is concerned with "S"curve on Mitchell Road and knows 2 people that have been hit by vehicles in the last 1.5 years. He thinks that the traffic flow should really be looked at closer.

Julie Orr, 20 Cheverus Road, stated saying goodbye to the woods is like saying goodbye to a friend. It is hard to describe the beauty of the land and it is a spiritual place, a sanctuary. She wants to tell the land she is sorry.

Mr. Sherman thanked everyone for coming out and concluded the Public Hearing. They will begin the substantive hearing.

Mrs. Schenkel stated she had a lot of questions concerning traffic. She would like the gentleman who did the peer review to be present at the next meeting.

Ms. O'Meara stated that would be possible at additional cost. She also gave an overview of the specifications for the RC District and the original submission from the applicant. She directed the applicant to use the Open Space provisions, which forces applicants to create smaller lots with open space available, and allows a fair financial return to the developers. The first submission of the subdivision will be submitted to the Planning Board.

Mr. Ciraldo stated that he needed more information concerning the aspect of connectivity. He stated that in reality, this is a project without access and by allowing a dead end street to become a through and connecting street, you are providing access where none exists. He wants to be convinced that they are not doing harm to the existing neighborhoods that they are providing the access through. He also did not hear any data concerning cut-through traffic from the developer.

Mr. Gorrill stated the trip generation was derived from the Institute of Engineers Trip Generation. Single-family homes generate the most traffic as opposed to condos. He is comfortable with the trip numbers he submitted. He gave an explanation of what "peak hour" traffic flow is and why it is used.

Mr. Ciraldo asked how he would quantify cut-through traffic.

Mr. Gorrill stated he looks at street patterns, and uses existing street volumes.

Mr. Ciraldo asked how he can determine cut-through traffic on a road that doesn't exist.

Mr. Gorrill stated assumptions must be made.

The Board listed a number of items that gives them concern. It includes; looking at eliminating cut-through traffic, looking at speed bumps, site distance issues at intersections, upgrading South Street to Town standards, the dangerous corner at the intersection of Columbus Road and Mitchell Road, and the intersection of Stephenson Street and Spurwink Road.

Mr. Brewer gave an overview of vernal pools and stated there currently is no regulation for them. He went to several locations on the property checking for species that would indicate a vernal pool. Not all wet areas are vernal pools, and most occur in deciduous forests.

Mr. Sherman asked Ms. O'Meara about the continuation of South Street.

Ms. O'Meara stated that the neighborhood was not large and didn't generate the volume of traffic that usually triggers a one-way loop.

Mr. Mitchell stated that the improvement to the road would be very expensive and it did not seem necessary. He stated the Town Engineer's comments were very minor and were in agreement. He concluded with an overview of the underground utilities to be installed, wetland disturbance, and asked for a waiver on the high intensity soils survey.

Mr. Sherman asked for a motion.

Mr. Griffin made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Spurwink Woods LLC for Preliminary Subdivision Review and a Resource Protection permit for Spurwink Woods, a 42-unit subdivision, located between Dermot Drive and Killdeer Rd, be tabled to the regular January 17, 2006 meeting of the Planning Board.

Mr. Kennealy seconded the motion. 7 in favor, 0 opposed.

Mr. Sherman asked for a motion to continue the meeting, as the rules state there are no new items after 10:00 p.m.

Mr. Hatem moved to continue the meeting.

Mrs. Schenkel seconded the motion. 7 in favor, 0 opposed.

NEW BUSINESS

Raftice Private Accessway Permit - Robert and Susan Raftice are requesting a Private Accessway Permit for a lot located off Spurwink Ave and on proposed Fairway Drive (U27-29, 39, p/o 29, p/o 43), Sec. 19-7-9, Private Accessway Permit Completeness.

Mr. Mitchell, Mitchell and Associates, gave a description of the property and described the surrounding area. The property is served by underground utilities, and the driveway will have a 30" culvert. They are proposing to fill 5,100 sq. ft. of wetlands and have filed permits with the D.E.P. The Conservation Commission voted to approve the Resource Protection Permit, with the condition that the applicant allows 2,500 sq. ft. of wetland grow back in its natural state. The applicants are asking for a waiver for the high intensity soils survey. He is in agreement with the Town Engineer's comments and has received approval from the Portland Water District approval.

Mr. Griffin made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Bob and Susan Raftice for a Private Accessway

Permit and a Resource Protection Permit to construct a driveway for a lot with insufficient frontage located off Spurwink Ave on proposed Fairway Drive be deemed complete.

Mrs. Schenkel seconded the motion. 7 in favor, 0 opposed.

Mr. Sherman asked if the Board wanted a site-walk or public hearing.

Mr. Griffin asked Ms. O'Meara if there had been any interest in the project.

Ms. O'Meara stated there was one citizen, with a question on stormwater, and she told him there could be an opportunity to speak but was fine with the staff's explanation and would not be interested in speaking.

The Board determined a sitewalk and Public Hearing would not be necessary.

The Board decided that Mr. Mitchell would address the comments from the Town Engineer's letter tonight and would be considered conditions of approval.

Mr. Sherman asked the Board for comment. Hearing none, he asked for a motion.

Mr. Hatem made the following motion.

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Bob and Susan Raftice for a Private Accessway Permit and Resource Protection Permit to construct a driveway for a lot with insufficient frontage located off Spurwink Avenue on proposed Fairway Drive be approved, subject to the applicant making the changes as stated by Mr. Mitchell in his presentation, in response to the Town engineer's letter dated December 12, 2005.

Mrs. Schenkel seconded the motion. 7 in favor, 0 opposed.

OTHER BUSINESS

Bisected lots amendment - The Planning Board will consider an amendment to the Zoning Ordinance, Sec. 19-7-3, Bisected Lots, to clarify that this provision applies to single-family dwelling lots, Sec. 19-10-3, Zoning Ordinance Amendment Public Hearing.

Ms. O'Meara explained that the amendment would clarify that the provision applied to single family home lots.

Mr. Sherman opened the Public Hearing. With no Public comment, he closed the Public Hearing.

Mr. Hatem complimented Mrs. Schenkel for the language provided for the amendment.

Mr. Hatem made the following motion.

BE IT ORDERED that, based on the materials and the facts presented, the Planning Board recommends the Bisected Lots Amendment to the Zoning Ordinance to the Town Council for adoption.

Mr. Godfrey seconded the motion. 7 in favor, 0 opposed.

Mr. Sherman acknowledged Mr. Ciraldo for his contribution to the Planning Board for his years of service to the Planning Board and the Town.

Mr. Ciraldo made a motion to adjourn.

Mr. Godfrey seconded the motion. 7 in favor, 0 opposed.

Meeting adjourned at 10:30 p.m.

Respectfully submitted,

Laurie Palanza
Minutes Secretary

