

TOWN OF CAPE ELIZABETH  
MINUTES OF THE PLANNING BOARD

MAY 16, 2006

TOWN HALL 7:00 PM

Present: David Sherman, Chair  
Barbara Schenkel  
John Siegfried  
Jack Kennealy

David Griffin  
Peter Hatem  
Paul Godfrey

Also present: Maureen O’Meara, Town Planner

Mr. Sherman opened the meeting and asked for comments on the prior month’s minutes. Hearing none, he asked for a motion.

Mr. Godfrey made a motion to accept the minutes as submitted.

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

Mr. Sherman reviewed correspondence and stated that anyone who may be concerned whether his or her email had been received and distributed should call the Town Planner.

Mr. Sherman suggested that the items on the Agenda be taken out of order, as the first item would be much lengthier than the first two. He asked for a motion.

Mr. Siegfried made a motion to take the business out of order.

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

Elliot Private Accessway Permit/Resource Protection Permit - Donald Elliot is requesting a Private Accessway Permit and Resource Protection Permit to construct a driveway for a lot located at 43 Hannaford Cove Rd, Sec. 19-7-9, Private Accessway Permit Completeness, Sec. 19-8-3, Resource Protection Permit Completeness.

Herb Gray, consulting Engineer, gave an overview of the lot on 43 Hannaford Cove Road. Albert Fricke did a wetlands delineation, and identified a 1,068 sq. ft. of RP2 wetlands. He stated, concerning site distances, that looking easterly on Hannaford Cove Road, there are no site distance issues. Looking westerly, if shrubs are removed by a neighbor’s driveway in the road ROW, the site distance would be approximately 150’, which is what is necessary. There will be underground water and electric to the proposed lot. He discussed a proposed retaining wall, with a 12” pipe with a concrete collar, which is called a “mechanically stabilized earth wall” as well as drainage.. He stated that the plans only show a 1” water line, but will need to be changed to a 2” line, as the Fire Chief has requested a sprinkler be installed in the home. This request is due to the limited turnaround space for fire vehicles. He stated that the Town Engineer suggested a guard rail for the earth wall and believes that is necessary.

Mr. Sherman thanked the applicant and asked the Board to consider completeness.

Mr. Siegfried stated there were a lot of comments from the Town Engineer concerning a maintenance agreement. He asked Ms. O'Meara if those concerns were considered now or at a later time.

Ms. O'Meara stated typically when the Board makes a motion for completeness, the package has sufficient information for reviewed, even if it may not be accurate.

Mr. Griffin made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Don Elliot for a Private Accessway Permit and Resource Protection Permit to make the lot located at 43 Hannaford Cove Rd a buildable lot and construct a driveway across an RP 2 wetland be deemed complete.

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

Mr. Sherman stated the next order of business would be to determine if a site walk and/or public hearing would be necessary. Considering there has been interest from the abutters, he thought there should be both. The Board agreed.

The Board discussed date possibilities for a site walk. It was determined a site walk would occur on May 30<sup>th</sup> at 5:30 p.m. Mr. Sherman stated there also needed to be a motion for the Public Hearing.

Mr. Hatem made the following motion.

BE IT ORDERED that, the above application be tabled to the regular June 20, 2006 meeting of the Planning Board, at which time a public hearing shall be held.

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

## OLD BUSINESS

Jordan Subdivision - The Jordan Family is requesting Minor Subdivision Review of the Jordan Subdivision, a 3-lot subdivision located off Deer Run Rd, Sec. 16-2-3, Minor Subdivision Review Public Hearing.

Bob Metcalf, Mitchell & Associates, is representing the Jordan Family for this application. He discussed changes to the plan from the staff comments and Board input. They have added 6-2 caliper red maple trees along Hockey Pond Way. The plan has been altered to show 7 granite markers after discussion with the Public Works Director. Deer Run Rd will now be paved the first 50' off of Spurwink Avenue instead of the initial 25'. Stop signs will be shown on the plan located at Deer Run Road and Spurwink Avenue, due to requests from the Police Chief. Turnaround and radii information has been added

to the roadway per the request of the Town Engineer. Thickness of gravel has been altered and the construction budget had been altered from the Town Engineer as well. The pedestrian easement will be held by the Jordan Family. The other easements; for lots 1, 2 & 3 will include access on to Hockey Pond Way, and access on Deer Run Road. The two existing lots, which front on Deer Run Road, will have access to the new 50' R.O.W., which will be recorded at the Cumberland County Registry of Deeds.

Mr. Sherman thanked the applicant and opened the Public Hearing. With no one coming forward, he closed the Public Hearing and opened the floor to Board discussion.

Mrs. Schenkel first stated that she did not agree with the new stop signs; that the one by the new lots was totally unnecessary. She questioned the encroachment into the 250' setback. She wanted to know if there could be a deed restriction for the 2 lots affected.

Mr. Metcalf stated that there could be medallions placed to identify the limits of clearance. They could be secured to existing trees or iron posts.

Mr. Sherman asked if the plans currently prohibit alteration within the RP1 setback.

Mr. Metcalf stated there was no language per se, but it could be added.

Mr. Griffin concurred with Mrs. Schenkel concerning the stop signs. Since the Jordan family has been here for many years, and has been good stewards of property, he feels uncomfortable to ask them to do special things.

Mr. Sherman echoed Mr. Griffin's comments. He asked for any other comments.

Mr. Kennealy stated he would be in favor of deletion of one or both stop signs.

Mr. Sherman stated he would be reluctant to delete the one at the end of Deer Run Rd.

Mrs. Schenkel believes that would be a waste of money to the applicant. She also thought 6 trees would be put on the plans; however, if any trees could be preserved in the R.O.W., they could be swapped one for one.

Ms. O'Meara stated that in the current subdivision ordinance it states that existing trees preserved in the R.O.W. may be counted if are approved by the Tree Wardedn.

Mr. Sherman stated that the only item of contention were stop signs. He asked if there were other items before a motion was made.

Mr. Hatem stated he could see the need for one, at Spurwink, and it's not a lot of money,

Mr. Griffin made the following motion.

Findings of Fact

1. The Jordan Family is requesting Minor Subdivision Review of a 3-lot subdivision located at the end of Deer Run Rd, which requires review under Sec. 16-2-3.
2. The applicant is proposing a private road and retaining ownership to the private road which provides vehicular access to the proposed lots, as well as existing lots on Deer Run Rd.
3. Hockey Pond Rd will require grading during construction that will require removal of most of the existing trees within the right-of-way.
4. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Jordan Family for a 3-lot minor subdivision located at the end of Deer Rune Rd be approved, subject to the following conditions:

1. That deeds for conveying access rights to lots on Deer Run Rd and Hockey Pond Rd, a conservation deed for the open space and pedestrian rights deed for lot 1 be submitted in a form acceptable to the Town Attorney and signed and recorded as needed; and
2. That the plans be revised to include a marker system to identify the RP1 Buffer Zone and reflect the above conditions and submitted to the Town Planner for review and approval prior to recording the subdivision plat.
3. That the developer only be required to install one stop sign at Deer Run Road and Spurwink.

Mr. Hatem stated he would like to add two amendments; that under #3 should include a marker system to identify the RP1 no disturbance zone; and that the developer only be required to install one stop sign at Deer Run Road and Spurwink Avenue. With those conditions; he seconded the motion.

Mr. Sherman added that Ms. O'Meara told him that the condition under #1 had been satisfied; he suggested that it be removed and asked Mr. Griffin if he would accept that.

Mr. Griffin accepted. Motion carried unanimously.

SPURWINK WOODS

Spurwink Woods Subdivision - Spurwink Woods LLC is requesting Final Subdivision Review, Amendments to the previously approved Mitchell Highlands and South Portland Estates Subdivisions, and a Resource Protection Permit for Spurwink Woods, a 42 lot/unit subdivision located between Killdeer Rd and Dermot Drive, Sec. 16-2-4, Final Subdivision Review Public Hearing, Sec. 16-2-5, Subdivision Amendments, and Sec. 19-8-3, Resource Protection Permit.

Mr. Mitchell, Mitchell & Associates, represents Spurwink Woods, LLC. He reviewed the changes since the last Planning Board meeting. He stated that, through the entire project, they have maintained that an emergency gate would not be appropriate for the project, which has been confirmed by sound engineering and planning practices and the town's goal of connectivity. In response to the discussions at the last meeting, the revised plan's show a gate in the vicinity of South St.

They have also made supplemental changes to the buffers. He wanted to remind the Board that there is significant evergreen mature growth existing from the edge of the project to the existing homes. On the Moran property, they have added 2 red pines on the site lines of approaching vehicles for approaching headlights. The 3rd change has been the revised open space plan. There is an amended plat plan to show the revised limits of the open space. A total of 12.47 acres is required; they have shown a total of 12.58 acres of open space to be dedicated. They have incorporated the open space around the condo area so that the entire trail system is within the open space. He would like this change to be added to #28 on page 14 on the Findings of Fact, with the \$31,185.00 be deleted. The next area would be the responses to the Town Engineer. He had basically signed off of the project with the exception for the cost estimate for the bituminous sidewalk, which has been corrected.

Maureen McGload, Gorrill Palmer Engineering, stated they have responded to comments from the DEP, the Town Engineer and Deluca Hoffman, and the stormwater management plan has been revised to reflect those. They include relocating a level lip spreader, added under drains and drainage stone and have rerouted some flows. They have included a table that has pre and post peak flows. There should not be any down stream impacts.

Tom Gorrill, Gorrill Palmer Engineering, stated they have been urging connectivity and feel that traffic should be monitored. If there is excessive traffic, then a gate should be installed. With a gate, any cut-through traffic would be negated. 19 condo units and 2 single family homes would have access through Columbus Road with 10 trip ends during peak hours. Stephenson Street would have 20 single family homes, which would equate to 22 trip ends during peak hours. They continue to recommend that Spurwink and Stephenson Streets have a 3-way stop with flashing lights that are initiated by an oncoming vehicle.

Mr. Mitchell stated that they have redesigned the stormwater plan twice, have prepared two traffic reports, and Dale Brewer, a wetland specialist, has been to the property several times to verify there are no vernal pools. There have been two site visits with the Planning Board, two neighborhood meetings, and the Town Engineer has signed off the

project. On behalf of the applicant, they respectfully ask the Board act on the Final Subdivision Application this evening.

Mr. Sherman stated that he would open the Public Hearing and asked that they form a line behind the podium to keep the flow moving and applause be held.

Julia Orr, 20 Cheverus Road, asked if there would be a time limit.

Mr. Sherman stated there is not a strict limit, however, if it starts to take too long, they may discuss imposing one.

Ms. Orr read a letter from Ted & Alison Darling, 35 McAuley Road, who could not be there that evening. She thanked the Planning Board, the Developer and crew, and neighbors from the 3 neighborhoods as she felt this was time well spent. She wanted to reiterate a letter previously submitted from her and other neighbors, which asked for mature evergreens to be planted at the back of the property line to protect existing trees. She also requests an 8' stockade fence behind homes as this will help protect them from headlights and noise. She would like the sidewalk to be moved to the side of South Street where homes will be constructed. She would like assurance that their foundations will not be affected by blasting, and if there is, there will be no cost to the homeowner. It may take a few years to know if there will be water damage. Many of the neighbors have finished basements and could take 12-18 months to discover and after truly soaking rains. It is imperative that the issue of the gate be resolved while this collective board sits together as three members terms expire at the end of the year. Signed Ted & Alison Darling, 35 McAuley Road.

Ms. Orr, 20 Cheverus Road stated that she was extremely distraught over the whole project. This is a beautiful piece of property and means a lot to her. She read 2 stories that she wrote concerning the land and the effect that the trees have on her.

Claudia Dricot, 70 Columbus Road, understands that Board members may not discuss issues pertaining to the project outside of the meetings or workshops, however, the frustration that you're hearing from her and others is that many of the issues that have been raised repeatedly are not being discussed at meetings. Additionally, repeated requests for additional public hearings or public comment have been denied. The Town Planner misinformed the Board members and the public, saying that allowing public comment outside of a scheduled public hearing was at the discretion of the applicants, which of course, decided to not allow it. The Planning Board has started to address some of the outstanding issues in the April meeting. She does not believe there has been adequate resolution to a number of issues. The applicants have placed a gate on the plan. If the gate is not approved, there appears not to be a consensus between Gorrill Palmer and the Board concerning traffic calming measures. The developers do not want to install sidewalks. Buffers should be required to be treed, and not clear cut. She is not convinced that cluster housing is achieving it's objective. Cape Elizabeth does not need more residential housing as the school's cannot handle increased enrollment. The comprehensive plan survey showed 8 out of 10 showed protecting wetlands and rural

areas and preserving the rural character to be most important goals. The Planning Board should be working with the Land Trust for preservation opportunities.

Paul Catsos, 33 Columbus Road, stated that gate placement discussion has only happened since the 2<sup>nd</sup> neighborhood meeting. There are also plans to develop the adjacent property, which would add additional traffic to the small neighborhood of Mitchell Highlands. He would like the Board to look now at putting a gate on Chicory Way, and having a gate that can be biked or walked around.

Lynden Keck, 42 Columbus Road, will be negatively impacted by the Spurwink Woods Subdivision. He and his wife, Holly, are opposed to the proposed subdivision. They have both written and spoken to the Board and the Town Council without any written response to what they have asked. They do not believe the project represents sound planning principles. They do not believe the open space conforms with the ordinance. The application has an unacceptable stormwater management plan, that will not guarantee that post development runoff will be less than predevelopment. This site's watershed empties into the larger Trout Brook that has already been determined to be an urban impaired waterway, where special sensitivity should be taken. They questioned the absorption of rain on frozen ground and ledge and received no answer. They would like the developer to submit test pits, surveyed from a certified geologist. He would answers to his questions. They believe the trail system is downstream from lipspreaders 1 & 2. He believes they will fail and not remain level. He questioned the other stormwater dumped from the deleted catch basins. They believe the project is too large and too dense and not compatible with the neighborhood. The condo project will require complete clearcutting, to the equivalent of 4 football fields. They believe there is a conflict with lot 11 as it is not a new lot and should remain a 20,000 sq. ft lot. Their primary concern is traffic as it connects two dead end neighborhoods. They believe that a gate will not prevail. Loop roads create safer roads, and social neighboring between houses.

Sharon O'Neill, 56 Columbus Road, stated her first issue is the conversion of the lot on Killdeer into an access road, which prompted the petition drive. She asks that not be approved. She is please that the gate is being considered, however, is concerned with the possibility of Maxwell's developing the adjacent lot. She is concerned if the gate will be approved or not. Her second choice would be esplanades and sidewalks. Although she appreciated the site walk, this gave the developers the opportunity to scare the neighborhood in believing that they will lose half their lawn if sidewalks are implemented.

Carol Ann Olsen, 33 Thrasher Road, stated she walks the loop of Columbus everyday. She is worried about people listening to headphones and not hearing traffic if sidewalks are not installed and people must walk in the road. She asks what happens if the stormwater system fails and existing neighbors cannot improve their land.

Mr. Sherman stated stormwater would be discussed during substantive review.

Dick Moran, 38 Killdeer Road, stated there was a correction on his property; it would be 2 trees, not 12. There is another proposal for shrubs, which he would prefer. He is concerned with the intersection proposal and what gets approved. As he exits Columbus Road now, he has 1 to 2 misses a week. He would like to see a construction entrance, as his road is narrow and will be a big inconvenience with all the subcontractors in and out of the projects. He said connectivity sometimes has a place, this is a time that it doesn't. He had heard that if there are negative effects on abutting properties, a project could not be approved. He does not see any positive effects from this project.

Nick Bryant, 55 Spurwink Ave, thanked the Board for the time they have put into this project. They are pleased that the Board encouraged the developer to put in an access gate. He believes that a gate that is used consistently, it will ensure any maintenance issue could be repaired immediately. He thinks the current proposed location is a good compromise, but the Town should be prepared for Maxwell property development. He gave an alternate proposal for when that occurs. He thinks the developer should have to improve South Street or prove they are not allowed to develop it. He does not think any changes should be made to the Spurwink/Stephenson intersection. He thinks there should be one-way stop sign going northbound on Spurwink. A three way stop would annoy everyone. He thinks maybe a warning sign that alerts traffic about his driveway or an alert sign to signify them of oncoming traffic. He believes the developer should have to implement buffers for the immediate abutters at the intersection. He would like the developer to have some safety measures in place for construction traffic and the neighboring kids that will be out during the day. He believes a traditional subdivision would have more effective open space. The developer should have to identify the major trees. The plan should require development not to go higher than existing tree lines. It was never the intention of the Mitchell Highlands Subdivisions that a lot on Killdeer be a throughway, nor was it the intention of Killdeer to be a loop road. Lot 11, designated as affordable housing, does not fit the criteria under affordable housing ordinance. It should also be stated on the plan that the condos, location and number cannot be changed without coming back to the Board.

Paul Laliberte, resident of 29 Thrasher Road for 29 years. He does not believe Mitchell Highlands should have any additional traffic. He would like a condition that, when the Maxwell property is developed, the gate be removed with a walking path.

Mr. Sherman asked Mr. Laliberte for his comment from the site walk about stop signs be added for the record.

Mr. Laliberte would like the board to consider that if a gate is not installed, it will not change the traffic flow onto Killdeer. Thrasher will change if the traffic calming is only installed on Columbus Road.

Larry Stern, 1 Columbus Road, stated he wanted to say the good things come from this project. 1<sup>st</sup>, his appreciation for the time and effort the Board puts into this. 2<sup>nd</sup> is this has made the neighborhood come together and he has met many people. He thinks that many of them have felt like they have been shut out from the project. He thinks the



process needs to be looked at in the future. He believes the neighbors, by and large, have spoken with one voice and would like the Board to listen.

Dominic Tracy, 5 Philip Road, stated he hasn't devoted a lot of time to follow the project as he is busy. He wanted to make observations concerning the Town Planner. He said it was clearly a done deal prior being brought to the public. During the Public Hearing, she is clearly not even listening, keeping her head down. He finds that unprofessional.

The Board asked that Mr. Tracey speak to the merits to the project only, not to anyone personally.

Mr. Tracy stated that, at the last Public Hearing, he learned that there is a quota that the Town must meet every year and this project meets it for two years. He asked, when the land is gone, will the Town make an army and invade Scarborough? He feels that citizens have been hoodwinked.

Becky Fernald, 313 Mitchell Road, thanked the Planning Board, Maureen O'Meara and developers for their time with the neighbors. She has a lot of suggestions but feels it is too late and felt it was too late by the time there was the 1<sup>st</sup> Public Hearing. She would like more direct input for future development, where voices are heard from the beginning. She is concerned with the impact on public services, as there already is a strain. She is not against development and believes can be done sensibly. Would like to see more buffering. She asked if there was a better place on the land for the development. She is supportive of a gate on Chicory Way. She stated people needed to be cognizant of the Comprehensive Plan survey that showed open space so desirable.

Mr. Sherman closed the Public Hearing and thanked the neighbors for coming. The Board began discussion of the application and asked for any specification questions.

Mr. Siegfried asked Ms. O'Meara the protocol for public hearings and thought that maybe there should have been one earlier in the process.

Mr. Sherman stated this could be submitted to the Town Council for consideration.

Mr. Hatem echoed that, and suggested to put it on a workshop to discuss.

Mr. Kennealy wanted the neighbors to know that the Board never meets behind closed doors.

Mrs. Schenkel stated she is also frustrated by the process. She also stated that the Board members cannot talk to each other outside of meetings.

Mr. Hatem suggested that people write the Town Council concerning traditional development vs cluster development. It is the Board's charge to follow the ordinance and policy established.

Mrs. Schenkel wanted to clarify the concern that the condo project could double or triple. This number cannot increase.

Mr. Sherman stated the confusion was due to the condo declaration. He cleared with the applicant this verbiage would change.

The Board started discussion on the gate and Mr. Gorrill stated cut-through traffic could be determined maybe 6 months into the road being installed.

Mr. Godfrey stated again he is against the gate. If traffic exceeds an acceptable level, a gate could be installed. He believes that it could be a win-win with connectivity and without the safety concerns of a mechanical gate.

Mr. Kennealy stated that, if a gate is going to happen, it needs to be implemented now.

Mrs. Schenkel is not in favor of a gate as a planning tool, but is in favor of a gate because of the abutters. After the project is approved, it is out of the Board's hands and should be very clear when approved. She is also concerned with South Street.

Mr. Sherman is relying on the experts that there will not be significant cut-through traffic but believes a motion could be in the approval when a gate would be implemented. He believes traffic-calming measures still need to be imposed.

Mrs. Schenkel stated that if a gate is put in later, there should be an escrow fund for the gate; and that they dictate where the gate goes and the kind of gate installed. Since the Town staff is vehemently against a gate, she wants it set that a gate will be installed if need be.

Mr. Kennealy stated that this is an unusual situation of putting a new neighborhood between two existing neighborhoods. He believes the gate deserves special consideration and maybe 5 years down the line the neighborhood could decide they want it removed.

Mr. Sherman asked about the sidewalk.

Mrs. Schenkel doesn't believe the sidewalk needs to be 5' pavement and 5' esplanade. She wanted to discuss Thrasher Road and stop signs there.

The Board discussed different issues concerning road widths; esplanade widths, and existing trees.

Mr. Sherman stated that there could be flexibility in the design of a sidewalk and esplanade, varying the esplanade width to avoid mature trees and steep slopes, although an esplanade along most of the length of the street should be constructed to obtain the traffic calming benefits.

Mr. Godfrey asked to go on record that at the intersection of Columbus and Mitchell some of the trees by the existing rock wall should be removed to improve sight distance. He believes at Spurwink and Stephenson at least a two-way stop sign and cut back some brush and trees is needed.

Mr. Griffin asked about the completion of South Street.

Mr. Gorrill stated that there would not be an impact on South Street and there would be a sign placed stating it is not a through way.

Mr. Driscoll, legal counsel for the applicants, stated that there is nothing in the ordinance that requires the land on South St to be improved.

Mrs. Schenkel is concerned with the buffering as they spent 3 hours on a site walk and the applicant only added one tree. She would like to see what kind, size of trees are to be planted.

Mr. Sherman suggested a 5 minute break take place.

Mr. Hatem made a motion for break.

Mr. Sherman seconded the motion. 7 in favor, 0 opposed. at 10:00p.m.

Mr. Sherman reopened the meeting at 10:09pm and asked Mr. Mitchell to answer Mrs. Schenkel's concerns.

Mr. Mitchell stated there is significant amount of vegetation by the Darling's and the Lavalley property. They have continued to show an evergreen buffer.

Mrs. Schenkel said she was talking about what the property owners requested. There needs to be a medium solution between the applicants proposal and the abutters request.

Mr. Mitchell stated that a lot of the area is existing wetlands, and you cannot plant in wetlands. They have shown an addition of 2 trees to be added to the Moran property.

Mr. Sherman asked Mr. Moran to approach the podium concerning what he would prefer.

Mr. Moran stated he would prefer shrubs as he could shape them.

The applicant agreed.

Mr. Siegfried asked about a provision in the Ordinance that says plantings need to be around the perimeter of the subdivision.

Ms. O'Meara responded that one of the provisions in 16-3-1 is that existing vegetation or plants need to be planted around the perimeter of the property line.

Mr. Siegfried stated that yes, if the land is cleared to the property line.

Mr. Mitchell noted that is the case in lot 11 & 12, where they are clearing and planning to revegetate that.

Mrs. Schenkel ask rational about placement of the sidewalk.

Mr. Mitchell stated in addition to the retaining wall and a guard rail, there is no room for a sidewalk.

Mr. Sherman asked Mr. Mitchell to speak to the issue of blasting.

Mr. Mitchell stated they have addressed this on several occasions. Under Town and State requirements, there has to be a pre-blast survey for 500 ft. This information will given to the Code Enforcement Officer.

Mr. Murray said he would not limit it to the 500 feet circumference only. He will be testing someone's well water postblasting for quality and quantity.

Mr. Sherman stated he didn't see the application getting approval that evening and asked the Board their impression.

Mr. Hatem stated that he would want to see a sidewalk plan prior to approval.

Mrs. Schenkel agreed and there are still questions on the gate.

Mr. Sherman stated whether a gate is installed or not, he still wants sidewalks installed.

It that at least Board members were in favor of the sidewalks.

Mr. Gorrill asked that the question of the gate be resolved.

Mr. Sherman agreed, because if they an agree for a gate, the plan needs to show it.

Mr. Hatem had language for a motion that he had up for debate as follows:

The applicant submit design details for the emergency access gate. Then at approximately 6, 12 and 18 months after the completion of South Street and Chicory Way, a traffic study will be conducted at the applicants expense by the Town of Cape Elizabeth's designated traffic engineer. The purpose of the study will be to determine the level of cut-through traffic between Dermot Drive and Killdeer Road. If the traffic study determines the volume of cut-through trips exceed 25 trips during the peak hour, then the emergency gate would be installed according to the plans. A cut-through trip will be determined by a trip beginning and ending outside the existing neighborhoods outside of Spurwink Woods.

Mr. Hatem stated that he had the staggered time frame because there wouldn't be much cut-through during the construction.

Mr. Sherman offered that the studies could be tied into building permits.

Mr. Godfrey stated that as soon as the road is made, any cut-through traffic will occur.

Ms. O'Meara stated that if the study was tied the number of building permits issued, no one else can lift that condition but the Planning Board. If, after a certain number of building permits issued, it is determine that there are 25 trip ends, no more building permits would be issued until after a gate is installed. In another subdivision, a stop work order was issued when a similar condition had not been met.

Mr. Hatem revamped his motion to include that, if the traffic study show that the volume of cut-through traffic exceeds 25 trips during the peak hour, then no more than 3 building permits be issued until an emergency gate is installed.

Mr. Sherman asked the other members about their position on the gate.

Mr. Kennealy stated his concern was to try to preserve the character of the existing neighborhoods. He is inclined to require a gate.

Mr. Siegfried stated he was inclined for a gate as well.

Mrs. Schneckel and Mr. Griffin are in favor of a gate.

Mr. Mitchell stated that there were 2 experts on stormwater management and he asked the Board if they had any questions for them.

Mr. Griffin stated that one person that spoke was concerned with the walkway and a level lipstreader.

Mr. Mitchell stated that, if there were any channelization after the point of discharge, there are culverts to accommodate that under the pathways.

Mr. Kennealy asked if the lipspreaders work well in this climate.

Ms. McGlone stated, if constructed properly, they are.

Mr. Sherman asked about the questions Mr. Keck posed concerning frozen ground.

Ms. McGlone stated that frozen ground doesn't absorb water and the model shows that.

Mr. Sherman asked about Mr. Keck's question on the quality of water with test pits and borings.

Ms. O'Meara stated that predevelopment flow calculations took in consideration of soil characteristics that help identify exposed ledge, which do not absorb water.

Ms. McGlone agreed.

Ms. Schenkel asked if the code requires affordable housing to be in concert with the rest of the development.

Ms. O'Meara stated that the Whale Back Way Subdivision had a 5 lot cluster development and the 6<sup>th</sup> lot was an existing ranch. The house is compatible with the remainder of the project, but no limits on age have been imposed before.

Mr. Sherman stated that he doesn't believe the age has the same effect as amenities, such as a one bedroom.

Mr. Hatem made a motion to table the meeting until June 20, 2006.

Mr. Griffin seconded the motion.

Mr. Sherman stated that, for the next meeting, the Board would want a site plan for the side walk and for the emergency access gate.

Mr. Mitchell asked how much detail the Board wanted for the plan. He also thought that 50% of the neighbors did not want a sidewalk and why go the expense and effort.

Mr. Sherman stated that he was inclined to impose a sidewalk regardless, and other Board members agree.

Mr. Godfrey suggested the drawing be an aerial, reasonably to scale, as a starting point.

Mr. Mitchell asked if he should include Killdeer, and it was determined he should although they may not have one implemented there.

Mr. Sherman stated there had been a motion and a second. He asked for a vote. All in favor to adjourn.

Meeting adjourned at 10:50 p.m

Respectfully submitted,

Laurie Palanza

