

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

November 18, 2008

7:00 p.m. Town Hall

Present: Barbara Schenkel, Chair
Scott Collins
Thomas Dolan
Elaine Falender

James Huebener
Beth Richardson

Absent: Peter Hatem

Also present was Maureen O'Meara, Town Planner.

Mrs. Schenkel called the meeting to order and called for discussion or corrections of the minutes of October 21, 2008. Mrs. Richardson moved to accept the minutes, and Mr. Dolan seconded. The minutes were approved without amendment, 6-0.

OLD BUSINESS

Fort Williams Arboretum Site Plan - The Town of Cape Elizabeth requests Site Plan Review to construct an arboretum in Fort Williams Park located off Shore Rd, Sec. 19-9, Site Plan Public Hearing.

Katherine Bacastow of the ad hoc arboretum committee spoke first and outlined the reasons behind the plan for the plantings. She cited the growth of invasive plants and the need to provide for care and replacements of older trees. She said there has been a lack of resources to fund plantings and this committee was formed to address those concerns. The plan is for well thought out plantings around and along walking paths and to keep open views of the ocean. She also noted that the current plan conforms to the Fort Williams Master Plan and has been approved by the Fort Williams Advisory Commission and the Town Council.

John Mitchell, of Mitchell and Associates, a member of the ad hoc committee spoke next. He reviewed the master plan of all 15 sites included in the plan. The Committee has selected the area at Ship Cove as the demonstration project. That area would be divided into two phases, 1 and 2. Phase 1 would be divided into phases 1A and 1B. All of phase 1 will be cleared but only phase 1A will be planted. Phase 1B will be planted with grass.

He told the Board that there will be a network of trails that will form spaces for plantings along with sitting and viewing areas.

The plantings for phase 1A contain several different tree species and 6 shrub species. He said they will clear out all the invasive plants in the Battery Hobart area.

Rick Churchill a member of the ad hoc committee was the tree warden for Cape Elizabeth for about 10 years. He had looked at every tree in Fort Williams over 2 ½ inches in caliper when he did an inventory during his term as tree warden. He also became familiar with the invasives in the Fort. He said the exotic invasive plants are winning the battle for space. Red oaks and birches are the only trees left now because the invasives do not allow new species to come in. He encouraged the Board to move to protect the Fort for generations to come.

Mr. Mitchell cited his letter of October 31, 2008 in which he outlined questions and concerns expressed by the Board at their last meeting. He stressed the procedures for future implementation of the plan. They will go to the Fort Williams Advisory Commission for approval, then to the Town Council and to the Town Manager and then the Public Works Director will oversee and manage the actual work at the site.

Mrs. Richardson asked about the invasive plants and whether the 15 pods are to address significant areas of invasives, or are they separate.

Mr. Mitchell replied that some of the areas don't contain invasives, but a lot of them do. One of the goals of this project is to get rid of the invasives.

Ms. O'Meara asked the Board to amend condition 1 of the proposed motion to reflect the fact that the Town Council must be the body to approve further site work beyond the original phase.

Mr. Dolan was concerned about the cost of the ongoing maintenance of the pods.

Ms. Bacastow replied that the maintenance is included in the budget for each phase. She said no shovel will go into the ground until the money is there for clearing the site, the plants and the maintenance.

There was a brief discussion of the funds, and it was emphasized that the funds would come from private sources, not the Town.

Ms. Falender wants to know what approval was granted by the Town Council.

Mr. McGovern, Town Manager said the Town Council endorsed the project, and was assured that it would be private funds and private endowment.

Mrs. Schenkel opened the public hearing.

Betty Crane of 9 Starboard Drive said the committee has done a magnificent job. However she does not think this plan is compatible with Fort Williams Park. She

thinks we do not need 15 formal arboretums in Fort Williams because it is such a natural beautiful place. We have to do something about the invasives that is for sure.

She feels that there are a lot of big projects that need to be done. She is worried that a lot of donor dollars will be used for this, when other projects need to be done. She feels it will divert donor money from other uses. Her plea is don't change the character of the park.

Nate Green of 1147 Sawyer Road is a landscape gardener and an arborist. In his opinion this is a well thought out plant list and he supports the project.

Hans Hackett of 290 Mitchell Road is overwhelmingly in favor of this project. He is in favor of native plants. They can take care of themselves and support local wildlife. He applauds the effort to get rid of invasive plants. He addressed the possible diversion of funds from other projects by noting that you have a group of people who are interested in plants. Other groups are interested in buildings, but this group is focused on the plants. He noted that native plants feed and nurture the wildlife.

Chuck Wilson of Mitchell Road is chairman of the Fort Williams Advisory Commission. He said the real advantage is that here is a group of people who will raise private funds for work that otherwise would need to be done with tax dollars. Many of these things need to be done anyway. We need to get rid of the invasive plants. This is all consistent with the Master Plan. The funds raised for this will not affect other projects. Those projects are far in the future and there are different groups of people who are interested in those projects. This project will improve the park, not change it. The Commission fully endorses this work.

Mr. Dolan asked Mr. Wilson if this will change the character of the park.

Mr. Wilson replied that they do not believe it will change the character of the park. He said the invasive plants are changing the character of the park all on their own. As we lose the current good trees, we do not have new growth to replace them.

The public hearing was closed.

Mr. Collins asked about the role of the Public Works Director in overseeing the implementation of each phase of the project.

Mr. Mitchell replied that Mr. O'Malley volunteered that role for himself during meetings with him. The Public Works Department will oversee the actual construction of each phase, not doing the work.

Ms. O'Meara noted that when she spoke with the Public Works Director about this project she was surprised to hear his enthusiasm for it. He feels it will

reduce his maintenance demands in the long run, not increase them. It seems that Mr. O'Malley has volunteered to oversee the work and is not being dragged into it.

Mr. Collins is concerned that we are approving too much right now. He wants to approve one pod now and then the remaining 14 pods at a time later on.

Ms. Falender noted that she had raised the same concern at the last meeting. She was also questioning the role of the Planning Board in regards to this project. She wonders if they should leave some of this to the Town Council to decide.

Mr. Dolan commended the ad hoc committee for its work and fully supports the project. He thinks this will improve the park. He feels that the further phases should be left to the Town Council to address the maintenance and character issues.

Mr. Huebener said his concerns are economic. He can't argue with the idea that the money is raised before the work begins.

Mrs. Richardson is concerned about the possibility of saddling the Town with maintenance obligations. She is also not comfortable with the lack of detail on all 15 pods.

Mrs. Schenkel is not very concerned because there is plenty of oversight beside the Planning Board. The Fort Williams Advisory Commission will be overseeing, and then they have to go to the Town Council. This project is very different than our usual site plan. She does feel that the oversight of the Fort Williams Advisory Commission and the Town Council need to be made a part of their approval.

Ms. Falender also wants to incorporate the latest letter from Mitchell and Associates.

Mr. Mitchell noted that they anticipated preparing a site plan for each phase that will address storm water and erosion control.

Ms. O'Meara noted that the Fort Williams Advisory Commission has a great deal of expertise in the management of the park. Since they are in an advisory capacity to the Town Council, they report to that body for oversight. For every decision they make, they need to have Council approval.

Mrs. Schenkel also noted that it is expensive to come before the Planning Board, and we need to be mindful of that reality.

Mr. Dolan Made the following motion:

1. The Town of Cape Elizabeth is requesting Site Plan Review to construct an arboretum in Fort Williams Park, which requires review under Sec. 19-9, Site Plan Regulations.
2. The Fort Williams Advisory Committee is appointed by the Town Council to provide advice to the Town Council on activities and improvements within Fort Williams Park. Final decisions regarding Fort Williams Park are made by the Town Council.
3. The Ad Hoc Arboretum Committee will be fund raising and designing the arboretum at 15 sites in phases which will require the recommendation and approval of the Fort Williams Advisory Committee.
4. The application substantially complies with Sec. 19-9, Site Plan Regulations.
5. The Planning Board has reviewed the October 31, 2008 letter from Mitchell and Associates to the Planning Board and hereby incorporates the terms and conditions of the same herein.

THEREFORE BE IT ORDERED that, based on the plans and materials submitted and the facts presented including the Mitchell and Associates October 31 ,2008 letter, the application of the Town of Cape Elizabeth for Site Plan Review to establish an arboretum on 15 selected sites in Fort Williams, located on Shore Rd, be approved, subject to the following conditions:

1. That no site other than B, Phase 1 be commenced without the recommendation of the Fort Williams Advisory Committee and the approval of the Cape Elizabeth Town Council: and
2. That no site be commenced without a determination by the Town Manager that adequate funding has been raised to complete and maintain the site.

Mrs. Richardson seconded the motion and it was approved, 6-0.

NEW BUSINESS

Cox Farm Stand Site Plan - Jay Cox is requesting Site Plan Review to construct a farm stand located at 1148 Sawyer Rd, Sec. 19-9, Site Plan Completeness.

Jay Cox of 1148 Sawyer Road spoke about his plans to construct a farm stand on his property to sell Christmas trees. He has been raising Christmas trees since 2003 for "pick your own" or "choose and cut" sales. The trees will be probably be ready for next year, or the year after. He also wants to start in the spring to build a farm stand for the sale of pre-cut trees, ornaments or other related items. He then showed a plan of part of his property. He owns 50 acres in all. He will attach the proposed building to his existing house.

He stated that there are no RP 1 wetlands within 250 ft of his proposed building and any RP 2 wetlands, if there are any, are contained within the stream setback. His land is quite flat. Parking and entry would be on the end of the building away from his house. He proposes to have the parking on turf and says it is hard and dry land. He would have wood curbing to delineate the parking area. The lighting would be a flood light mounted on the gable end of the barn. There would be a sign at the road, and a sign on the side of the barn.

He showed a drawing of the existing and proposed buildings.

He outlined the waivers he is requesting. He wants a partial waiver of physical features because it is a large parcel of land and his proposal only covers a small portion of it. He has many trees on the parcel and does not want to have to delineate each and every one of them. He wants a waiver of the soil survey because his proposal will have a minimal impact on a well drained parcel. The other waiver he is requesting is for the storm water, because the only impervious surfaces will be a small apron and the roofs that he is adding.

Mr. Dolan asked about the proposed hours of operation.

Mr. Cox replied that at least initially he only anticipates being open in November and December, but if he can make a profit, he is requesting a year round operation.

Ms. O'Meara noted that this is in a residential zone and so there are no hours of operation restrictions. The Board may impose restrictions if they choose.

Mr. Cox requests as much flexibility as possible since he is not sure how this will work out. He thinks maybe the "choose and cut" operation may stay open until 9:00 pm.

Ms. O'Meara clarified that the Board has the ability to set restrictions, but must make them reasonable enough to allow the business to be a viable operation.

Mr. Schenkel said she is not concerned about the hours of operation.

Mr. Dolan said he is concerned because there is no specific proposal for the use in the non-Christmas season. If it is year round he wants to know what is projected.

Ms. Falender wanted to know if this proposal was under the category of fish and farm market.

Mr. Cox said it is.

Ms. Falender said the regulations of that category are very specific. Her other concern is that she doesn't see any lighting for parking or pedestrians.

Mr. Dolan made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Jay Cox to build a farm stand located at 1148 Sawyer Rd be deemed complete.

Mrs. Richardson seconded and the vote was 6-0 in favor.

Ms. Falender questioned what standard was used to calculate the number of parking spaces needed.

A brief discussion ensued and it was agreed that the number of spaces was sufficient.

The Board agreed to have a site walk on December 6, 2008 at 9:00 am.

Mr. Dolan then made the following motion:

BE IT FURTHER ORDERED that the above application be tabled to the regular December 16, 2008 meeting of the Planning Board, at which time a public hearing will be held.

Mrs. Richardson seconded and the Board approved the motion 6-0.

Mr. Dolan made a motion to adjourn, seconded by Mr. Richardson. It was passed 6-0. The meeting was adjourned at 8:35 pm.

Respectfully submitted,

Hiroshi Dolliver