

TOWN OF CAPE ELIZABETH
MINUTES OF THE PLANNING BOARD

March 21, 2017

7:00 p.m. Town Hall

Present: Carol Anne Jordan, Chair Jonathan Sahrbeck
 Josef Chalat
 Peter Curry Victoria Volent
 James Huebener

Absent: Henry Steinberg

Also present was Maureen O'Meara, Town Planner.

Ms. Jordan called the meeting to order and asked for approval of the minutes of the February 27, 2017 meeting. The minutes were approved 6-0.

OLD BUSINESS

Maxwell Woods Subdivision- Joel FitzPatrick, d/b/a Maxwell Woods LLC, is requesting Major Subdivision Review and a Resource Protection Permit for Maxwell Woods, a 38-unit condominium and 8 apartment unit development located 112-114 Spurwink Ave and amendments to the previously approved Cottage Brook Subdivision to adjust grading adjacent to the extension of Aster Lane, Sec. 16-2-4, Major Subdivision Review, Sec. 16-2-5, Amendments to a Previously approved subdivision and Sec. 19-8-3, Resource Protection Permit.

Owens McCullough of Sebago Technics said he would address the public's comments from the last meeting and their letters. He spoke of the definition of the Residence C District, which is where this development lies. It is an area of compact development and the public utilities are there. It allows cluster development and open space of 45%. We have that. It allows 49 units and we are only proposing 46. The Comprehensive Plan identified a housing goal to allow elders to remain in Cape Elizabeth as they age. We are proposing 38 condos (geared towards the over 55 demographic) and 8 apartments in two buildings. They will connect to Aster Lane and extend it to Spurwink Road.

He showed slides of the plat of the project, the condos at Eastman Meadows, which will be like the proposed condos, the floor plans, the 4-plex apartments and the change in their architecture. There will not be access to the second floor from the front so they will not have stairs in the front. Access to both the first and second floors will be from the back, which is where the parking lot will be located. He also showed the proposed landscaping.

He said 45% open space is required, and they are proposing 46% of woods, agricultural area and lawn. Part of the open space will be owned by the homeowner's association, and part of the open space will be owned by the Town. There will be connectivity with the abutting open space and with existing trails.

They are 90 ft. from the back of the Cottage Brook condos to the back of the Maxwell Woods condos. They are proposing a stone dust trail that meanders and plants, boulders and retaining walls in that area between the two developments.

He quoted from the traffic study conclusions. He said they had done two analyses, one using the model of elderly housing and the other without assuming an elderly population. They wanted a conservative model. With all that traffic, it makes no impact. They looked at the sight distance at the intersection of Spurwink Road and Aster Lane. They will do some tree clearing and there will be 400+ ft. of sight distance on one side and 290-300 ft. distance on the other side after they remove a ledge outcropping.

He submitted an 11 page letter that outlines how they have met, and are proposing to meet the standards. He also showed how they are going to extend the road (Aster Lane). They will be regrading the end of Cottage Brook to make a nice connection with Maxwell Woods.

Ms. Jordan opened the public comment period.

Michael Layton of 17 Canterbury Way asked if there was anything to prevent the cutting down of the trees after the subdivision is built.

Ms. Jordan said there is a prevention.

Andrew Gilbert of 32 Aster Lane said Cottage Brook was proposed to have a trail around it, but it is kind of nebulous right now as to where it is to be. This proposal says it will all go in one phase, and he hopes it will go in at the beginning so the connectivity is not lost. He also wondered who checks to see if it's done and how it's done. He said there is a steep drop off at the end of Aster Lane, and he thinks it is a dangerous area right now.

Becky Fernald of 313 Mitchell Road is concerned about how the open space applies to the ordinances, which talk about maintaining the natural features of the land. The ordinance says to preserve natural features and trees. Trees are the most attractive features and are going to be demolished. She wants the development reconfigured to preserve the trees. The agricultural land has buildings and vehicles on it and is not useable. She's seen other condos in Cape Elizabeth and they did not disrupt the natural beauty as this one will.

John Powers of 12 Aster Lane said he saw that this was property that could be sold when he moved in 5 years ago. It was private property and he walked it with permission from the owners. Now we are gaining public property and he is thankful for that. In the past there were fallen trees, places where teenagers had bonfires and the property was not taken care of. Now we will get new trails that will be easier to walk, and he welcomes it.

Fred Sprague, President of Canterbury, said they have a significant amount of land. He said they don't manage it well and have far too many trails, and would like to limit that. Canterbury is working with the Town to manage trails and limit trespass. He would like to be sure the trails merge with this development so it makes sense for the Town and for us.

Emily Helliesen of 11 Hamlin Street has questions about the elevations of the trails, and the parking lot behind the apartments. She is concerned about walking on the trail and having a wall beside it, or will there be a buffer. What about the elevations where the sidewalk crosses the road? She is also concerned about the timing of the trails. The trails in Cottage Brook have not been put in yet, so she is concerned about the timeline for the trails here.

Philip Hanratty of 111 Spurwink Avenue is concerned about the traffic impact. He said there is a fairly large grade in the road near where this property is. His kids can't be in the front of the house because the traffic is intense. There is only one access point for the development and there is a grade there. He is concerned about facing another 6 years of development. He would like the Town to force it to end in 6 years.

No one else came to speak, so the public comment period was closed.

Mr. McCullough addressed some of the concerns raised by the public. He said that construction on Cottage Brook started last summer and was stopped for the winter. Mr. FitzPatrick will continue the work in the spring, and the trails will be put in at that time. He said the Town requires a performance guarantee, and they require inspections by the Town Engineer to see that the work conforms with the plans.

Mr. McCullough said that in this project Mr. FitzPatrick wants to do all the infrastructure in one phase. If it starts in the summer, only one construction season may be needed. There may be two construction seasons required, but the landscaping and trails will be part of that one phase of infrastructure. He addressed the open space and how they meet the standards. There are 90 ft. between the condos in Cottage Brook and the proposed condos in Maxwell Woods. This will double the open space that exists behind Cottage Brook right now. He showed a plan of the trail and elevation behind the apartment, and

said they will put in some boulders there. He said this will all go in as part of the infrastructure.

The traffic study was talked about. They have hired an independent study by Diane Morabito, who has over 30 years of experience. He also said they have a specific grading plan to meet the sight distances. As for the speeding on the road, that is an enforcement issue over which they have no control.

Ms. O'Meara said there is a copy of the traffic study in the Town Office and anyone who wants to see it can come in and read it. She also said the study does not say there won't be additional traffic, but that the additional traffic will not pose safety or traffic problems.

Mr. McCullough was asked about the steep slope at the end of the road in Cottage Brook. He said that since they will be extending the road all the way through, that slope will be graded and it will be one continuous road.

Ms. Volent had several note revisions for the plans. She also asked about the proposed sign. At this point, there are no plans drawn that address that sign. She noted that there are some differences in the square footage of the open space from one plan to another. She also asked about the timing of the building of affordable units.

Mr. FitzPatrick, confirmed by Ms. O'Meara, said there is an ordinance that dictates the timing of when those affordable units must be built.

In response to a question about the calculation of the open space, it was identified as a computer calculation when they draw in the boundaries of the area. They also addressed the percentage of the open space that will be graded and seeded as lawns.

Mr. Sahrbeck was concerned about the open space between the condos and Cottage Brook. The condo association will own the open space behind the condos as private open space, up to where the proposed trail will go. The trail will have a public easement. He does not consider the buffering between the two condo developments to be adequate to meet the ordinance. He also asked if they could remove some of the units before it becomes economically unworkable.

Mr. McCullough then talked about the risks the developer takes to get to this point. He noted that the cost of the land, the approvals, the infrastructure all go in before the developer gets any return. Each unit is very important to making the project economically feasible.

Mr. FitzPatrick then spoke about the process of deciding how to value a property for development. He said that any loss of a unit will hurt financially. He said the road is 1000 ft. long and at \$1200 a foot it will cost \$1,200,000. There is nothing on that road except the two apartment buildings, and they won't pay for that road. That will come from the condos. He also addressed the separation distance between the Cottage Brook condos and the Maxwell Woods condos. He said it was consistent with the rest of the area neighborhoods. He said buffers are less than what he is proposing.

Mr. Curry said it would be better to break up the view between the condos rather than put up a barrier, such as a stockade fence. He does not think we have the power to make the applicant reduce the number of units.

Mr. FitzPatrick said the topographical needs of the property dictated the layout of the plan. He could build 34 single family homes there and have no open space.

In answer to a question about the agricultural easement, Mr. FitzPatrick said the ownership of the agricultural land will stay with the Maxwells. There is a conservation easement that benefits the development, which will be held by the Town.

Ms. Volent asked about the landscaping at the parking lot for the apartment buildings.

Mr. Mc McCullough said he cannot put root bearing plants at the soil filters which are near the parking lot, but can look at grasses.

Ms. Volent had a few more comments about landscaping and it was noted that the materials often change from the sources.

The applicant circulated samples of the siding materials.

Mr. McCullough showed the slide of the proposed apartment building and then there was a discussion of the roof lines and other features of the revised building proposal. Board members generally agreed that this design was an improvement.

Ms. Jordan asked if there would be another site walk, and it was agreed that they would not have one until they have a plan of the proposed landscaping in front of them.

Mr. Sahrbeck made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Joel FitzPatrick, dba Maxwell Woods LLC, is requesting Major Subdivision Review and a Resource Protection Permit to construct a 46 unit project consisting of 38 condominiums and 8 apartments (in two buildings) located at 112-114 Spurwink Ave and amendments to the Cottage Brook Subdivision to accommodate grading changes related to the construction of Aster Ln be tabled to the regular April 24, 2017 meeting of the Planning Board.

Mr. Chalot seconded the motion and it passed, 6-0.

NEW BUSINESS

Great Pond Preserve II Resource Protection Permit - In preparation for next month's Planning Board meeting when an application will be submitted, the Cape Elizabeth Land Trust is requesting that staff be directed to advertise for both completeness and a public hearing, if the application is deemed complete.

Ms. O'Meara said the Cape Elizabeth Land Trust is proposing a new trail that will have two wetland crossings. They are concerned with timing and have been unable to get their plans ready in time for tonight's meeting. They will submit their plans for the April 24 meeting. We will also have a meeting in May. The Land Trust wants to get their volunteers out at the end of May. They would like to have the plans in the April 24 meeting, have it deemed complete, have a public hearing and have it approved that same night. It precludes having a site walk. The May meeting is May 16, and the Land Trust was saying their volunteer project would be May 29, 30 and 31.

The Board discussed whether they would need a site walk. After a discussion, the Board decided to wait until the April 24 meeting to see the plans and then make the decision about a site walk. They agreed to instruct staff to advertise both completeness and a public hearing for the April 24th meeting.

Ms. Jordan opened the public comment period on items not on the agenda. No one was there to comment, so the comment period was closed.

The Board voted, 6-0 to adjourn at 9:15 p.m.

Respectfully submitted,

Hiroshi Dolliver,
Minutes Secretary