

TOWN OF CAPE ELIZABETH
DRAFT MINUTES OF THE PLANNING BOARD

September 20, 2011

7:00 p.m. Town Hall

Present:	Elaine Falender, Chair	Liza Quinn
	Josef Chalot	Henry Steinberg
	Carol Anne Jordan	Victoria Volent
	Richard Olfene	

Also present was Maureen O'Meara, Town Planner.

The minutes of the August 16, 2011 meeting were approved as presented, 7-0.

NEW BUSINESS

Golden Ridge Subdivision Amendment (5th lot) - Golden Ridge LLC is requesting an amendment to the previously approved Golden Ridge Subdivision to add a fifth lot, located at the end of Golden Ridge Lane (U17-50, 50-6), Sec. 16-2-5 Amendments to Previously Approved Subdivisions.

John Mitchell of Mitchell and Associates was there representing Sheldon Goldman, owner. He showed an aerial photo of the parcel, which is a little over 15 acres and has three existing home lots. In May 2011 a 4-lot subdivision was approved. The plan has not yet been recorded.

No changes to the infrastructure are being proposed. The new plan has an additional proposed lot, making it a 5-lot subdivision. There is an existing snowmobile trail primarily on lot 4.

After a review with Mr. Goldman, he has expressed a preference to pay the open space impact fee rather than encumbering lot 4 with an easement.

Ms. Falender opened the public comment period. Since no one came forward, the public comment was closed.

Ms. Falender asked about the recording of the previously approved plan. She is concerned that there were conditions and changes requested on the previous plan, and she is concerned that all those get onto this new plan.

Mr. Mitchell said they will record the plan if they get too close to the Nov. 14, 2011 deadline to record it. They are still working out the road maintenance agreement and the open space

impact fee has not yet been paid. He noted that the road maintenance agreement will need to be changed to reflect this newly added lot.

Ms. Falender would prefer that they record the prior plan so that all of the prior conditions and notes would be on the record.

Ms. O'Meara gave a review of the process that happens after the Board approves a plan. She addressed this plan specifically and noted that the largest issue still being worked out is the road maintenance agreement. She said a great deal of work has gone into it, and hopes that the work will not be lost.

Ms. O'Meara had a copy of the conditions of approval that were dated May 17, 2011. She read the conditions, noted which ones had been met and Mr. Mitchell responded to each.

Ms. Falender asked if the Conservation Commission has made a recommendation about the open space requirement.

Ms. O'Meara replied that the Commission has not yet reviewed the plan, but they do have a meeting scheduled before the next time the Planning Board meets.

Mr. Chalot asked about the snowmobile trail. He would like to know if it is an official trail.

Ms. O'Meara said it is an informal trail and there are no legal rights to it. She noted that the Planning Board has the authority to decide if the developer needs to donate land to meet the open space requirement or if they will accept a fee to satisfy the requirement.

There was a discussion of the snowmobile trail and its location and its possible value to the Town. The Board felt that they really need the input from the Conservation Commission before they accept a fee from the developer instead of using this opportunity to get land for this trail.

The Board also looked at where the trail lies in relationship to the building envelope on the proposed Lot 5. They also discussed the benefit of having a fee ownership of the trail or an easement for it.

The Board agreed that the application was complete enough to schedule a public hearing without a site walk. Mr. Chalot noted that he would do a site walk, and Ms. O'Meara offered to join him since he was not on the Board at the time of the earlier site walk.

Ms. Quinn made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Golden Ridge LLC to amend the previously approved Golden Ridge

Subdivision and add a fifth lot at the end of Golden Ridge Lane be tabled to the regular October 18, 2011 meeting of the Planning Board, at which time a public hearing shall be held.

Ms. Volent seconded the motion and it was approved, 7-0.

OTHER BUSINESS

Growth Area Recommendation - The Town Council has forwarded to the Planning Board a recommendation to remove Turkey Hill Farm, located at 120 Old Ocean House Rd (R03-20) and the Loveitt Heirs Parcel, located off Locksley Rd, (R01-2) as growth areas, Sec. 19-10-3(B), Zoning Amendment Public Hearing.

Ms. Falender stated that this item is scheduled for a public hearing, and there are no members of the public present.

She briefly outlined the contents of the draft memo dated September 21, 2011. The memo outlined the discussions in prior Planning Board workshops and noted that both of the properties have conditions that prevent their development. It has been the position of the Board to not remove these parcels from the RB District in order to preserve the provisions of the Open Space Zoning for these parcels. She noted that the RB District has been deceptively called the growth area, but it also has the best tools for the Town to acquire open space when development does happen there.

Ms. Volent said her concern is that the Board is being asked to remove a parcel from the RB District without being asked to assign it to another zone. She is not in favor of removing it from its zone without further knowledge of what the goal of the move would be, and what zone it is being proposed to be moved into.

Mr. Chalot made the following motion:

BE IT ORDERED that, based on the Comprehensive Plan and the Zoning Ordinance, the Planning Board recommends that the zoning district for Turkey Hill Farm, located at 120 Old Ocean House Rd, and the Loveitt Heirs Parcel, located off Locksley Rd, not be changed from RB to another zoning district.

Ms. Jordan seconded and the motion passed 7-0.

Open Space Impact Fee Update - The Planning Board will consider a recommendation to the Town Council to update the Open Space Impact fee, located in Sec. 16-3-1(q) of the Subdivision Ordinance.

Ms. Jordan started the discussion by suggesting that the Board recommend that the Council review the calculation rather than to say update the calculation.

Ms. Quinn thinks that we are asking that the Open Space Impact Fee be updated in accordance with the census, but also she believes that there is a new community standard.

Ms. O'Meara confirmed that there is a new community standard and explained how that figure is derived.

Ms. Quinn suggested that the Board include not only the change in population but the change in the amount of open space in the Town.

Ms. O'Meara explained how the new Impact Fee is calculated, and that it relies on the census, amount of open space the Town has, the property valuation and the household size (from the census). She noted that the review is triggered by the new census figures.

Mr. Steinberg requests that the motion should say considered, not amended.

Ms. Quinn is in favor of the stronger language.

Ms. Jordan is with Mr. Steinberg.

Mr. Chalat said that in accordance with the Ordinance, they do need to amend it.

Mr. Olfene asked if the Ordinance allows for any latitude.

Ms. O'Meara said there is a difference between the calculation and the fee amount that is established. The Ordinance does not provide latitude on how to calculate the fee, but the Council can establish the fee wherever they want. They may not make it higher than the calculation without potential legal exposure, but they may make it lower.

Mr. Olfene advocates making a recommendation in accordance with the Zoning Ordinance and defer from recommending that the fee be changed.

There was further discussion of whether to suggest a review or recommend an update.

Ms. O'Meara suggested a compromise that leaves the original language of the draft recommendation, but makes no recommendation about the fee itself. That suggestion was well received by both sides of the discussion of the proposed language.

Ms. Quinn then read the portion of the Ordinance that applies to the subject in question.

It prompted a further discussion, with the Board still split on how to make this recommendation and what language to use. Board members expressed concern with increasing the fee at this time. Members also noted that the Subdivision Ordinance provision indicates that the fee must be periodically updated with new numbers, such as a new U.S. Census.

Ms. Quinn made the following motion:

BE IT ORDERED that the Planning Board recommends to the Town Council that the Open Space Impact Fee calculation, established in Sec. 16-3-1(q) of the Subdivision Ordinance, be updated to remain in compliance with the Subdivision Ordinance standard.

Ms. Jordan seconded the motion and it passed 6-1 (Steinberg).

The Board voted to adjourn at 8:30 pm.

Respectfully submitted,

Hiroimi Dolliver
Minutes Secretary