

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: February 25, 2013
SUBJECT: Subdivision Ordinance Overhaul

Introduction

The Town Council referred to the Planning Board an update to the Subdivision Ordinance as recommended in the Comprehensive Plan. The Town Council further concurred that the update could be beyond a limited technical update to a comprehensive overhaul of the ordinance as long as core policies were maintained. The Planning Board has completed a thorough overhaul of the Subdivision Ordinance and has drafted a new replacement ordinance for Town Council consideration.

Procedure

The process for amending the Subdivision Ordinance is the same process used for updating the Zoning Ordinance. The Planning Board must hold a public hearing before making a recommendation to the Town Council.

Summary of changes

This meeting package includes both a red-lined and "accepted changes" version of the Subdivision Ordinance. Because of the substantial reorganization of the Subdivision Ordinance, the Planning Board should consider a recommendation that the "accepted changes" version be adopted as a replacement ordinance. The red-lined version is a good reference for showing the changes that have been made to the current ordinance. Those changes can be generally summarized as follows:

1. **Consistent with state subdivision statute.** The most substantive changes to the Subdivision Ordinance have been made to make the ordinance consistent with the state subdivision law. These changes are located in two areas. The definition of a subdivision has been replaced with the state definition. State law does not allow municipalities to define a subdivision differently from state law. The second major area of change is to merge the state subdivision standards of review with the town's subdivision standards. The state standards had previously been included in the purpose statement of the town subdivision ordinance. The new subdivision standards section mirrors the state structure of

standards, but specific local standards have been blended as subcategories under the appropriate state standard. It should be noted that some portions of the state subdivision ordinance are awkwardly drafted and this has been carried into the local ordinance. (Still fine-tuning air quality standard, Sec. 6-3-1(a))

2. **Improved organization.** Major changes have also been made to more logically organize the subdivision ordinance. Bullet headings have been added to many existing provisions. Parallel procedures have standardized language. A new general procedure section has been added which describes noticing and escrow accounts for all land use review procedures. These sections had previously been buried in one of the procedure sections. The post approval section has been expanded to more clearly describe the town's practice in obtaining performance guarantees, inspection fees, as-built drawings, etc. The submission list appendices have been reorganized so that information submissions match standards of review. Engineering sketches have been moved to Appendices to make them easier to find.

3. **Routine updates.** The Public Works Director and Town Engineer have reviewed the road construction sections and recommended changes to reflect current construction practices.

4. **Major Subdivision Review Submission list.** Appendix B has been reworked as follows. Major Subdivisions have a two step approval process. Plans are submitted for preliminary approval. Once that is obtained, plans are finalized for final approval. This process has the advantage of the Planning Board and applicant agreeing on an overall concept with substantial submission of information. Changes to the plan typically occur during the preliminary approval process. The applicant is then required to prepare final plans suitable for recording. The Preliminary and Final submission list has been changed to clearly allow for more conceptual plans at the preliminary phase and then the detailed final plans to be submitted at the final approval phase. (Since the last meeting, the survey requirements for new lots have been revised consistent with this approach.)

Outstanding items

Prior to holding the public hearing, the following items remain for Planning Board review at the March 5th workshop.

1. Updated road designs (Appendix E)
2. Updated Road Tree list (Appendix C)

3. Town Attorney review of draft with focus on:
- Performance Guarantee section (Sec. 16-2-6). (later work may include review of the model letter of credit form)
 - Subdivision vacation (Sec. 16-2-5(d))
 - New “Historical interpretation” section (Sec. 16-3-6(d)).
 - Aesthetic standard (Sec 16-3-1(g)).

Motion for the Board to Consider

BE IT ORDERED that, based on the draft ordinance presented, the Cape Elizabeth Planning Board tables the draft Subdivision Ordinance to the March 5, 2013 workshop for further review and the March 19, 2013 regular Planning Board meeting, at which time a public hearing will be held.