

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: February 23, 2015
SUBJECT: Petersen Hidden Court Subdivision Amendment

Introduction

Hidden Court LLC, owned by Nathalie and Alexander Petersen, is requesting amendments to the previously approved (1989) Hidden Court subdivision, located at 340 Ocean House Rd, to adjust lot lines and building envelopes, and separate driveway access rights. The application was deemed complete and a public hearing has been schedule for this evening. The plan will be reviewed under Sec. 16-2-5, Amendments to Previously approved subdivisions, in the Subdivision Ordinance.

Procedure

- The Planner will provide a summary of the project within the context of town regulations.
- The applicant will summarize any changes made to the plans since the last meeting.
- The Board should then open the public hearing.
- Once the public hearing is closed, the Board may begin discussion of the application.
- At the end of discussion, the Board has the option to approve, approve with conditions, table or deny the application.

Subdivision Review (Sec. 16-3-1)

The comments of the Town Engineer are attached. Several of the subdivision review standards below have been designated "not applicable" because they do not relate to the requested amendments to the subdivision.

(a) Pollution

Not applicable

(b) Sufficient Potable Water

Not applicable

(e) Erosion

Not applicable

(d) Traffic

1. Road congestion and safety. No change to the intersection of driveways with town roads is proposed.
2. Comprehensive Plan. The comprehensive plan promotes an interconnected road network.
3. Connectivity. The original subdivision approval did not create any private roads. Each subdivision lot has a separate driveway connecting the building envelope or structure to Ocean House Rd. The proposed amendments preserve individual lot driveway access.

The original approval took advantage of an existing access road network on the property to establish driveways for 2 of the 4 lots. This existing access road connectivity for the two lots was preserved in the original approval. In a subsequent amendment, the most southerly access road was realigned with the town's approval so that it could better function as the primary driveway for the garden house lot (4-3).

At this time, the applicant is proposing to sever the reciprocal driveway relationship between the stone house lot (4-1) and the garden house lot (4-3). In response to concerns raised by the Planning Board regarding adequate emergency vehicle access, the applicant has removed the proposed to lock existing gates located at the lot 4-3/4-1 property line. Notes allowing the lot owners access to the private drives on the other's lot, however, have been removed. The result is that each lot owner only has access rights over the driveway on its own lot.

4. Safety. At the last meeting, the Planning Board requested comments from the Fire Chief regarding access if the gates are locked. The Fire Chief's comments are attached.

The private driveway loop system located on lots 4-1 and 4-3 include 3 sets of pillars that are 12' apart. On a visit to the site with very limited access due to most of the private drive not kept plowed, the Fire Chief concluded that he can fit fire trucks through the pillars. (The vehicles must drive straight through and cannot execute any turning movements until they clear the pillars.) The remaining roadway, however, is problematic with up to 3 turns that do not have an adequate radius to allow fire trucks to turn. In addition, there does not appear to be adequate space to reverse

direction. Finally, the only portion of the driveway that is plowed is from Ocean House Rd to the north of the stone house (noted as "gravel drive" on the plan).

If the Planning Board wishes to provide some emergency access on the private drive loop, it will require more than not locking the gates. For example, without reciprocal easements between lots 4-1 and 4-3 for use of the loop driveway, access for the fire trucks is not available. Even with legal access, improvements will be needed, specifically to establish an adequate turning radius on the existing private loop driveway and incorporating turnarounds. An agreement that specifies maintenance, including snow plowing, should also be considered.

- 5. Through traffic. There is no designated "private road" in the subdivision.
 - 6. Topography. Not applicable.
 - 7. Block Length. Not applicable.
 - 8. Lot Access. Each lot has a driveway that connects to a public road.
 - 9. Sidewalks/pedestrian connections. Not applicable.
 - 10. Road Name. Not applicable.
 - 11. Road Construction Standards. If the Planning Board will pursue emergency access improvements, for example, turning radius and turnarounds, they should be designed in compliance with the Road Construction and Design standards, Sec. 16-3-2.
- (e) Sewage Disposal.
- Not applicable.
- (f) Solid Waste Disposal.
- Not applicable
- (g) Aesthetic, cultural and natural values
- 1. Scenic. The site is not located in a vista or view corridor as identified in the Visual Impact Study conducted by the town.

2. Wildlife. No significant wildlife habitats have been identified.
 3. Natural features. The original subdivision approval includes layers of private easements to protect water views, buffers and gardens.
 4. Farmland. Not applicable.
- (h) Conformity with local ordinances
1. Comprehensive Plan. The proposed amendments are not inconsistent with the Comprehensive Plan.
 2. Zoning Ordinance. The reconfigured lots exceed minimum standards.
 3. Multiplex Housing. Not applicable.
 4. Addressing Ordinance. Not applicable.
- (i) Financial and Technical Capability
- Not applicable.
- (j) Surface Waters
- Not applicable.
- (k) Ground Water
- Not applicable.
- (l) Flood Areas
- The subdivision is not located in the floodplain.
- (m) Wetlands
- No wetland alteration is proposed.
- (n) Stormwater
- Not applicable.
- (o) Lake Phosphorus concentration

Not applicable.

- (p) Impact on adjoining municipality

Not applicable.

- (q) Land subject to Liquidation Harvesting

Not applicable.

- (r) Access to Direct Sunlight

The lots are generously sized to orient structures to maximize solar access.

- (s) Buffering

The plan includes a note restricting removal of vegetation outside the building envelope. Over time, the Planning Board has refined notes preserving vegetation outside building envelopes. The following note is the most recent version.

Activities outside the building envelope are restricted to the installation of the driveway and installation of utilities. No vegetation shall be removed outside the building envelope, except as follows. Hazard (dead or storm damaged) trees in areas outside the building envelope may be removed after consultation with the code enforcement officer if the following requirements are met. The removal of standing dead trees, resulting from natural causes, or storm damaged trees, is permissible without the need for replanting as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. The area shall be required to naturally re-vegetate and or be planted with native plants within one year if natural vegetation has not been established. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season.

- (t) Open Space Impact Fee

Not applicable.

- (u) Utility Access.

Not applicable.

- (v) Phasing.

Not applicable.

Motion for the Board to Consider

Findings of Fact

1. Hidden Court LLC, owned by Nathalie and Alexander Petersen, are requesting amendments to the previously approved (1989) Hidden Court subdivision, located at 340 Ocean House Rd, to adjust lot lines and building envelopes, and separate driveway access rights, which requires review under Sec. 16-2-5, Amendments to previously approved subdivisions.
2. The Fire Chief has provided comments regarding emergency access.
3. The subdivision plan includes provisions for extensive vegetated buffers.
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 Hidden Court LLC, owned by Nathalie and Alexander Petersen, for amendments to the previously approved (1989) Hidden Court subdivision, located at 340 Ocean House Rd, to adjust lot lines and building envelopes, and separate driveway access rights for lots R2-4-1 and R2-4-3 be approved, subject to the following conditions:

1. Potential condition of approval

That the plans and materials be revised to include:

- Road maintenance agreement
- Emergency vehicles access rights
- expand private driveway turning radii per Sec. 16-3-2
- incorporate turnarounds per Sec. 16-3-2

2. That the following note regulating activity outside building envelopes be added to the plans.

Activities outside the building envelope are restricted to the installation of the driveway and installation of utilities. No vegetation shall be removed outside the building envelope, except as follows. Hazard (dead or storm damaged) trees in areas outside the building envelope may be removed after consultation with the

code enforcement officer if the following requirements are met. The removal of standing dead trees, resulting from natural causes, or storm damaged trees, is permissible without the need for replanting as long as the removal does not result in the creation of new lawn areas, or other permanently cleared areas, and stumps are not removed. The area shall be required to naturally re-vegetate and or be planted with native plants within one year if natural vegetation has not been established. For the purposes of this provision, dead trees are those trees that contain no foliage during the growing season. This note shall not prohibit vegetation management in existing lawn areas.

3. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.