

## MEMORANDUM

TO: Cape Elizabeth Planning Board  
FROM: Maureen O'Meara, Town Planner  
DATE: October 23, 2018  
SUBJECT: Maxwell Woods Subdivision Buffering Amendment

### Introduction

Joel FitzPatrick, representing Maxwell Woods LLC, is requesting an amendment to the previously approved Maxwell Woods subdivision to add plantings to a buffer area where trees were removed in error. The Planning Board held a special workshop on October 16th, at which time a public hearing was scheduled for this evening. The plan will be reviewed under Sec. 16-2-5 of the Subdivision Ordinance.

### Procedure

- The applicant will summarize the proposed amendments.
- The Board should determine by consensus if sufficient information has been submitted to consider the amendment.
- If sufficient information has been provided, 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 Planning Board has previously found that the Subdivision standards of review have been met when the subdivision was originally approved. Only the standards below that relate to the buffering amendment will be reconsidered.

(a) Pollution

Not applicable to the proposed amendment.

(b) Sufficient Potable Water

Not applicable to the proposed amendment.

(e) Erosion

The buffer area where trees were removed is included within the erosion control barrier established for the subdivision. Trees and their stumps have been removed, but other vegetation in the area remains. Replanting the area will enhance erosion control.

(d) Traffic

Not applicable to the proposed amendment.

(e) Sewage Disposal.

Not applicable to the proposed amendment.

(f) Solid Waste Disposal.

Not applicable to the proposed amendment.

(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. Mature trees originally intended to be preserved within the buffer have been removed. The proposed replanting plan is comprised of native planting materials that are already represented on the site. Minimum sizes at time of planting meet or exceed ordinance requirements. Standard sizes are intended to require substantial sized plantings that also have a high probability of thriving.
4. Farmland. Not applicable to the proposed amendment.

(h) Conformity with local ordinances

Not applicable to the proposed amendment.

(i) Financial and Technical Capability

The applicant should provide an estimate of the cost to install the proposed planting plan. This amount can then be used to reserve a sufficient amount in the existing performance guarantee for the buffering amendment.

- (j) Surface Waters  
Not applicable to the proposed amendment.
- (k) Ground Water  
Not applicable to the proposed amendment.
- (l) Flood Areas  
Not applicable to the proposed amendment.
- (m) Wetlands  
Not applicable to the proposed amendment.
- (n) Stormwater  
Not applicable to the proposed amendment.
- (o) Lake Phosphorus concentration  
Not applicable to the proposed amendment.
- (p) Impact on adjoining municipality  
Not applicable to the proposed amendment.
- (q) Land subject to Liquidation Harvesting  
Not applicable to the proposed amendment.
- (r) Access to Direct Sunlight  
Not applicable to the proposed amendment.
- (s) Buffering

The proposed planting plan is intended to revegetate a previously approved naturally vegetated buffer. Several trees and their stumps were removed in error from the buffer area located to the rear of units 24 and 25. The proposed replanting plan has been prepared by Maine Licensed Landscape Architect Kylie

Mason of Sebago Technics. The plants are native and replicate plants already growing on the site. There is a mix of deciduous and evergreen trees, as well as lower growing understory type plants. Minimum sizes at time of planting are compatible or larger than minimum sizes required.

(t) Open Space Impact Fee

Not applicable to the proposed amendment.

(u) Utility Access.

Not applicable to the proposed amendment.

(v) Phasing.

Not applicable to the proposed amendment.

#### Motion for the Board to Consider

##### Findings of Fact

1. Joel FitzPatrick, representing Maxwell Woods LLC, is requesting an amendment to the previously approved Maxwell Woods subdivision to add plantings to a buffer area where trees were removed in error, which requires review under Sec. 16-2-5 of the Subdivision Ordinance.
2. The Planning Board found that the Subdivision standards of review have been met when the subdivision was originally approved on October 17, 2017. Additional findings will be limited to the buffering amendment currently under consideration.
3. The buffering amendment to the subdivision plan (will/ will not) cause soil erosion, based on the erosion control plan originally provided and erosion control measures existing on the site.
4. The buffering amendment to the subdivision plan (will/ will not) have an undue adverse impact on scenic or natural areas, historic sites, significant wildlife habitat, rare natural areas, or public access to the shoreline.
5. The applicant (has/ has not) demonstrated adequate technical and financial capability to complete the project, with the addition of a cost estimate of the

replanting plan to be submitted to the town and incorporated into the performance guarantee.

6. The buffering amendment to the subdivision plan will (restore/not restore) a vegetative buffer and screening within a portion of the subdivision.
7. 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 Joel FitzPatrick, representing Maxwell Woods LLC, for an amendment to the previously approved Maxwell Woods subdivision to add plantings to a buffer area where trees were removed in error be approved, subject to the following condition:

1. That the applicant provide to the town an estimate of the buffering plan cost so that the town may incorporate it into the performance guarantee currently held by the town.