

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: October 15, 2019
SUBJECT: Cottage Brook Condominium Buffering Amendments

Introduction

FitzPatrick Associates is requesting amendments to the previously approved Cottage Brook Condominiums, located off Aster Lane, to replant buffer areas that were altered in error. The plan will be reviewed under Sec. 16-2-5 of the Subdivision Ordinance.

Procedure

- The Board should begin by having the applicant summarize the amendments.
- The Board should then make a determination of completeness. If the application is deemed incomplete, Board members should identify the information needed to make the application complete and no substantive discussion of the application should occur. If the application is deemed complete, substantive discussion may begin.
- The Board should decide if a site walk will be scheduled.
- A public hearing has been scheduled for this evening if the application is deemed complete.
- The Board may begin discussion.
- When discussion ends, the Board has the option to approve, approve with conditions, table or deny the application.

Summary of Completeness

Attached is the completeness checklist. It appears that information needed to consider the proposed amendments has been submitted.

Subdivision Review (Sec. 16-3-1)

- (a) Pollution
Not applicable
- (b) Sufficient Potable Water
Not applicable

- (e) Erosion
No change is proposed.

- (d) Traffic
Not applicable.

- (e) Sewage Disposal.
Not applicable

- (f) Solid Waste Disposal.
Not applicable.

- (g) Aesthetic, cultural and natural values
Not applicable

- (h) Conformity with local ordinances
No change is proposed.

- (i) Financial and Technical Capability
No change is proposed.

- (j) Surface Waters
Not applicable

- (k) Ground Water
Not applicable

- (l) Flood Areas
Not applicable

- (m) Wetlands

Not applicable

- (n) Stormwater

No change is proposed

- (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

No change is proposed.

- (s) Buffering

Two areas have been identified where vegetation was removed contrary to the approved plans.

On the area north of Aster Lane, the applicant has surveyed 14 tree locations that were removed in an approved buffer area. Fourteen trees are proposed to be planted, plus 5 summersweet shrubs.

In the area south of Headland Way, the ground has been completely regraded and seeded, so no survey of what was removed is provided. On the Canterbury property, 5 summersweet shrubs will be added to the edge of a naturally wooded area. On the town open space, 3 austrian pine and 1 white pine are proposed, as well as 12 summersweet shrubs. In order to preserve the trail surface, the Planning Board may want to consider requiring the plantings to be a minimum distance from the trail surface.

- (t) Open Space Impact Fee

The Cottage Brook subdivision/condominium project included important additions to the Cape Elizabeth Greenbelt. The Conservation Committee participated in the original subdivision review and proposed trail alignments. As part of that review, a trail section was to be built on town open space on the southern end of the project. This trail replaced an existing "casual trail" located on the Canterbury on the Cape property. The Canterbury Association has not granted permission for this section of trail to be located on their property and have been consistent in their request to have the trail relocated.

The relocated trail was proposed to wind through an existing wooded area. This area has been cleared, so the trail must be installed and then plantings added to provide some buffer around the trail. Care should be taken that plantings are located to accommodate growth without blocking the trail.

(u) Utility Access.

Not applicable.

(v) Phasing.

Not applicable.

Motion for the Board to Consider

A. Motion for Completeness

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of FitzPatrick Associates for amendments to the previously approved Cottage Brook Condominiums, located off Aster Lane, to replant buffer areas that were altered in error be deemed (complete/incomplete).

B. Motion for Approval

Findings of Fact

1. FitzPatrick Associates is requesting amendments to the previously approved Cottage Brook Condominiums, located off Aster Lane, to replant buffer areas that were altered in error, which requires review under Sec. 16-2-5, Amendments to Previously approved subdivision plans.

2. The Cape Elizabeth Planning Board has previously found the Cottage Brook Subdivision to be in compliance with the Subdivision Ordinance, and the findings and decisions of those approvals which are not altered by the proposed amendments remain in effect.
3. The amendments (do/do not) restore a vegetative buffer throughout and around the subdivision and screening as needed.
4. The amendments (do/do not) restore compliance with the open space impact fee requirement.
5. 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 FitzPatrick Associates for amendments to the previously approved Cottage Brook Condominiums, located off Aster Lane, to replant buffer areas that were altered in error be approved, subject to the following conditions:

1. That, south of Headland Way, the pine trees be planted so that the edge of the planting is a minimum of 10' from the edge of the trail surface and the summersweet is planted so that the edge of the planting is a minimum of 5' from the edge of the trail surface; and
2. That 10% of the total cost of the plantings and installation be reserved for 1 year from time of planting to be used for replacement if plantings die.

Project: Cottage Brook Condominium Buffering Amendments Date: 10-15-2019
Applicant: FitzPatrick Associates
Location: Aster Lane

**Subdivision Amendment Review
Application Completeness Checklist**

- _Y_ 1. Right, Title or Interest
- _Y_ 2. Name of Subdivision/ Applicant
- _Y_ 3. Survey
- N/A 4. Water Pollution Evaluation: Topography, Surface drainage, Soils, Air
- N/A 5. Potable Water
- N/A 6. Erosion
- N/A 7. Traffic
- N/A 8. Sewage Disposal
- N/A 9. Solid Waste Disposal
- N/A 10. Aesthetic, cultural and natural information
- N/A 11. Local Regulations
- N/A 12. Financial and Technical Capability
- N/A 13. Surface Waters
- N/A 14. Ground Water
- N/A 15. Floodplain
- N/A 16. Wetlands
- N/A 17. Stormwater/Phosphorus
- N/A 18. Liquidation Harvesting
- _Y_ 19. Landscaping
- _Y_ 20. Open Space
- N/A 21. Utilities
- N/A 22. Phasing
- N/A 23. Related information

Y = Yes, information has been provided
N = No, information has not been provided
P = Partial information has been provided
W = A waiver has been requested from submitting the information
N/A = Not applicable

