

MEMORANDUM

TO: Cape Elizabeth Planning Board
FROM: Maureen O'Meara, Town Planner
DATE: December 17, 2019
SUBJECT: Ocean House Commons Subdivision, Site Plan Amendments,
Town Hall Site Plan Amendments

Introduction

David Jacobson is requesting subdivision review to create a 4-lot subdivision located at 326 Ocean House Rd, plus amendments to the site plans for 326 Ocean House Rd and 320 Ocean House Rd (Town Hall lot) to connect to the parking lot. The application was deemed complete and a public hearing has been scheduled for this evening. The plan will be reviewed under Sec. 16-2-3 of the Subdivision Ordinance, and Sec. 19-9, Site Plan Regulations.

Procedure

- 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)

(a) Pollution

The proposed subdivision is not expected to generate undue water pollution. The construction is not located in a floodplain. The slope of the land has been incorporated into the applicant's stormwater management plan. Applicable state and local health and water resource regulations are addressed in more detail below.

(b) Sufficient Potable Water

The Portland Water District has confirmed that public water can be provided to the subdivision.

(e) Erosion

The applicant has provided an Erosion and Sediment Control Plan for the subdivision (L6).

(d) Traffic

1. Road congestion and safety. The applicant has submitted a traffic impact report prepared by Gorrill Palmer, which generally concludes that anticipated traffic from the project can be accommodated on the existing road system without creating safety hazards.
2. Comprehensive Plan. The project closely aligns with a concept plan included in the Town Center Plan, which was incorporated into the Comprehensive Plan by reference.
3. Connectivity. The proposed private road closely aligns with the Town Center Plan goal to increase the network of secondary roads connecting to Route 77.
4. Safety. The traffic study concludes that the anticipated traffic from the subdivision can be safely accommodated on the adjacent road network.
5. Through traffic. The proposed private road has been granted permission by the Cape Elizabeth Town Council (12-9-2019) to connect to the parking lot at the rear of the town hall, consistent with the concept in the Town Center Plan. This connection should provide connectivity without creating an unsafe through traffic movement.
6. Topography. The private road has been laid out to minimize high cuts and fills and is consistent with the concept included in the Town Center Plan.
7. Block Length. Not applicable.
8. Lot Access. All lots will have frontage on the private road, Town Common Circle. The Planning Board may want a note added to the plan that access for lot 1 must be from Town Common Circle.
9. Sidewalks/pedestrian connections. The subdivision will include a sidewalk on the southeast side of Town Common Circle. The previous site plan approval included a sidewalk along Ocean House Rd. A connecting path across Village Green 2 is also proposed.

10. Road Name. The Town Assessor has approved the name "Town Common Circle" for the private road. (The site plan approval included the name "Seaver Circle")
11. Road Construction Standards. Town Common Circle is designed in compliance with most public road standards. Waiver requests include:
 - Right of way width reduction from 50' to 44'. This creates frontage for lots 2, 3 and 4, but does not require the building sites on those lots to be pushed further back. This waiver is consistent with the concept in the Town Center Plan.
 - Road alignment shift from center line. This shift follows the previous waiver in allowing the concept of a private road with parking loaded on both sides as needed.
 - Centerline radius. This is the third adjustment to align with the Town Center Plan concept. With added paving on the radius to accommodate the parking, the actual radius will be larger for town emergency vehicles. The Fire Chief supports this waiver.
 - Base gravel. The base gravel is the same depth but a different mix than for a public road. Both the Public Works Director and the Town Engineer support a consistent gravel build up, which has previously been approved as part of the site plan.

The subdivision ordinance requires that monumentation be installed along the road right-of-way and at property corners. The ordinance provides for monument coordination with the Public Works Director on placement and the use of granite 4" x 4" markers and iron pins. Blending the road right-of-way and lot line requirements, the Public Works Director has agreed that the two monuments closest to the southwest and northeast corners of the village green should be moved to the corner as a property marker. In addition, lot corner markers will not be required when located in paved parking areas. The plans should be revised to show the final monumentation plan.

(e) Sewage Disposal.

All lots will be served by public sewer via a new 8" sewer main to be installed in Town Common Circle and connected to an existing sewer main in Ocean House Rd. The Sewer Superintendent has determined that adequate capacity exists in the existing system to accept anticipated sanitary waste flows.

(f) Solid Waste Disposal.

Solid waste disposal will be accommodated by trash containment units and recycling containers, serviced by private trash haulers. The specific location shall be determined as part of site plan review.

(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 existing wooded buffer along the eastern boundary shall be preserved intact as required by an existing easement. The northwest corner of the site shall be cleared, regraded and planted as the new village green located adjacent to town hall.
4. Farmland. Not applicable

(h) Conformity with local ordinances

1. Comprehensive Plan. The village green subdivision aligns with the concept included in the Town Center Plan, which was incorporated by reference into the 2019 Comprehensive Plan.
2. Zoning Ordinance. Sec. 19-9-4(D)(3)(g) was amended in 2016 to add provisions for a village green development. This project is aligned with those provisions when a village green was established in an earlier site plan approval (May 21, 2019). The proposed subdivision includes an addition to the village green (Village Green 2).
3. Multiplex Housing. The subdivision is limited to individual lots. Multiplex housing is included in the project under site plan approvals of each lot.
4. Addressing Ordinance. The Town Assessor has approved the name of the private road, "Town Common Circle."

(i) Financial and Technical Capability

The applicant has provided documentation of financial and technical capability.

(j) Surface Waters

The project is not located in the Shoreland Performance Overlay District. Erosion control and stormwater management are included in the project design to protect surface water quality.

(k) Ground Water

The development is not proposed within a significant aquifer recharge area.

(l) Flood Areas

The subdivision is not located in the floodplain.

(m) Wetlands

An RP2 was approved for alteration as part of the previously approved site plan. No additional wetland alteration is included in the subdivision proposal.

(n) Stormwater

The Town has partnered with the applicant to maximize use of existing municipal stormwater infrastructure instead of creating a stormwater detention facility on-site. The Town Center is Cape Elizabeth's commercial and cultural hub, with corresponding village character zoning regulations. A detention facility is inconsistent with this community land use goal.

The Town has completed a study of municipal downstream stormwater infrastructure and acceptance of the stormwater from this subdivision is within the capacity of the existing system. The town's willingness to accept this stormwater is based on the creation of a fully functional village green located on the northwest side of Town Common Circle. The "village green 2" section is a low spot on the site and will be mostly graded flat. In order for this area to drain properly, the Town Engineer has recommended design changes. As recommended, the applicant has lowered an invert to minimize stormwater retention. In addition, he is recommending that the flat portion be constructed with shall vertical j drains, similar to the treatment used on athletic fields.

The applicant has recently completed test pits which do not support the amount of infiltration upon which the applicant's stormwater management plan was based. In addition, the applicant will need to apply for a DEP Stormwater permit. It is possible that the DEP will require changes to the proposed stormwater

management design. The Planning Board may want to consider tabling the application to the next meeting and suggest the applicant use that time to both refine the stormwater design and pursue discussions with DEP on expectations. Any approval should also be conditioned on receipt of DEP permits before the subdivision plan is recorded. (See attached Town Engineer's letter for a full discussion of the stormwater management plan).

(o) Lake Phosphorus concentration

The proposed subdivision is not within the watershed of a great pond.

(p) Impact on adjoining municipality

The subdivision is located completely within the boundaries of the Town of Cape Elizabeth.

(q) Land subject to Liquidation Harvesting

Not applicable.

(r) Access to Direct Sunlight

The new lots include building envelopes where proposed buildings will have direct access to sunlight.

(s) Buffering

The concept for the village green development includes extensive connections to the adjacent town center properties. In particular, the new village green should be visually connected to the adjacent and architecturally significant town hall. For this reason, the existing vegetation between these properties has been removed and plans for replanting consistent with a village green are proposed (as well as installation of drainage infrastructure for the town hall parking lot).

An existing buffer, protected by easement, will be preserved along the eastern boundary. Existing vegetation will also be preserved along the southern boundary.

(t) Open Space Impact Fee

The applicant is proposing to meet this requirement by a combination of land donation and fee payment. The standard will be met by the donation of the

village green 2 lot (17,031 sq. ft.) and payment of an open space impact fee of \$12,428.46. (See Tab 11, Nov 1, 2019 submission)

(u) Utility Access.

The applicant has provided letters that there will be adequate public water, public sewer, electric and telephone capacity to serve the subdivision.

(v) Phasing.

No phasing is proposed. The applicant is proposing to build all infrastructure in the private road. Lot 2 has a previous site plan approval, which is proposed to be amended as part of this application. Lots 1, 3, and 4 will need site plan approval prior to development (Sheet L1, Note 18).

Site Plan Review Standards

The applicant includes amendments to the 326 Ocean House Rd site plan for what will become lot 2, and amendments to the Town Hall site plan to accommodate the connection of Town Common Circle to the parking lot. Below is a summary of application compliance with the Site Plan standards, Sec. 19-9-5.

1. Utilization of the Site

326 Ocean House Rd: The proposed changes are located immediately adjacent to the area previously approved, specifically expanding the building footprint an additional 850 feet, adding a third apartment on the second floor and relocating the dumpster enclosure.

Town Hall lot: The proposed changes are located within and immediately adjacent to the existing parking lot, specifically

2. Traffic Access and Parking

326 Ocean House Rd:

- a. Adequacy of Road System- See subdivision traffic study.
- b. Access into the Site- See subdivision traffic study.
- c. Internal Vehicular Circulation- See subdivision road evaluation.
- d. Parking Layout and Design- The subdivision has been designed with projected parking demand for each lot as follows:

Adequate parking is proposed for lot 3. It should be noted that parking will need to be revisited as each lot seeks site plan approval with a specific building and use plan.

	Use	Required Parking	Shared Parking
LOT 1:	Restaurant (est. 40 seats + empl)	15 spaces	None
	3 Apartments	5 spaces	
LOT 2:	Two Lights Dental	23 spaces	3 spaces
	3 Apartments	5 spaces	
LOT 3:	Office and Retail	18 spaces	4 spaces
	4 Apartments	7 spaces	
LOT 4:	Office and Retail	18 spaces	4 spaces
	4 Apartments	7 spaces	
		98 spaces	11 spaces

November 1, 2019 submission

Town Hall lot:

The principal change is the removal of 5 existing parking spaces to accommodate the connection to Town Common Circle. For the last several years, the town was using the rear 12 spaces for recycling bins with no shortage of parking. The bins have been removed, restoring 12 spaces to the lot. Traffic to and from the new connection will use existing parking aisle routes within the town hall parking lot, and existing connections to Ocean House Rd and Shore Rd.

3. Pedestrian Circulation

No change is proposed.

4. Stormwater Management

No change is proposed.

5. Erosion Control

Standard erosion control practices will remain in effect.

6. Utilities

No changes are proposed.

7. Shoreland Relationship

The properties are not located in the Shoreland Overlay Performance District.

8. Landscaping and Buffering

326 Ocean House Rd: No change is proposed

Town Hall lot: Existing vegetation will be removed to make the road connection and also to construct the new drainage infrastructure to collect stormwater exiting the town parking lot. These areas abut village green 2 and lot 4. Additional buffering may be installed as part of the eventual site plan for lot 4 and village green 2 includes a planting plan that will preserve open views between the town hall lot and the new village green.

9. Exterior Lighting

No changes are proposed

10. Signs

No changes are proposed

11. Noise

No changes are proposed

12. Storage of Materials

No changes are proposed.

13. Technical and Financial Capacity

See subdivision above.

Motions for the Board to Consider

A. Motion to Table

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of David Jacobson for subdivision review to create a 4-lot subdivision located at 326 Ocean HOuse Rd, plus amendments to the site

plans for 326 Ocean House Rd and 320 Ocean House Rd (Town Hall lot) to connect to the parking lot be tabled to the regular January 21, 2020 meeting of the Planning Board.

B. Motion to Approve

Findings of Fact

1. David Jacobson is requesting subdivision review to create a 4-lot subdivision located at 326 Ocean House Rd, plus amendments to the site plans for 326 Ocean House Rd and 320 Ocean House Rd (Town Hall lot) to connect to the parking lot, which requires review under Sec. 16-2-3 of the Subdivision Ordinance, and Sec. 19-9, Site Plan Regulations.
2. The subdivision (will/will not) result in undue water pollution. The subdivision (is/is not) located in the 100-year floodplain. Soils (will/will not) support the proposed uses. The slope of the land, proximity to streams, and state and local water resource rules and regulations (will/will not) be compromised by the project.
3. The subdivision (will/will not) have a sufficient quantity and quality of potable water.
4. The subdivision (will/will not) cause soil erosion, based on the erosion control plan provided.
5. The subdivision (will/will not) cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. The subdivision (provides/does not provide) for road network connectivity while discouraging through traffic. Roads (are/are not) laid out to conform to existing topography as much as is feasible. All lots (are/are not) provided with vehicular access. Roads (are/are not) designed to meet town standards.
6. The subdivision (will/will not) provide for adequate sewage disposal.
7. The subdivision (will/will not) provide for adequate solid waste disposal.
8. The subdivision (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.
9. The subdivision (is/is not) compatible with applicable provisions of the Comprehensive Plan and town ordinances.

10. The applicant (has/has not) demonstrated adequate technical and financial capability to complete the project.
11. The subdivision (will/will not) adversely impact surface water quality.
12. The subdivision (will/will not) adversely impact the quality or quantity of ground water.
13. The subdivision is not located in the 100-year floodplain.
14. The subdivision (is/is not) in compliance with the Town wetland regulations in the Zoning Ordinance.
15. The proposed subdivision (will/will not) provide for adequate stormwater management.
16. The subdivision is not located within the watershed of a great pond.
17. The subdivision (is/is not) located in more than one municipality.
18. The subdivision is not located on land where liquidation harvesting was conducted.
19. The subdivision (does/does not) provide for access to direct sunlight.
20. The subdivision (does/does not) provide a vegetative buffer throughout and around the subdivision as appropriate and screening as needed.
21. The subdivision (will/will not) comply with the open space impact fee with the donation of 17,031 sq. ft. of land (village green 2) and payment of a fee in the amount of \$12,428.46.
22. The subdivision lots (will/will not) be provided with access to utilities.
23. The subdivision plan (includes/does not include) a phasing plan.
24. The 326 Ocean House Rd site plan and the Town Hall Site Plan have been previously approved by the Cape Elizabeth Planning Board to be in compliance with the Site Plan Regulations, and the findings and decisions of those approvals which are not altered by the proposed amendments remain in effect.

25. The plan for the sites (reflects/ does not reflect) the natural capabilities of the site to support development.
26. Access to the sites (will/ will not) be on roads with adequate capacity to support the traffic generated by the development. Access into and within the sites (will/ will not) be safe. Parking (will/ will not) be provided in accordance with Sec. 19-7-8, Off-Street Parking.
27. The sites (will/ will not) provide a vegetative buffer throughout and around the site as appropriate and screening as needed.
28. The applications have substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1 and Site Plan Regulations, Sec. 19-9.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of David Jacobson for subdivision review to create a 4-lot subdivision located at 326 Ocean, plus amendments to the site plans for 326 Ocean House Rd and 320 Ocean House Rd (Town Hall lot) to connect to the parking lot be approved, subject to the following conditions:

1. That the plans be revised to address the recommendations in the Town Engineer's letter dated December 11, 2019;
2. That monumentation be added to the plan in coordination with the Public Works Director;
3. That lot 1 vehicular access be limited to Town Common Circle;
4. That an open space impact fee in the amount of \$12,428.46 be paid prior to the recording of the subdivision plan;
5. That the road maintenance agreement for Town Common Circle be recorded with the subdivision plan;
6. That any required DEP Stormwater or site permits be obtained prior to recording of the subdivision plan;
7. That a deed for the village green 2 lot be submitted in a form acceptable to the town attorney and the town manager; and
8. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat.