

## MEMORANDUM

TO: Cape Elizabeth Town Council  
FROM: Planning Board  
DATE: March 29, 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 (Recommendation #87). The Town Council further concurred that the update could go beyond a limited technical update to a comprehensive overhaul of the ordinance as long as core policies were maintained. At the March 28, 2013 meeting, the Planning Board recommended by a vote of 5-0 that the new Subdivision Ordinance be adopted as a replacement for the Subdivision Regulations.

### Summary of changes

Attached are both a new Subdivision Ordinance and a red-lined version of the current Subdivision Regulations. Because of the substantial reorganization of the Subdivision Regulations, the Planning Board is recommending that the new Subdivision Ordinance be adopted as a replacement ordinance. The red-lined Subdivision Regulations is provided as 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 provisions are awkwardly drafted and this has been carried into the local ordinance.

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.

### Conclusion

The Planning Board work on the Subdivision Ordinance spanned 11 meetings, including a public hearing held on March 29, 2013 at which no one spoke. Articles describing the Subdivision Ordinance overhaul were published in the Cape Courier and posted on the Town website. The Planning Board looks forward to working with the Town Council as it reviews the new ordinance.