

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

January 18, 2022

7:00 p.m. Remote Meeting

Present:	James Huebener, Chair	Matthew Caton
	Daniel Bodenski	Mary Ann Lynch
	Andrew Gilbert	Jonathan Sahrbeck
	Alton Palmer	

Also present was Maureen O'Meara, Town Planner.

CALL TO ORDER

Mr. Huebener called the meeting to order, then called for approval of the minutes of December 21, 2021. The minutes were approved as presented, 4-0. (2 absent)

Ms. Lynch moved to re-elect Mr. Huebener as chair for 2022, Mr. Bodenski seconded and it was approved, 6-0.

Mr. Bodenski moved to re-elect Mr. Sahrbeck as vice chair for 2022, Ms. Lynch seconded and it was approved, 6-0.

NEW BUSINESS

Maxwell Woods Buffer Amendments - Owens McCullough, representing FitzPatrick Associates, is requesting amendments to the previously approved Maxwell Woods development located on Aster Lane (U29-64-2) to add plantings to the open space buffer, Sec, 16-2-5, Amendment to a Previously approved subdivision public hearing.

Owens McCullough, Civil Engineer with Sebago Technics showed a copy of the plan. He said there were defined clearing limits and on the easterly side the units are close to that boundary. The contractor over cleared in that area and then there was some blow down in a wind storm. He showed photos of the area.

They propose a buffer plan to reestablish the buffer. They will use a woodland seed mix and plant rhododendrons, white fir and balsam fir. The trail has to be reestablished. They will use stakes to outline the original clearing limit.

They are here to get approval for the buffer amendment.

Mr. Huebener opened the public comment on completeness. No one came forth so the public comment was closed.

Mr. Palmer said the plan is not stamped by a landscape architect, so he will vote against completeness.

Mr. Sahrbeck said he is satisfied of completeness and proposed a condition of approval about the stamp.

Ms. Lynch made the following motion:

BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of Maxwell Woods LLC for amendments to the previously approved Maxwell Woods development to replant vegetation that was inadvertently cleared from the area proposed to be preserved as naturally vegetated open space be deemed complete.

Mr. Sahrbeck seconded the motion and it was passed, 5-1.

The Board chose not to hold a site visit.

Mr. Huebener opened the public hearing.

Bradford Norris of 24 Maxwell Woods Drive thinks the red wooden stakes to show the border are pretty ugly. He would like there to be boulders so it would look more natural. He would like the fallen trees removed from the trails.

Diana Sanborn of 14 Maxwell Woods Drive wants to echo the concerns of the community around the blow downs. We've had two big ones in two years. She has talked to the tree warden. They have done a survey of how many dead trees they have observed. My place was nearly hit by a tree last November. It missed us by about 4 feet. It's not just the edge trees. There are trees on ledge.

Mr. McCullough said what is before you tonight is because of clearing during the construction of the project. He said he is not familiar with all these blow downs. We are trying to reestablish a buffer that was supposed to remain as a wooded buffer.

Ms. O'Meara said she attended a condo board meeting. If we don't want to have any blow downs, then we need to clear cut the property. We try to save open space in as large a chunk as possible. This is why we try to avoid narrow strips. When you clear a forest, the edge will have additional blow downs. The tree warden has gone out to assess the trees that might be a hazard. The green area [shown on the plan] is owned by the developer, to be conveyed to the

condominium association. If a tree falls on a trail, they will clear the part that is on the trail and leave the rest in place.

No one else chose to speak, so Mr. Huebener closed the public hearing.

Mr. Palmer asked who owns the land behind units 11 and 12? Ms. O'Meara responded Canterbury on the Cape. He wants to know how do we address over clearing by contractors. He wants a peer review by a registered landscape architect to determine if the mitigation is adequate.

Ms. O'Meara said she has heard from the Canterbury Association and their priority is to complete the project so that the trail can be moved off their property and onto the location approved.

Ms. Lynch is opposed to a peer review.

Mr. Sahrbeck thinks a peer review is not needed.

Mr. Gilbert said regeneration happens quickly. There's likely to have natural regrowth of trees.

Ms. O'Meara said she has walked the site. Where the duff layer has not been touched, there are little trees coming up. They need to keep the mowers off where the new seed mix will go in and give the area time to recover.

Mr. McCullough spoke about the seed mixture and that the stakes are temporary, just until the line is established.

Mr. Bodenski does not think a peer review is necessary. Are the red pin flags going to stay there? He would like a site walk.

No one else wants a site walk.

Mr. Huebener is not in favor of a peer review.

Mr. Sahrbeck made the following motion:

Findings of Fact

1. Maxwell Woods LLC is requesting amendments to the previously approved Maxwell Woods development to replant vegetation that was inadvertently cleared from the area proposed to be preserved as naturally vegetated open space, which requires review under Sec. 16-2-5, Amendment to a previously approved subdivision.

2. The buffer amendment was discussed at the October 5, 2021 Planning Board Workshop.
3. The Maxwell Woods development has been previously approved by the Cape Elizabeth Planning Board 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.
4. The buffer amendment will not cause soil erosion, based on the proposed erosion control measures proposed.
5. The buffer amendment will not have an undue adverse impact on scenic or natural area or significant wildlife habitat.
6. The buffer amendment will provide for adequate stormwater management.
7. The buffer amendment does support a vegetative buffer throughout and around the subdivision and screening as needed.
8. 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 Maxwell Woods LLC for amendments to the previously approved Maxwell Woods development to replant vegetation that was inadvertently cleared from the area proposed to be preserved as naturally vegetated open space be approved subject to the following condition:

1. That the applicant secure the up to date stamp of a licensed landscape architect.

Ms. Lynch seconded the motion and it passed, 5-2.

Public Comment

No one chose to speak, so the public comment was closed.

The board voted unanimously to adjourn at 7:45 p.m.

Respectfully submitted,

Hiromi Dolliver
Minutes Secretary.