

MINUTES OF THE PLANNING BOARD
TOWN OF CAPE ELIZABETH

These meeting minutes were prepared as a reasonable summary of the essential content of the meeting, not a transcription. In the event that there is a question or dispute about the specifics of this meeting, the official video and/or audio recordings of this meeting shall govern.

February 18, 2025

7:00 p.m.

Town Hall

Present: Jim Huebener, Acting Chair
Alton Palmer
Derek LaVallee
Andrew Gilbert (virtually)

Dan Bodenski
Natalie Burns

Absent: Matthew Caton

Also present: Maureen O'Meara, Town Planner

CALL TO ORDER

Mr. Huebener called the hybrid meeting (in person and virtual) to order at 7:00p.m., reviewed the procedures for remote participation, and asked Ms. O'Meara to call the roll due to the remote participation of Mr. Gilbert.

Mr. Huebener called for approval of the minutes of the January 21, 2025, Planning Board meeting. Mr. LaVallee made a motion to approve the minutes and Mr. Bodenski seconded. With no further discussion, the minutes were approved by roll call, 6 in favor and none opposed.

OLD BUSINESS

Blue Meadow Final Subdivision Review and Resource Protection Permit. BRKR LLC is requesting Final Major Subdivision Review and a Resource Protection Permit to construct an 18 unit condominium development located at 90 Ocean House Rd (U26-6 and 7), Sec. 16-2-4, Major Subdivision Review Public Hearing and Sec. 19-8-3 Resource Protection Permit Public Hearing.

Robert Metcalf of Mitchell Associates addressed the Board, representing BRKR LLC. He reviewed the changes made to the subdivision plans since the last meeting.

Mr. Huebener opened the floor for public comment on the merits of the application.

Mr. Douglas Babkirk of 25 Westminster Terrace addressed the Board and identified himself as President of the Canterbury on the Cape Condominium Association. He offered thanks to both the Board and the developer. He expressed concern for the use of hemlocks in the vegetative buffer and referenced a recommendation by Noah Tucker of Bartlett Tree for the use of an alternate species of tree. He stated that the Canterbury condominium association is willing to engage in a conversation regarding access to the Canterbury conservation and recreation area approximately one year after the buffer has been installed. He stated that access would require a vote from the condominium owners. He also expressed

concerns on behalf of the owners of units in nearest proximity to the project for the impact of blasting. He referenced a conversation with Rob Barrett in September of 2024 in which Mr. Barrett indicated a willingness to conduct pre- and post-blasting surveys of the closest Canterbury units.

Mr. Metcalf clarified that the developer is willing to amend the buffer plan with input from the Canterbury owners. Mr. Metcalf also clarified that a pre-blasting survey is required.

With no further comments, either in person or virtually, Mr. Huebener closed the floor for comment.

Mr. Gilbert asked for clarification on the attorney's language describing the easement from Blue Meadow for two parking spaces allowing public access to the open space. He also sought clarification on the removal of an existing barn and the placement of fire hydrants.

Mr. LaVallee asked if the two parking spaces for access to the public space would be posted for this purpose. Mr. Metcalf replied that this could be done.

Mr. Palmer requested confirmation that the units will have individual sprinkler systems for fire protection. He also asked for clarification on how the project conforms to the affordable housing ordinance. Ms. O'Meara stated that two of the units (10%) would be affordable to moderate income households. Finally, Mr. Palmer noted that the stormwater permit from the DEP remains outstanding.

Mr. Bodenski requested clarification on the Conservation Committee's review of the plan as it pertains to the Resource Protection Permit. Ms. O'Meara stated that the Conservation Committee made a recommendation to grant the permit.

Further discussion on the requirements for fire protection ensued.

Ms. Burns requested clarification on the building timeline for the project and, specifically, the construction of the affordable units. Ms. O'Meara explained that construction timeline for the affordable units follows a specific formula. Mr. Metcalf stated that the infrastructure for the project will be in place before construction of the units begins.

With no further discussion, Mr. LaVallee made a motion for the Board to consider.

Motion for the Board to Consider

Findings of Fact

1. BRKR LLC is requesting Major Subdivision Final approval and a Resource Protection Permit to construct an 18-unit condominium project located at 90 Ocean House Rd., which requires review under Sec. 16-2-4 of the Subdivision Ordinance and Sec. 19-8-3, Resource Protection Permit regulations.
2. The applicant presented a sketch plan at the June 4, 2024 Planning Board Workshop. The Planning Board deemed the application complete at the August 20, 2024 meeting and held a site visit on September 4th followed by preliminary approval granted October 15, 2024. The final major subdivision application was deemed complete January 21, 2025, a site walk was held February 1, 2025, and a public hearing held on February 18, 2025.

3. The subdivision will not result in undue water pollution. The subdivision is not located in the 100-year floodplain. Soils will support the proposed uses. The slope of the land, proximity to streams, and state and local water resource rules and regulations will not be compromised by the project.
4. The subdivision will have a sufficient quantity and quality of potable water.
5. The subdivision will not cause soil erosion, based on the erosion control plan provided.
6. The subdivision will not cause unreasonable road congestion or unsafe vehicular and pedestrian traffic. The subdivision provides for road network connectivity while discouraging through traffic. Roads are laid out to conform to existing topography as much as is feasible. All units are provided with vehicular access. Roads are designed to meet town standards.
7. The subdivision will provide for adequate sewage disposal.
8. The subdivision will provide for adequate solid waste disposal.
9. The subdivision 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.
10. The subdivision is compatible with applicable provisions of the Comprehensive Plan and town ordinances.
11. The applicant has demonstrated adequate technical and financial capability to complete the project.
12. The subdivision will not adversely impact surface water quality.
13. The subdivision will not adversely impact the quality or quantity of ground water.
14. The subdivision is in compliance with the Town wetland regulations in the Zoning Ordinance.
15. The subdivision will provide for adequate stormwater management.
16. The subdivision is not located within the watershed of Great Pond.
17. The subdivision is located wholly in the Town of Cape Elizabeth, Maine.
18. The subdivision is not located on land where liquidation harvesting was conducted.
19. The subdivision does provide access to direct sunlight.
20. The subdivision does provide a vegetative buffer throughout and around the subdivision and screening as needed.
21. The subdivision will comply with the open space impact fee.
22. The subdivision units will be provided with access to utilities.
23. The subdivision plan does not include a phasing plan.
24. The wetland alterations will not materially obstruct the flow of surface or subsurface waters across or from the alteration area;

25. The wetland alterations will not impound surface waters or reduce the absorptive capacity of the alteration area so as to cause or increase the flooding of adjacent properties;
26. The wetland alterations will not increase the flow of surface waters across, or the discharge of surface waters from, the alteration area so as to threaten injury to the alteration area or to upstream and/or downstream lands by flooding, draining, erosion, sedimentation or otherwise;
27. The wetland alterations will not result in significant damage to spawning grounds or habitat for aquatic life, birds or other wildlife;
28. The wetland alterations will not pose problems related to the support of structures;
29. The wetland alterations will not be detrimental to aquifer recharge or the quantity or quality of groundwater;
30. The wetland alterations will not disturb coastal dunes or contiguous back dune areas;
31. The wetland alterations will maintain or improve ecological and aesthetic values;
32. The project design will maintain an adequate buffer area between the wetland and adjacent land uses;
33. The wetland alterations will be accomplished in conformance with the erosion prevention provisions of Environmental Quality Handbook Erosion and Sediment Control, published by the Maine Soil and Water Conservation Commission dated March, 1986, or subsequent revisions thereof;
34. The wetland alterations are not located in the Resource Protection-Floodplain District.
35. The applicant has substantially addressed the standards of the Subdivision Ordinance, Sec. 16-3-1 and the Resource Protection Regulations, Sec. 19-8-3.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of BRKR LLC for Final Major Subdivision approval and a Resource Protection Permit to construct an 18-unit condominium project located at 90 Ocean House Rd be approved, subject to the following conditions:

1. That the plans be revised to address the recommendations in the Town Engineer's letter dated February 12, 2025;
2. That the proposed easements and deeds be submitted in a form acceptable to the Town Attorney and the Town Manager;
3. That a note be added to the plan that the proposed trail on the open space may be expanded to a loop within the open space;
4. That the stormwater fee in the amount of \$26,147 (or a lesser amount if the applicant can provide additional documentation in support) be paid prior to the commencement of construction;
5. That a note be added to the plan that a "directional boring" method of construction be used to install the sewer line along the northern property boundary line when in close proximity to existing trees to reduce impact on the tree root system;

6. That the unnamed road segment name be added to the plans upon approval of the Town Assessor;
7. That the plans be revised and submitted to the Town Planner for review and approval prior to recording the subdivision plat; and
8. That there be no alteration of the site nor issuance of a permit until the plans have been revised to address the above conditions and submitted to the Town Planner.
9. The applicant submits a formal copy of DEP approval prior to issuance of building permits.

Mr. Bodenski seconded the motion. With no further discussion, the motion was approved by roll call, 6 in favor and none opposed.

NEW BUSINESS

Purpoodock Club Seasonal Restroom Site Plan Amendment. The Purpoodock Club is requesting a Site Plan Amendment to construct a seasonal restroom and refuge (located near the 8th and 14th tee) of the golf course located at 300 Spurwink Ave (R4-3), Sec. 19-9, Site Plan Completeness and Public Hearing.

Robert Metcalf of Mitchell Associates addressed the Board representing The Purpoodock Club and summarized the project.

Mr. Huebener opened the floor for public comment on the issue of completeness of the application. With no comment, either virtually or in person, Mr. Huebener closed the floor.

With no further discussion, Mr. Bodenski made a motion for the Board to consider.

Motion for Completeness:

BE IT ORDERED that, based on the materials submitted and the facts presented, the application of the Purpoodock Club for a site plan amendment to construct a seasonal restroom located between the 8th and 14th tees at the golf club located at 300 Spurwink Ave be deemed complete. A finding of completeness shall include a waiver from providing a boundary survey, building setback lines, a list of abutting property owners, and lighting photometrics. The waiver is based on Sec. 19-9-4.3 which authorizes the Board to waive submission requirements for small projects where the Board can apply the submission standards without submission of the information.

Ms. Burns seconded the motion. With no further discussion, the motion passed by roll call, 6 in favor and none opposed.

Mr. Huebener opened the floor for public comment on the merits of the application. With no comment, either virtually or in person, Mr. Huebener closed the floor.

The Board decided that a site walk was unnecessary.

Mr. Bodenski made a Motion for Approval

Findings of Fact

1. The Purpoodock Club is requesting a site plan amendment to construct a seasonal restroom located between the 8th and 14th tees at the golf club located at 300 Spurwink Ave which requires review under Sec. 19-9, Site Plan Regulations.
2. The Planning Board discussed the project at the January 7, 2025 workshop. The application was deemed complete at the February 18, 2025 meeting, at which time a public hearing was also held.
3. The plan for the development reflects the natural capabilities of the site to support development.
4. Access to the development will be on roads with adequate capacity to support the traffic generated by the development. Access into and within the site will be safe. Parking will be provided in accordance with Sec. 19-7-8, Off-Street Parking.
5. The plan does provide for a system of pedestrian ways within the development.
6. The plan does provide for adequate collection and discharge of stormwater.
7. The development will not cause soil erosion, based on the erosion plan submitted.
8. The development will be provided with an adequate quantity and quality of potable water. The development will provide for adequate sewage disposal. The development will be provided with access to utilities. The development will provide for adequate disposal of solid wastes.
9. The development will not adversely affect the water quality or shoreline of any adjacent water body.
10. The development will have a vegetative buffer throughout and around the site and screening as needed.
11. The development will provide for adequate exterior lighting without excessive illumination.
12. Signs will not exceed the requirements of the Sign Ordinance.
13. The development will not substantially increase noise levels and cause human discomfort.
14. No storage of exterior materials on the site are proposed.
15. The applicant has demonstrated adequate technical and financial capability to complete the project.

16. The application substantially complies with Sec. 19-9, Site Plan Regulations.

THEREFORE, BE IT ORDERED that, based on the plans and materials submitted and the facts presented, the application of the Purpoodock Club for a site plan amendment to construct a seasonal restroom located between the 8th and 14th tees at the golf club located at 300 Spurwink Ave be approved, subject to the following condition:

1. That the plans be revised to address the comments of the Town Engineer in his letter dated February 10, 2025.

Mr. LaVallee seconded the motion. With no further discussion, the motion passed by roll call, 6 in favor and none opposed.

OTHER BUSINESS

Public Comment. Mr. Huebener opened the floor for public comment.

Jonathan Sahrbeck of 60 Longfellow Dr. addressed the Board. Mr. Sahrbeck identified himself as a member of the Town Council and clarified that he was not speaking in his capacity as a Town Councilor. He spoke in support of the upcoming Planning Board workshop that would allow for faster approval of the Center Court Site Plan proposed by Bob Gaudreau of Hardy Pond Development Company for a 33-unit residential apartment building to be located at 300-400 Town Common Circle (R2-4-6-3, 4).

With no further comment, either in person or virtually, Mr. Huebener closed the floor for public comment.

Mr. Bodenski made a motion to adjourn the meeting. Mr. LaVallee seconded. With no further discussion, the motion passed by roll call, 6-0.

The meeting was adjourned at approximately 8:01 p.m.

Respectfully submitted,
Lucy E. Bauer
Minutes Secretary