

**Bar Harbor Planning Board  
Wednesday, March 4, 2020 — 4:00 PM  
Council Chambers – Municipal Building  
93 Cottage Street in Bar Harbor**

**I. CALL TO ORDER**

Chair Tom St. Germain called the meeting to order at 4:00 PM.

Call to order  
at 4:00 PM

Members present were Chair St. Germain, Secretary Basil Eleftheriou Jr., and members John Fitzpatrick and Erica Brooks. Vice-chair Joe Cough was absent.

Four of five board  
members present

Town staff present were Planning Director Michele Gagnon, Code Enforcement Officer Angela Chamberlain, Assistant Planner Steve Fuller and Deputy Code Enforcement Officer Patrick Lessard.

Four town staff  
members present

**II. ADOPTION OF THE AGENDA**

Mr. Fitzpatrick made a motion to adopt the agenda, seconded by Mr. Eleftheriou. The motion to adopt the agenda carried unanimously (4-0).

Agenda adopted  
unanimously (4-0)

**III. EXCUSED ABSENCES**

Mr. Fitzpatrick made a motion to excuse the absence of Vice-chair Cough, seconded by Mr. Eleftheriou. The motion then carried unanimously (4-0).

J. Cough's  
absence is excused

**IV. PUBLIC COMMENT PERIOD**

Chair St. Germain invited public comment, but there were no takers.

No public comment

**V. APPROVAL OF MINUTES**

**a. February 5, 2020**

Assistant Planner Steve Fuller said minutes from the February 5, 2020 meeting were not yet available and would be presented to the board at its next meeting.

Feb. 5, 2020 minutes  
will be addressed at  
the next meeting

**VI. REGULAR BUSINESS**

**a.) Reschedule Public Hearing/Compliance Review, Site Plan SP-2019-07 — Triple Chick Farm (Reschedule from March 5, 2020 to Wednesday, April 1, 2020)**

Reschedule public  
hearing /compliance  
review for SP-2019-  
07, Triple Chick  
Farm (driveway and  
stream crossing)

**Project Location:** Off of State Highway 102 — Tax Map 235, Lot 002, encompassing 72.19 acres of land in the following zoning districts: Town Hill Residential Corridor, Town Hill Residential and Stream Protection.

**Applicant/Owner:** Triple Chick Farm, LLC

**Application:** Construction of a driveway (over 500 feet in length) to provide for land and forestland management practices, as well as to serve a future single-family residence. Site plan review is required because the driveway will cross a stream in the Stream Protection zoning district.

Mr. Eleftheriou moved to reschedule the public hearing and compliance review for SP-2019-07 to April 1, 2020. Mr. Fitzpatrick seconded the motion, and it carried unanimously (4-0).

Public hearing and  
compliance review  
rescheduled to April  
1, unanimously (4-0)

**b.) Completeness Review for Site Plan SP-2020-02 — Bar Harbor Oceanside KOA**

**Project Location:** 135 County Road — Tax Map 211, Lot 001, and encompassing ±2.63 acres of land in the following zoning districts: Town Hill Corridor, Town Hill Residential and Shoreland Limited Residential

**Applicant:** Bar Harbor Oceanside KOA

**Owner:** Kampgrounds of America, Inc.

**Application:** To construct a manager’s house and laundry/maintenance facility; to relocate the sewerage dump station, propane filling tank and dumpsters out of the County Road right-of-way and along a new camp road on the site; to demolish the existing old log cabin and other structures on the site; and to close one of the three existing curb cuts on County Road.

Jim Kiser was present to represent the applicant. He gave an overview of the application and what it entails, including a new maintenance building, an upgraded laundry facility and new housing for the manager. He also spoke about the changes involving the dump station, filling station and trash area, and noted that one entrance would be closed and another would be upgraded. He addressed issues of ingress and egress generally.

Chair St. Germain asked for feedback from the board. Mr. Eleftheriou asked if there was an easement from Emera. Mr. Kiser said he believed it was a private pole, and that a survey did not pick up any existing easements. He said Emera may take a small easement, but it will depend where the company sites specific infrastructure.

Mr. Eleftheriou then asked about approval from the Fire Marshal’s Office for the propane tank. Mr. Kiser said state approval is required, though it is a different department, and explained what work must be done in what order. Planning Director Gagnon said the fire chief has been involved in discussions.

Mr. Fitzpatrick asked about a permit from the Maine Department of Environmental Protection, and Mr. Kiser explained his process. Planning Director Gagnon referred to the staff report and the note on this subject therein.

Mr. Fitzpatrick referred to checklist item 9E and asked to see lot size and lot coverage in both acres and square feet (he clarified he was most interested in square feet). He said he also saw a discrepancy in the application with different references to lot size. He flagged another discrepancy, regarding lot coverage (all driven on note number 6) – building footprint area vs. total impervious.

Mr. Fitzpatrick asked about capacity statements, and Planning Director Gagnon confirmed they are still coming in (she said public works and fire department were missing).

Completeness review for SP-2020-02, Bar Harbor Oceanside KOA

Jim Kiser present to represent applicant, gives overview

Question on utility easement

Question on Fire Marshal’s role

Question on DEP

Question on numbers on plan and lot coverage

Question on capacity statements

Mr. Fitzpatrick referred to checklist item 20B, elevations, etc. for the new building. He asked for a description of materials and colors. Mr. Kiser referred to the application where materials were specified (albeit in small print), and Mr. Fitzpatrick said a color palette would be helpful.

**Question on materials and colors**

Mr. Fitzpatrick said it seemed like there was a significant amount of structures within the front setback (the propane slab, slab for dumpsters, filling stations). He said he would look to staff to see if that is an issue. Code Enforcement Officer Angela Chamberlain said septic would be exempt from setback requirements, but that the pads would have to meet those requirements. Mr. Kiser explained why it was laid out the way it was and said he could consider a gravel pad rather than a concrete pad if that would satisfy the requirements. Mr. Fitzpatrick asked about the dump and water filling station. CEO Chamberlain said the dump stations would not qualify as structures and said she didn't have concerns about the water filling stations. She said fences are also exempt.

**Questions on structures within setback areas**

Mr. Fitzpatrick asked if the road was gravel or pavement, and Mr. Kiser said it is gravel at this time. Mr. Fitzpatrick then asked about curb cuts and asked if two could be combined into one to reduce the overall number. Mr. Kiser explained why he favored keeping three cuts (because of different-sized camp vehicles). Mr. Fitzpatrick also asked about the distances between curb cuts, for compliance.

**Question about curb cuts**

Mr. Fitzpatrick asked that setback lines from wetland areas be shown on the plan. A discussion about state law and town ordinance ensued, and Planning Director Gagnon noted the wetlands would have to be 80,000 square feet to trigger setbacks. The wetland area in question is far below that threshold, all agreed.

**Question about wetlands**

**Mr. Fitzpatrick moved to accept the following checklist items as waivers in the site plan application [SP-2020-02] for Bar Harbor Oceanside Kampground: 1F; 4A-4E; 5A and 5C; 6C, D and E; 7B-E and 7G; 7.1 A, B, D and E; 9F, H, I, J, K, X, DD, EE, FF, and JJ; 11F; 12C, E, G, H, I, L, M, N; 16B; 18B; 20D; 23B; 24D; 25C; and 26A-F. Mr. Eleftheriou seconded the motion. With no discussion, the motion then carried unanimously (4-0).**

**Move to accept waivers as listed at left for application SP-2020-02: ACCEPTED (4-0)**

**At 4:25 PM, Chair St. Germain invited members of the public to ask questions or share concerns. No one came forward to speak, and Chair St. Germain closed the public comment period at 4:25 PM.**

**Public hearing held at 4:25 PM, with no comments**

**Mr. Fitzpatrick moved to find, per the Bar Harbor Land Use Ordinance s125-66, application [SD-2020-02] complete with the exception of capacity letters from the fire department and public works, that shall be submitted at the compliance review meeting, and to schedule a public hearing for Wednesday, April 1. Ms. Brooks seconded the motion, which then passed unanimously (4-0).**

**Move to find application complete pending receipt of capacity letters, and schedule for public hearing on April 1, 2020: APPROVED (4-0)**

**c.) Sketch Plan Review for Subdivision/Planned Unit Development (Village) — PUD-2020-01 — Schooner Head Housing**

**Project Location:** Tax Map 253, Lot 011 on Schooner Head Road; encompassing a total of ±40.24 acres, according to town tax records. The subject land is all in the Village Residential zoning district.

**Applicant:** Developers Collaborative

**Owner:** The Jackson Laboratory

**Application:** To develop a 44-unit residential subdivision in five buildings (one three-story, four two-story) on Schooner Head Road.

*Per §125-72 E. of the Bar Harbor Land Use Ordinance, the Planning Board shall entertain brief public comment on the proposal for the limited purpose of informing the applicant of the nature of any public concerns about the project so that such concerns may be considered by the applicant in preparing his/her application.*

- i. Schedule site visit (mandatory) and neighborhood meeting (optional)

**Mr. Fitzpatrick acknowledged that the applicant (The Jackson Laboratory, the property owner) is his employer, and as such said he would be recusing himself. He left the room at 4:28 PM. With his departure, the voting membership of the board was reduced to three members.**

**Chair St. Germain asked for a motion to accept Mr. Fitzpatrick’s self-recusal. Ms. Brooks moved to accept Mr. Fitzpatrick’s recusal from the agenda item, which was seconded by Mr. Eleftheriou. The motion then carried unanimously (3-0).**

Present for the applicant were Catherine Longley, executive vice president and chief operating officer at The Jackson Laboratory, along with engineer Sarah Nicholson from Woodard & Curran and senior project manager Michael Lyne from Developers Collaborative. Ms. Longley said they were thrilled to be before the board and to talk about their plan. She spoke first about the lab’s work in general to address housing for its employees.

Ms. Longley then spoke about this particular project: long-term rental units for lab employees, built on land owned by the lab off of Schooner Head Road. She said the 44-units in this proposal represent the first phase of a larger project, and would include a mix of one-, two-, and three-bedroom apartments. She noted that the lab had hosted a neighborhood meeting of its own earlier in the year, and said it planned to hold more meetings going forward, also. She said the lab welcomes input from its neighbors.

Ms. Longley explained the role of Developers Collaborative in the project. She said Developers Collaborative would develop the project, and own, maintain, lease and pay taxes on the buildings. She said the lab would be leasing the property to Developers Collaborative under a ground lease. She then turned over the presentation to Mr. Lyne.

**Sketch Plan Review for PUD-2020-01, Schooner Head Housing**

**J. Fitzpatrick recuses himself due to employment w/ Jackson Lab; voting membership down to 3 members**

**Move to accept J. Fitzpatrick’s recusal APPROVED (3-0)**

**Catherine Longley, Sarah Nicholson and Michael Lyne present to represent applicant, owner**

**C. Longley speaks about lab’s interest in housing, this project in particular**

**Role of Developers Collaborative and relationship with lab reviewed/explained**

Mr. Lyne spoke about his company and the work that it has done in the state, including in Ellsworth. He said the company does a mix of market-rate and affordable housing, though the latter is its niche. He said the company and the lab have worked closely together for six months and that it feels like a good fit.

**M. Lyne speaks about Developers Collaborative**

Ms. Nicholson spoke about discrepancy regarding the size (in acres) of the site, noting the numbers range between 36 and 40. She said the discrepancy would be cleared up and resolved. She spoke about the proposed development and reiterated that this is seen as a first phase of a larger project — but that this application is for 44 units. She gave an overview of the location and layout of the project. She outlined the distinction between parking and pedestrian space.

**S. Nicholson speaks about this being first phase of a larger development**

Ms. Nicholson noted an error on one of the plans, relating to the percentage of impervious area (32 percent, which is incorrect). She said that figure was mistakenly calculated based on the area of phase one, rather than the whole lot.

**Correction of error with numbers on site plan presented**

Mr. Eleftheriou asked where future phases would be located, and the applicants responded they would generally be to the south of the first phase. Chair St. Germain asked about elevations on the site, which Ms. Nicholson had earlier noted were steep in sections. Ms. Nicholson responded to this question.

**Discussion about future phases**

Chair St. Germain asked about the checklist. He said at the earlier meeting hosted by the lab, there were discussions about upgrading water and sewer service down Schooner Head Road. He said there was a waiver request for the road (12J — design details for street improvements) and asked if that was something the board needs to look at or if it will be handled by public works. Ms. Nicholson said she did not think the utilities upgrades had to do with the Planning Board, but that it would require working closely with the town. Planning Director Gagnon said capacity letters would need to be provided.

**Question about utility issues and what board will need to see/review**

Chair St. Germain said the PUD-V standards (which is the only way Multifamily II dwellings can be done in the Village Residential zoning district, he noted) requires part of the development to be affordable for certain tenants. He wondered how the requirements of the Land Use Ordinance matched with the lab's plan to use this for housing for its own employees. Chair St. Germain referred to §125-69 S. (6) (b), which requires a minimum of 20 percent of the units (calculated from base development density) to be affordable. That standard also refers to §125-69 R., which has specific affordable housing requirements.

**Question about affordable housing requirement within PUD-V standards**

Chair St. Germain asked if the applicant had considered this for purposes of eventual compliance review. Ms. Brooks said she wondered the same thing. Mr. Eleftheriou read from §125-69 R. He read specifically from §125-69 R. (3) (a).

**Further discussion on subject of affordable housing requirements**

Discussion ensued between the board and Planning Director Gagnon, who asked how this was different from or similar to the Acadia Apartments project on West

Street Extension. As discussion continued, Planning Director Gagnon said she was confident the applicant could come up with a plan to meet the requirement. She thanked Chair St. Germain for raising the issue now, early in the process.

Mr. Lyne said he appreciated the feedback from the board and said the applicant would look into the matter further. He asked how the 20 percent requirement would apply in phased project such as this. Further discussion with the board followed. Chair St. Germain noted 20 percent of base development density on this particular parcel could be as high as 40 units, even if the applicant did not build out to the lot's full allowable potential. Mr. Lyne said the applicant would work with staff to address this issue further. Chair St. Germain said another applicant had recently done a project in this same district, and had a plan done.

Mr. Lyne asked if the applicant could request a waiver relating to this requirement, in regard to how the 20 percent was applied over the phases of the project. Chair St. Germain said it was an interesting question. Ms. Brooks spoke about her reading of the ordinance in relation to this application. Discussion continued. "I hope we can figure this all out because I think it's, overall, a good project," said Ms. Brooks. "It's just fine-tuning some of this stuff."

Planning Director Gagnon returned to the subject of utilities and said the applicant would be providing water and sewer details regarding how it would be laid out on site and how it would connect to the town lines.

Ms. Nicholson said the plan is to move the project along as quickly as possible (to be at the next meeting for completeness, etc.). She spoke next about the Maine Department of Environmental Protection permitting process. She said the DEP sees this as a common scheme of development because the lab owns the land and the lab's site location permit will need to be amended to cover this project. Ms. Nicholson said the applicant has already talked with the DEP and gotten permission for the parking lot area for this project to be covered under an exemption for facilities with existing site location permits. She said that would allow for up to 30,000 square feet to be built without upfront DEP review.

Ms. Nicholson said she was bringing that up because the applicant will not have a DEP permit when it comes back before the board but will have documentation from DEP stating the agency is fully on-board with that approach. She said the DEP review will likely be concurrent with Planning Board review, but that approval from the state agency will likely take longer and come later. Planning Director Gagnon noted that the approach is a risk on the applicant's part, which Ms. Nicholson acknowledged.

Chair St. Germain referenced a letter the board had received and asked if the applicant had also been provided with a copy. Chair St. Germain said the primary concern of the letter writer seemed to be buffering, and he invited the applicant to talk about buffering and setbacks. Ms. Nicholson noted the setback is shown

**Continued discussion on affordable housing requirements**

**Note on water and sewer details**

**Applicant explains permitting process with DEP, getting an exemption and acknowledges risk that comes with doing this**

**Question about comment in letter**

on the site plan. Mr. Lyne spoke about the proposed layout of the site, and the need to maintain a buffer between the road and the parking area. He said parking had been pushed back from an earlier plan, thereby increasing the buffer space. "We certainly don't want a total hardscape right up against Schooner Head Road," Mr. Lyne said. He spoke more about the overall layout of the site, and said the applicant wants to "keep a light-hand-on-the-land mentality." Mr. Lyne said the applicant would work with Friends of Acadia in addressing a recreational path that passes through the property presently.

**Applicant reps speak about setbacks and buffers along Schooner Head Road**

**Mention of recreational path**

Chair St. Germain asked if there was any comment from the public, and there was not. He then asked if there were any suggestions from board members for the applicant as they prepare for completeness review at the next meeting. There was discussion of when the site visit and neighborhood meeting would be held. Chair St. Germain asked if the rendering shown to the board that night was available online, and staff and the applicant discussed that matter.

**No comment from public at meeting**

**Discussion of site visit and neighborhood meeting**

Ms. Nicholson asked what documentation the board would want for right, title and interest, given the ownership/leasing structure she had outlined earlier.

Mr. Eleftheriou asked how market-rate and affordable rents are determined. Mr. Lyne spoke to this question, and spoke about the Maine State Housing Authority as well as Housing and Urban Development standards.

**Question about market-rate versus affordable**

Chair St. Germain referred back to §125-69 R. and said it sort of defines what is considered affordable rent. Mr. Lyne asked how compliance would be shown. Chair St. Germain said Acadia Apartments and Compass Harbor were two previous projects that were PUDs in the Village Residential zoning district. There was discussion of attorneys being involved. Planning Director Gagnon said the applicant could develop something, show it to staff, and then have an attorney review it if the board had any legal questions or concerns.

**More discussion about affordable housing issue**

Discussion turned to the site visit and neighborhood meeting. It was noted that 10 AM on Friday, March 20 worked for the applicant, if it worked for the board, to hold a site visit with a neighborhood meeting immediately following. Chair St. Germain noted that Vice-chair Cough had raised a concern prior to the meeting about the propriety of holding the neighborhood meeting at the lab, but Chair St. Germain said he did not have a problem with that. Ms. Brooks said she did not see it as an issue, either.

**Board does not have concerns about holding neighborhood meeting at the lab**

**Ms. Brooks motioned to hold a site visit at 10 AM on Friday, March 20, with a neighborhood meeting following immediately afterwards at The Jackson Laboratory. Mr. Eleftheriou seconded this motion, and it then carried unanimously (3-0).**

**Move to hold site visit at 10 AM on March 20, followed by neighborhood meeting at the lab: APPROVED, 3-0**

**Mr. Fitzpatrick returned to the room at 5:09 PM. With his return, the voting membership of the board returned to four members.**

**J. Fitzpatrick returns, voting membership back to four members**

**d. Completeness Review for Site Plan SP-2020-01 — Bar Harbor Savings & Loan**

**Project Location:** 15 Everard Court (Tax Map 104, Lot 389, encompassing ±0.1 acre of land in the Downtown Village I zoning district)

**Applicant/Owner:** Bar Harbor Savings & Loan

**Application:** Modification of an approved site plan (SP-2018-06) for parking lot design. The proposal is to increase the number of parking spaces from eight to 12. The revised design will require double-stacked (tandem) parking, designated for employees only.

Mike Rogers, landscape architect at LARK Studio in Bar Harbor, was present to represent the applicant. He reviewed the history of the site and the previous review process for the original parking lot plan. He explained the bank wanted to expand the amount of parking available there and explained how they made changes to achieve that (elimination of a lawn panel and instituting a tandem/double-stacked parking system). Mr. Rogers said he believed he had achieved everything staff had asked for after going through the Technical Review Team process.

Chair St. Germain asked if the parking was required for the bank use, or if it was instead independent parking. Mr. Rogers said it was the latter, being done to make it easier for their employees and customers.

Mr. Eleftheriou asked about prescriptive rights. Mr. Rogers said it was a holdover from the earlier site plan review process. Mr. Eleftheriou asked if those rights were still needed for this application and Mr. Rogers said he believed so. Planning Director Gagnon noted it was a condition of approval in the previous application, and that the applicant had not since provided the town with proof that the condition had been met. She spoke about the use of the term “prescriptive rights” and said that after conversation with the town’s attorney that was likely not the right term to use. Planning Director Gagnon referred to page one of the staff report and her remarks there, and said the bank could pursue an easement in writing with the town. She said that would require discussion with the town manager and Town Council. She said it should be “workable.”

Mr. Fitzpatrick asked if the previous site plan approval had expired. Planning Director Gagnon said it had not. She said the question now was if the board was willing to do a modification of standard to allow for tandem parking. She said members of the Technical Review Team had voiced no great concerns during their review of the application. She noted the fire chief did want to ensure adequate year-round clearance, and that the applicant had demonstrated that. She said staff also asked for signage to be put in place so the town (i.e., Police Department) does not have to field the calls. Mr. Rogers said that was done.

Completeness review for SP-2020-01, Bar Harbor Savings & Loan

Mike Rogers present to represent the applicant, he notes history of site and change in plans

Discussion about prescriptive rights vs. standard easement from town

Discussion about changes in plan, why it’s back before the Planning Board



Chair St. Germain asked staff why the Planning Board was reviewing the application if it was not required for the use. CEO Chamberlain said it is because parking lots require site plan approval. Planning Director Gagnon then clarified that point number one in the staff report was moot because after talking with CEO Chamberlain further she realized the issue had in fact been taken care of.

**More discussion about why plan is back before board**

Chair St. Germain asked if there was a hope that the modification of standard request would be discussed at the meeting. Mr. Rogers noted there are 12 employees in the office who all work on the same schedule. He said there was a plan for valet parking if needed, and that signage would be put in place, and explained how other issues (snow removal, etc.) would also be addressed.

Chair St. Germain said the fundamental question was whether the board was comfortable with stacked parking. Ms. Brooks said she was comfortable with it. Mr. Fitzpatrick said as presented, he would “fully support it.” Mr. Eleftheriou said he agreed. Chair St. Germain asked CEO Chamberlain for her thoughts. She said in this particular situation, she did not have a strong objection. But in general, she said she is “not a big fan of relying on other people to move cars in order for other people to maneuver out” and said she thinks it starts looking busy when cars are double stacked (especially in situations where it is not a back lot). Planning Director Gagnon said if the board chooses to grant the modification of the standard, it would be important for the board to state the reasons it is doing so “so that this does not become necessarily a practice for everything, everywhere.” She acknowledged the reasons that might set this case apart. Chair St. Germain said he did not have a problem with the bank’s proposal at all.

**Discussion with modification of standard to allow for tandem parking**

CEO Chamberlain said the bank will need to operate the site the way the Planning Board approves the application. “They can’t just go and do something different,” she said. “That never happens in this town,” Mr. Eleftheriou deadpanned.

**Procedural discussion on why this application is necessary, carrying over previous conditions of approval**

Chair St. Germain said it seemed the board was sympathetic to the bank’s request. There was discussion about how this application supersedes the previous one. Planning Director Gagnon said a request for modification comes to the planner, but that she did not feel comfortable signing off on this particular application. CEO Chamberlain said the previous application, by default, would be null and void when this application is approved. Planning Director Gagnon said she would provide the board’s previous decision to the Planning Board to make sure all the previous conditions of approval carried over. There was a discussion about communication from the title attorney.

Discussion turned to waiver requests. Mr. Fitzpatrick referred to item 5C, relating to Design Review Board. Planning Director Gagnon said the checklist was built with the idea that it was amending the previous approval. There was discussion about how best to proceed in this process. Mr. Rogers said everything was included in order to make sure the board had a full application to look at.

**Discussion of wavier requests**

There was more discussion. Mr. Fitzpatrick said his concerns were strictly administrative, to ensure that proper process was being followed.

Mr. Fitzpatrick said he was confused as to why there were a lot of waiver requests in areas that he would not expect them, based on what was submitted. Ms. Brooks wondered if it would be efficient to simply go through the lists of waivers right then and see what is applicable. Chair St. Germain recapped what needed to be done to move the project forward. There was more discussion. Planning Director Gagnon asked if she could meet with Mr. Rogers before the next meeting and produce a revised checklist. Chair St. Germain noted the board has sometimes found an application incomplete, but then scheduled it for a public hearing pending receipt of any missing materials (such as a checklist). He recapped how that process would work: the board could request an updated checklist, find the application incomplete, and still schedule it for a public hearing pending receipt of an updated checklist. Planning Director Gagnon said it would be helpful to have the checklist done before the application deadline.

**Chair St. Germain said the board would find the application incomplete, but schedule it for a public hearing on Wednesday, April 1, 2020 pending the receipt of an updated waiver request checklist, with the deadline for that receipt by the Planning Office to be March 12, 2020. After a suggestion from Planning Director Gagnon, he added the board would also like the previous decision and letter from the attorney for the applicant (she said the staff would supply the decision). Chair St. Germain clarified that what he said was a motion. Mr. Eleftheriou seconded the motion, and without further discussion it then carried unanimously (4-0).**

**e. Completeness Review under Site Plan Review for Subdivision SD-2019-02 — Harborecove (formerly Harbor View)**

**Project Location:** 25 Crooked Road (Tax Map 216, Lot 006; encompassing 4.5 acres of land in the Hulls Cove Business zoning district)

**Applicant/Owner:** ABC, LLC

**Application:** The renovations of three, single-family dwelling units; the conversion of an existing single-family dwelling unit into a two-family dwelling unit; and the construction of one new, two-family dwelling unit and of six new, single-family dwelling units for a total of 13 dwelling units.

Mr. Rogers remained at the table to represent applicant ABC, LLC and present its application. He noted that the board had held its pre-application/sketch plan review, along with a site visit and neighborhood meeting, back in the fall of 2019. He spoke about how this is planned as an affordable housing development, adding seven new buildings to the site in addition to restoring the existing buildings to working condition. He also spoke about driveways and wetlands. Mr. Rogers noted that there was a question about a waterway on the site, and whether it was a stream. He said the Maine Department of Environmental

More discussion on waiver requests, and updating checklist

Move to find the application SP-2020-01 incomplete, pending receipt of updated waiver request checklist, and schedule for public hearing on April 1, 2020: APPROVED, 4-0

Completeness review for SD-2019-02, Harborecove (formerly Harbor View) subdivision

Mike Rogers also representing this applicant

Gives overview and explanation of the proposed project DEP determined one waterway was not a stream

Protection looked at it and determined it not to be a stream and so it is instead just a drainage ditch. Therefore, no DEP permit is required for that.

Mr. Rogers noted changes that were made to the plan: adding a 30-foot paved buffer coming off of Crooked Road (the rest of the driveway is gravel) and asking for a modification of standard relating to power supply. He said it costs about \$80,000 to do buried electric lines and noted this is intended to be an affordable housing project. Overhead power, he said, would cost \$12,000 to \$15,000. There was a discussion about how much underground power would add to the cost of each housing unit. Chair St. Germain noted there is already overhead power going to some existing buildings on site. Discussion followed. Chair St. Germain said the matter would be resolved at the next meeting.

Chair St. Germain asked about the small pond located on the site. Mr. Rogers said the fire department did not want to use it as a fire pond. Planning Director Gagnon said it is pretty grown in, appears to be full of silt and serves a purpose for stormwater management along the Crooked Road. Mr. Rogers spoke about two fire hydrants shown on the plan, in order to satisfy a fire department request.

Mr. Fitzpatrick said he thought that there were a bunch of things missing from the application: a receipt (others present said they had it), statements of capacity (Planning Director Gagnon said staff would sometimes prefer to write capacity statements between completeness and compliance reviews, and Mr. Fitzpatrick said he knew they would be coming), land use district noted on the site plan (he was shown where it was noted), anything developed or sold within the past five years (he was told nothing had been), subdivisions within 200 feet (Mr. Rogers indicated there were none), letters from Inland Fisheries & Wildlife, State Historic Preservation Office, etc. (Planning Director Gagnon noted those would be required as this is a subdivision — checklist items 9T, U and V), size of wetlands on the northeast corner of the property (Mr. Rogers said new construction for the project is outside the 75-foot setback), 100-year flood plain (Mr. Rogers said it does not extend that far, but said he would provide a FEMA map), and lot coverage calculations (Mr. Rogers said they were shown on the civil drawings rather than the site plan).

Regarding checklist item 20B (asking for building elevations, heights, exterior materials and colors), Mr. Fitzpatrick asked why it was needed in this case if it's a subdivision. CEO Chamberlain said it is a subdivision by unit rather than lots, and that the plan is for the applicant to construct the buildings. She asked where the limits of common elements for each unit are (where are the building envelopes) for the new buildings. Discussion ensued. Mr. Rogers said the information was provided on C1, echoed by a couple of board members. He said specific colors have not been selected, as each home will be built separately. CEO Chamberlain said her interest was knowing what area the board would be approving for each unit. She said that will be needed as future building is done. There was more discussion on this among board members, staff and Mr. Rogers.

**M. Rogers speaks about changes to plan since board last reviewed it**

**Discussion on underground vs. overhead power, and associated costs**

**Discussion about water body and fire hydrants**

**J. Fitzpatrick leads review of items missing from application, M. Rogers responds**

**Discussion of buildings, buildable area, lot coverage, building specs**

Planning Director Gagnon said it should be referenced in the covenants, as well. Chair St. Germain said it should be on the site plan, as well, and explained why. "I think that the board should have some idea of what it could be built out to," said CEO Chamberlain. More discussion followed. Mr. Fitzpatrick suggested marking a developable area rather than a specific building footprint. He clarified that this would include anything impervious that would count toward lot coverage. Planning Director Gagnon spoke to exterior materials and colors, and CEO Chamberlain said it was not crucial information for this application.

**More discussion of buildable area and building size and what will be shown on site/other plans**

In seriousness, Mr. Fitzpatrick said he wanted to see the colors and other details because they are asked for in the ordinance.

**Board wants to see colors as required**

Mr. Eleftheriou asked what sheet L1 was for. Mr. Rogers said it was used to show things that were further away, such as fire hydrants. Mr. Fitzpatrick asked which plan the board would sign, and Mr. Rogers said it would be C1. The board noted that different units have different numbers on different plans, and asked for consistency. Mr. Fitzpatrick said to make sure that everything listed on checklist item 9 appears on the site plan that the board will eventually sign. Planning Director Gagnon said the board can sign more than one sheet. There was discussion about how all of this could best be done.

**Discussion of what plan the board will end up signing and what will be shown**

**Mr. Fitzpatrick moved to grant the waivers requested by the applicant as listed in the checklist dated August 5, 2019, as such waivers will not unduly restrict the review process as they are inapplicable, unnecessary and/or inappropriate for complete review. Mr. Eleftheriou said his concern was that the checklist he was looking at was dated February 13, 2020. Mr. Rogers spoke to this matter. Mr. Fitzpatrick amended the date in his motion to February 13, 2020. Mr. Rogers noted a revised document was submitted February 25, 2020, though the only difference was that the applicant was looking for a modification of the requirement for underground power. He noted it all goes back to the checklist from the town dated August 5, 2020. Mr. Eleftheriou seconded Mr. Fitzpatrick's motion, as amended. Without further discussion, it then carried unanimously (4-0).**

**Motion to grant waivers requested as shown on checklist: APPROVED, 4-0**

**Mr. Fitzpatrick moved to find , the Bar Harbor Land Use Ordinance §125-66, the application [SD-2019-02] complete, with the following exceptions [from the checklist]: items 6B, 6C and 6E (capacity statements); 9T, 9U, 9V (statements from state/federal agencies); 9Y (100-year flood plain); 9AA (wetland setbacks); 18A (fire capacity statemen); 20B (building elevations and color board); and 24A (cost estimate); that shall be submitted at a date to be established by staff and to schedule a public hearing for April 1, 2020. Planning Director Gagnon noted the submittal deadline for the April 1 meeting is Thursday, March 12. Mr. Eleftheriou seconded the motion, and without further discussion it carried unanimously (4-0).**

**Motion to find application SD-2019-02 complete, with exceptions noted at left, to be provided at date set by staff, and set a public hearing for April 1, 2020: APPROVED, 4-0**

**f. Public Hearing and Recommendation of the Planning Board, to be posted on the warrant for the Town Meeting of the Town of Bar Harbor on June 9, 2020 to adopt or reject a Land Use Ordinance Amendment, dated December 16, 2019 and entitled “Addressing Officer”**

Chair St. Germain noted that the Planning Board is nearing completion of its involvement in the Land Use Ordinance amendment proposals. He said it might be the last time the board needed to vote on anything relating to the proposals. He noted the Town Council had already voted previously to place these proposals on the warrant for the June town meeting, and that the board’s job was now to recommend whether the proposals ought (or ought not) to pass. The Planning Board’s recommendation, he noted, will be printed on the ballot.

**Chair St. Germain opened a public hearing at 6:16 PM. When no one came forward to speak, the public hearing was closed.**

**Mr. Fitzpatrick moved to recommend that [the “Addressing Officer” amendment] ought to pass. Mr. Eleftheriou seconded the motion. With no further discussion, the motion then carried unanimously (4-0).**

**g. Public Hearing and Recommendation of the Planning Board, to be posted on the warrant for the Town Meeting of the Town of Bar Harbor on June 9, 2020 to adopt or reject a Land Use Ordinance Amendment, dated December 16, 2019 and entitled “Permitting Authority for Certain Residential Uses...”**

**Chair St. Germain opened a public hearing at 6:17 PM. When no one came forward to speak, the public hearing was closed.**

**Mr. Fitzpatrick moved to recommend that the [“Permitting Authority for Certain Residential Uses...” proposed] ordinance change ought to pass. Mr. Eleftheriou seconded the motion. With no further discussion, the motion then carried unanimously (4-0).**

**h. Public Hearing and Recommendation of the Planning Board, to be posted on the warrant for the Town Meeting of the Town of Bar Harbor on June 9, 2020 to adopt or reject a Land Use Ordinance Amendment, dated December 16, 2019 and entitled “Employee Living Quarters”**

**Chair St. Germain opened a public hearing at 6:18 PM. When no one came forward to speak, the public hearing was closed.**

**Mr. Fitzpatrick moved to recommend that the [“Employee Living Quarters” proposed] ordinance change ought to pass. Mr. Eleftheriou seconded the motion. With no further discussion, the motion then carried unanimously (4-0).**

Public hearing/  
recommendation of  
board on Addressing  
Officer proposed  
LUO amendment

Chair St. Germain  
gives overview of  
LUO amendment  
process, board’s role

Public hearing with  
no comment

Move to recommend  
Addressing Officer  
ought to pass:  
APPROVED, 4-0

Public hearing/  
recommendation of  
board on Permitting  
Authority proposed  
LUO amendment

Public hearing with  
no comment

Move to recommend  
Permitting  
Authority ought to  
pass:  
APPROVED, 4-0

Public hearing/  
recommendation of  
board on Employee  
Living Quarters  
proposed LUO  
amendment

Public hearing with  
no comment

Move to recommend  
Employee Living  
Quarters ought to  
pass:  
APPROVED, 4-0

**i. Public Hearing and Recommendation of the Planning Board, to be posted on the warrant for the Town Meeting of the Town of Bar Harbor on June 9, 2020 to adopt or reject a Land Use Ordinance Amendment, dated December 16, 2019 and entitled “Shared Accommodations”**

**Public hearing/  
recommendation of  
board on Shared  
Accommodations  
proposed LUO  
amendment**

**Chair St. Germain opened a public hearing at 6:19 PM. When no one came forward to speak, the public hearing was closed.**

**Public hearing with  
no comment**

**Mr. Fitzpatrick moved to recommend that the [“Shared Accommodations” proposed] ordinance change ought to pass. Mr. Eleftheriou seconded the motion. With no further discussion, the motion then carried unanimously (4-0).**

**Move to recommend  
Shared  
Accommodations  
ought to pass:  
APPROVED, 4-0**

**j. Public Hearing and Recommendation of the Planning Board, to be posted on the warrant for the Town Meeting of the Town of Bar Harbor on June 9, 2020 to adopt or reject a Land Use Ordinance Amendment, dated December 16, 2019 and entitled “Official District Boundary Map Amendment and New Uses in Hulls Cove”**

**Public hearing/  
recommendation of  
board on Boundary  
Map/New Uses in  
Hulls Cove**

**Chair St. Germain opened a public hearing at 6:19 PM. When no one came forward to speak, the public hearing was closed.**

**Public hearing with  
no comment**

**Mr. Fitzpatrick moved to recommend that the [“Official District Boundary Map Amendment and New Uses in Hulls Cove” proposed] ordinance change ought to pass. Mr. Eleftheriou seconded the motion. With no further discussion, the motion then carried (3-1, with Mr. Fitzpatrick opposed).**

**Move to recommend  
Boundary Map/New  
Uses in Hulls Cove  
ought to pass:  
APPROVED, 3-1**

## **VII. OTHER BUSINESS**

### **a. Vacation rentals update from Planning Director**

**Planning Director Gagnon referred to a status report that she had provided to the board in advance of the meeting and outlined what was included in that report. She outlined the work that is being done by staff working with the Vacation Rental Zoning Advisory Group. She outlined the proposed schedule going forward, that the group is operating under at present. She said she did not want to go public with the proposal until “we are ready to stand in front of a group and answer all the questions intelligently.” She elaborated on that position.**

**Planning Director  
Gagnon gives  
update on Vacation  
Rental Zoning  
Advisory Group and  
larger effort**

**Mr. Eleftheriou asked about data-gathering efforts, and he referred to the idea of having a third-party gather data related to vacation rentals. Planning Director Gagnon said the previously discussed idea of working with Host Compliance was more about ordinance enforcement than gathering data. She said that effort was on hold “as everything was in flux.” Ms. Brooks noted there was a lot of data in the recent presentation that had been put together and delivered.**

**Question about data  
gathering**

**b. Discussion of possible Design Review Board LUO amendment(s) for fall 2020**

Planning Director Gagnon said staff was trying to maintain better contact between the Design Review Board and the Planning Board, so that the latter group is not surprised when the former group is working on something. She said staff had met previously with the Design Review Board to come up with priorities and issues of concern to the Design Review Board. She said the goal was to break those lists up into small chunks that can be dealt with in a manageable way.

Planning Director Gagnon outlined what some of the ideas were that were being looked at (one example: tying DRB to specific properties rather than zoning districts, as zoning district lines sometimes change). Another example is internally illuminated signs, and another issue relates to Appendix A and Appendix B. Design Review Board Chairman Barbara Sassaman came to the microphone and spoke about some of these issues. She said the change relating to Design Review Board oversight would focus on properties that are along street, which would eliminate a number (she said perhaps several dozen) properties that are behind main streets but are now included in Design Review Board purview. Ms. Sassaman explained why several properties were being looked at for adding to Design Review Board purview, and she said that was because town officials wanted the overlay to go to road intersections. She also spoke about language relating to internal illumination for signs. Discussion continued between Ms. Sassaman and Chair St. Germain.

**VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA**

Assistant Planner Steve Fuller offered several reminders: that there would be a site visit the following day at 1 PM, for those able to attend, for the proposed Maller/MacQuinn subdivision off of Owl's Nest Lane followed by a site visit at 2:15 PM at the MDI Bio Lab. He also noted there was a special meeting scheduled for the following week, on Thursday, March 12, and that board members had received information for that meeting at the present meeting.

**IX. REVIEW OF PENDING PLANNING BOARD PROJECTS**

Planning Director Gagnon noted there are 14 projects in various stages of Planning Board or Planning Department review. She listed some of the projects.

Mr. Eleftheriou asked what land use topic might be addressed next after work is done on vacation rentals, within the housing policy framework document. Planning Director Gagnon said the next topic would be density (area per family). She said staff met with the College of the Atlantic and to see how its Land Use Planning & GIS class might be involved. She said looking at dimensional

**Discussion of possible Design Review Board related LUO amendments for fall of 2020**

**Planning Director Gagnon gives background**

**Planning Director Gagnon and DRB Chairman B. Sassaman explain ideas, discussion with Chair St. Germain**

**Assistant Planner Fuller gives reminders on upcoming meetings**

**14 projects in various stages of review at present**

**Discussion about what is next in land use amendment — Planning Director Gagnon says density**

requirements per district could show how those lead to fragmentation of habitat, sprawl and that it is not conducive to workforce housing at all (due to minimum area per family and setback requirements. She said a visual illustration of these issues could be helpful. Chair St. Germain asked if the effort to examine density issues would include a zoning advisory group and Planning Director Gagnon said it would. He asked what the timeline might look like, and she spoke to that. She said it would include brainstorming sessions with developers. Ms. Brooks volunteered to serve on this group, drawing on her experience in real estate.

**Further discussion on this, involvement of COA students**

Mr. Eleftheriou asked about licensing for Employee Living Quarters and Shared Accommodations. Planning Director Gagnon spoke about that effort. Mr. Eleftheriou said he saw it as “extremely important to have that completed by the vote, in order to gain the trust of the residents to vote favorably on these things in June.” Mr. Fitzpatrick said he thought that it was “essential.” CEO Chamberlain said that work was “a priority for us right now, to get that completed.”

**Licensing for ELQ and SA proposals — all involved agree this is critical and a priority**

Ms. Brooks asked about the comments from Perry Moore (relating to nitrate analysis and minimum lot size) at the site visit for the project that would be coming back to Planning Board on March 12. The planning director responded. She noted the size of the lot in question exceeds town and state minimum as is. Further discussion ensued among board members and with staff.

**Question about issue raised by P. Moore at Feb. 28 site visit**

Mr. Eleftheriou asked about the requirement for underground utilities in a subdivision in the Land Use Ordinance. He asked if there was any institutional knowledge about why that was in the ordinance. Both he and CEO Chamberlain said they thought it had to do with aesthetics. Mr. Fitzpatrick said it also helps ensure resiliency. Discussion ensued about the pros and cons of this requirement. Mr. Fitzpatrick spoke about the advantages of underground power RE: weather.

**Discussion about requirement for underground utilities in a subdivision**

#### **IX. ADJOURNMENT**

**At 6:49 PM, Mr. Fitzpatrick moved that the board adjourn the meeting. Mr. Eleftheriou seconded the motion, and it then carried unanimously (4-0).**

**Meeting adjourns at 6:49 PM**

**Minutes approved by the Bar Harbor Planning Board on April 29, 2020:**

5.06.20  
Date Basil Eleftheriou Jr., Secretary / Bar Harbor Planning Board