

**Bar Harbor Planning Board
Wednesday, June 3, 2020 — 4:00 PM
Council Chambers – Municipal Building
93 Cottage Street in Bar Harbor**

*The meeting was held via the Zoom online meeting platform,
and was broadcast live on Spectrum channel 1303 in Bar Harbor
as well as online via Town Hall Streams (where it is also archived).*

I. CALL TO ORDER

Chair Tom St. Germain called the meeting to order at 4:03 PM.

Call to order at
4:03 PM

Planning Board members present were Chair St. Germain, Vice-chair Joe Cough, Secretary Basil Eleftheriou and members Erica Brooks and John Fitzpatrick.

Five board
members present

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

Four staff
members present

II. ADOPTION OF THE AGENDA

Vice-chair Cough made a motion to adopt the agenda, seconded by Mr. Fitzpatrick. On a roll-call vote, the motion carried unanimously (5-0).

Agenda adopted,
5-0

III. EXCUSED ABSENCES (None)

No absences

IV. PUBLIC COMMENT PERIOD

Chair St. Germain opened the public comment period at 4:04 PM and Assistant Planner Fuller read aloud the number for members of the public to call to make comment.

No public
comment

Ms. Brooks asked when the board would resume holding in-person meetings, and Planning Director Gagnon said she was not sure. She said the Planning Department is taking things day by day at this point.

Question about
having in-person
meetings again

As there were no comments, the public comment period was closed at 4:07 PM.

V. APPROVAL OF MINUTES

- a. April 10, 2020
- b. April 29, 2020
- c. May 6, 2020

Assistant Planner Fuller noted that the board had received minutes only from April 10, as the minutes for the April 29 and May 6 meetings are still undergoing the editing process. No changes were made to the April 10

Only April 10
minutes ready for
approval

minutes. Mr. Eleftheriou made a motion to approve the April 10, 2020 minutes, seconded by Vice-chair Cough. The motion carried, on a roll-call vote, 5-0.

April 10, 2020 minutes approved, 5-0

VI. ELECTION OF OFFICERS

- a. Chairperson
- b. Vice-chairperson
- c. Secretary

Vice-chair Cough moved that the election of officers be pushed off until after the appointments to the Planning Board are made, which he said is typical. Mr. Eleftheriou asked when terms expire, in June or July. Chair St. Germain asked for staff guidance.

Planning Director Gagnon replied that July is the time the elections have typically been made but that she was not aware the board generally waited for new members. Mr. Fitzpatrick said that terms expire July 31, 2020 and that “traditionally we had waited for the new folks to roll in before officers were elected.” Vice-chair Cough opined it would be “just cleaner to do it when the proper board is seated for the term.”

Discussion about when elections for board officers typically occur

Vice-chair Cough amended his motion to elect new officers at the first meeting after the appointment of board members. The motion was seconded by Mr. Fitzpatrick. It then carried unanimously (5-0) on a roll-call vote.

Motion to elect officers after appointment of board members: CARRIES, 5-0

VII. NEW BUSINESS

- a. **Completeness Review/Public Hearing/Compliance Review for SD-2019-03 — Destination Health**
Project Location: 124 Cottage Street —Tax Map104, Lot 159, encompassing ±0.16 acres of land in the Downtown Village II zoning district
Applicant/Owner: Destination Health, LLC
Application: To construct a two-story, four-unit apartment building (constituting a subdivision, by unit, under state statute) on the Brewer Avenue end of the parcel.

Completeness Review / Public Hearing / Compliance Review for SD-2019-03, Destination Health

Stewart Brecher was present to represent the applicant. Chair St. Germain asked whether there were any updates to the application; Mr. Brecher said that he believes the applicant has responded to all requests by staff. He commented on stormwater and how the post-development situation differed from the pre-development situation. He noted that although there will now be more impervious surface area, that increased runoff is being directly piped into the town’s stormwater system as opposed to flowing freely.

Stewart Brecher present for applicant

Review of new information

Mr. Brecher asked whether the building permit already applied for can be

modified from the two-unit to a four-unit apartment building or whether the applicant needs to submit for another building permit. He expressed concern about the cost. Code Enforcement Officer Chamberlain responded and explained that permits cannot be modified once issued, but that this will be a change-of-use situation which will cost less than a brand-new building permit otherwise would.

Discussion about building permits and change of use

Chair St. Germain reviewed items that were found to be missing at the last meeting. Mr. Brecher said there were capacity statements and a “very modest landscape plan” featuring planter boxes.

Mr. Fitzpatrick moved to find application SD-2019-03, known as Destination Health, complete per the Bar Harbor Land Use Ordinance Section 125-66. The motion was seconded by Mr. Eleftheriou. There was no further discussion, and the motion carried unanimously (5-0) on a roll-call vote.

Find application SD-201903 complete: CARRIES, 5-0

At 4:19 PM Chair St. Germain opened the public hearing. Assistant Planner Fuller read the contact information aloud. There were no comments and the public hearing was closed at 4:21 PM.

Public hearing, no one speaks

Chair St. Germain noted that although capacity statements received from the Bar Harbor Public Works Department said the site can handle the stormwater runoff, Planning staff had suggested that the board modify standard 125-67 L.

Mr. Fitzpatrick moved to modify standard 125-67 L., Stormwater, as the project is in the downtown on a small historic lot where the ordinance supports density, and where it is close to impossible to detain stormwater, and the town system has the capacity to handle the increase. The motion was seconded by Mr. Eleftheriou. The motion carried 5-0 on a roll-call vote.

Modify standard 125-67 L., Stormwater: APPROVED, 5-0

Mr. Fitzpatrick moved to approve application SD-2019-03, known as Destination Health, per the Bar Harbor Land Use Ordinance sections 125-67 and 125-69 N., Subdivision, per the draft decision dated June 3, 2020 and with the conditions that the water and wastewater construction plans will be reviewed and approved by the Water and Wastewater departments, respectively, prior to the issuance of building permits. The motion was seconded by Vice-chair Cough. The motion then carried unanimously (5-0) on a roll-call vote.

Move to approve SD-2019-03 (Destination Health), with conditions as noted in motion APPROVED, 5-0

b. Completeness Review/Public Hearing/Compliance Review for SD-2019-01 — The Farm Subdivision

Project Location: The subject land is located off of Route 3 and Ledgewood Road, on the following tax parcels: Tax Map 207, Lots 43, 44, 56 and 58; Tax Map 208, Lot 81; and Tax Map 214, Lot 4. The

Completeness Review / Public Hearing / Compliance Review (SD-2019-01, The Farm)

land, totaling ±72.78 acres, is in four different zoning districts: Salisbury Cove Corridor District, Salisbury Cove Rural District, Shoreland Limited Residential District and Resource Protection District.

Applicant: The Farm, LLC

Owner: The Heirs of Chauncey McFarland

Application: The applicant proposes to construct a road and extend public utilities to create a 13-lot residential subdivision and retain approximately 30 acres of land in its current undeveloped state.

Vice-chair Cough requested recusal, as he is the applicant. The board did not take a vote on this, as they had already voted on that subject previously, and it was seen as a continuation of that earlier recusal. With Vice-chair Cough's recusal, the voting membership of the board was reduced to four.

Vice-chair Cough requests recusal; no vote but no opposition, either

Perry Moore, representing the applicant, updated the board on the material that had been provided. Mr. Moore thanked the town staff for the "good work." He noted that the Bar Harbor Town Council had given the applicant a sense that "There would be interest in having potential access [across the applicant's property] to that [adjacent piece of town-owned] property in the future," said Mr. Moore, referring to an earlier discussion on that subject.

Perry Moore present to represent applicant

Mr. Moore refreshed the Planning Board on the details of the project. He noted that the drawings now include details about the 100-year floodplain and areas of flooding and standing water. He reviewed wetland areas and vernal pools. There is a total of 13 proposed lots: one on Route 3, said Moore, the remainder on new roads that will be called Eden Farm Road and another road, Chauncey's Way. The applicant is hoping to have Eden Farm Road accepted by the town while Chauncey's Way would be private.

Review of flood plain, wetlands, vernal pools, etc.

Mention of roads

Potential well sites have been located outside of the well exclusion zones, said Mr. Moore. He noted the proposal is to do the project in phases, building one road and offering the lots for sale then building another road and offering those lots. Mr. Moore said the applicant would also like to discuss the possibility of having Lot 1 made available for sale as soon as conditions of approval are met, since it's on Route 3 and doesn't require access off a new road.

Discussion of allowing Lot 1 to be sold as soon as project is approved

Vice-chair Cough said handling Lot 1 in this way would be an advantage because this has been "a long process" and there's still a tenant living there, and the idea that they would not be able to be left in there "is a little bit odd to me." He said if that weren't permitted he isn't sure what would happen to the current tenant.

Chair St. Germain asked for a summary on the connection of the proposed road (Eden Farm Rad) to Ledgewood Road instead of Route 3, as was discussed previously, and when and why the plans were changed.

Discussion on planned road

Mr. Moore pulled up some site photographs and explained that the existing house on Lot 1 is entirely within the front setback of Route 3. He said he and the applicant consulted with their legal team, and that the feeling was that if they added another road off Route 3 within 75 feet of the house (which it would have to be because of the wetlands) that it would create a nonconformity. "That clearly creates a possibility we don't want to have to deal with," said Mr. Moore, so the access road was moved to connect to Ledgewood Road. "There's no physical access to Route 3 other than right there," he said, due to adjacent ledge, "and that location creates a nonconformity."

Moore addresses legal issues, and nonconformity

Mr. Moore said the location of the road was moved to where it is proposed on Ledgewood Road. He spoke about which trees would stay and which would go, and said a house in the way right now is on blocks and portable, if necessary. He added that Ledgewood Road is hilly and not posted, which means the speed limit is 45 MPH, per state statute. To have sight visibility, said Mr. Moore, the speed limit would need to be dropped to 25 MPH — not just for this project, but for the "safety of the road in general." If it were, he said, there would be adequate sight visibility. The existing driveway doesn't meet the sight visibility either, he added.

Moore speaks about why plan for main road has changed

Mr. Fitzpatrick reviewed what had been identified at the last meeting and what had been provided by the applicant since that time. He asked about narratives on fire protection, traffic generation and sight distance. Mr. Moore responded and Planning Director Gagnon said the department was "all set" on fire protection. Permits from NRPA on vernal pools and the stormwater permit from the DEP would be a condition of approval, noted Mr. Fitzpatrick.

Discussion of missing items from last time

Mr. Fitzpatrick moved to find application SD-2019-01 (The Farm) complete per Bar Harbor Land Use Ordinance Section 125-66. Mr. Eleftheriou seconded the motion and the board continued to discuss the application.

Mr. Fitzpatrick said traffic and sight distance would be a "compliance issue." On the subject of traffic, Planning Director Gagnon said the project is "a very low generator of traffic." She said having the curb cut on Route 3 would be undesirable in an area where "we're trying to keep traffic moving." Adding curb cuts, said Planning Director Gagnon, creates more of an issue in the long term. She acknowledged the concern of residents, but said, "I think that having that road off Ledgewood is a benefit and Ledgewood is able to handle it." She said her belief was based on the fact that it is not a large amount of traffic that's going to be generated.

Discussion of traffic and sight distance

The motion to find the application complete carried without opposition (4-0, with Vice-chair Cough recused) on a roll-call vote.

Find application SD-2019-01 (The Farm) complete: CARRIES, 4-0

At 4:46 PM Chair St. Germain opened the public hearing and Assistant Planner Fuller read aloud the contact information. As no one was heard to be on the line, the public hearing was closed at 4:48 PM. Chair St. Germain subsequently reopened the public hearing at 4:49 PM after there was a late caller, and no one on the board voiced opposition to reopening the hearing.

Public hearing opened at 4:46 PM, closed at 4:48 PM, re-opened at 4:49 PM for late call

Dirk Erlandsen, 28 Ledgewood Road, said the board had been sent a letter from some residents with “some pretty strong concerns” about the subdivision road being located off Ledgewood Road and asked whether there were any studies showing that having the new access road come off Route 3 would be a problem.

Dirk Erlandsen shares concerns about plan for roadway

Mr. Erlandsen also wondered about the extra traffic that might be generated if the subdivision road is eventually accepted by the town and possibly used to connect to an adjacent town-owned parcel. He asked about the extra 30 acres that the applicant plans to potentially hold in conservation or develop. “To us it goes beyond just the 13 lots,” said Mr. Erlandsen. If future development occurred, he asked, “Would Ledgewood Road need to be widened or improved in any way?”

Earlandsen also shares concerns about traffic and speed limit issues

Mr. Erlandsen also asked what the process is to change a 45-MPH-zone to a 25-MPH-zone and wondered whether part of the reasoning for changing the plan and moving the road to Ledgewood is because the applicant would lose a lot by having the road off Route 3.

Planning Director Gagnon noted that her comment about curb cuts was that multiple curb cuts over time creates an issue. “The idea is that one curb cut does not make a difference but over 10, 20 years it adds up,” said Planning Director Gagnon. “You’ve got to make sure you do it well or the whole town is going to pay eventually.”

Discussion between Planning Director Gagnon and Earlandsen

Mr. Erlandsen asked what the difference is between the subdivision traffic coming off the Ledgewood entrances versus coming out of their own road. Planning Director Gagnon said the difference is that this plan does not call for adding another curb cut.

Chair St. Germain said that any future town use would cause an increase in traffic. Vice-chair Cough said that traffic would depend on what the town chooses to do with the land. He said a solar farm, for example, would generate “very little traffic” other than maintenance vehicles, he said. Vice-chair Cough said what was relevant was the application before the board, and he noted that any future application would have to come before the Planning Board for review. He added that the speed limit on Ledgewood Road now exceeds what is safe and in his opinion “should’ve been fixed a long time ago.”

Discussion of possible traffic increase from any future town use on adjacent lot

Visibility on the road is blocked by topography, said Mr. Moore, and the road wouldn't need to be widened. Answering an earlier question, Mr. Moore said that the applicant is not moving the road off Route 3 to get more lots and said that moving it would also improve the habitat for one of the vernal pools.

Moore talks more about moving the road

Chair St. Germain addressed changing the speed limit. There was discussion, and a general consensus that speed limits are the purview of the Department of Transportation. Chair St. Germain said the short answer is that it is something that "doesn't get changed at Planning Board."

Mr. Erlandsen said he and neighbors don't want the road coming off of Ledgewood, and said he thought most of them did not realize the current speed limit was 45 MPH because no one travels that fast. He said he didn't want the applicant to use changing the speed limit "as sort of a selling point." Chair St. Germain closed the public hearing at 5:13 PM.

More discussion on speed limit and traffic

The board moved on to discussing traffic for the project. It generates less than 130 daily trips, considered a "low generator," said Chair St. Germain.

Mr. Fitzpatrick said he had "no concerns" about the traffic study other than getting analysis numbers from Engineer Andrew McCullough. Mr. Fitzpatrick said that, in terms of sight visibility, "You're not going to get 450 feet anywhere on Ledgewood." He added that it did not appear there would be any objection from neighbors, the applicant or the council to lowering the speed limit to 25 MPH. Mr. Fitzpatrick said he would "be inclined to modify" the standard for line of sight on Ledgewood.

The board turned to discussing the legislative boundary of Acadia National Park. Attorney Bearor tried to capture what the boundary is. "It's basically a physical description of areas that the park service may, at one point in the future, decide to acquire and in the meantime attempt to limit uses there in some fashion or another. It's not a legal boundary, it's not a title boundary... the park's not the owner of the land in question," said Attorney Bearor. But the "If this board wants to see that boundary on the plan for whatever reason it's well within your purview to ask the applicant to do so."

Discussion on legislative boundary of Acadia National Park in relation to this project

The boundary, added Attorney Bearor, doesn't impact the applicant's right to propose the development until the federal government decides to take some sort of action on the land, if it ever chooses to do so. "I think it's purely a question of the board's discretion," he said.

"A boundary needs to be surveyed," said Mr. Moore, "In order for us to put it on the plat. I don't think a line on the plat belongs." Ms. Brooks said she thinks it's sufficient to have the boundary "in note form." Mr. Eleftheriou agreed. "There's no ownership there ... Acadia National Park has no legal right to it so I don't see, really, the point."

Vice-chair Cough spoke about fairness and equitability. He said he hoped the board would do the same for other applications in the future if it requested it on this one.

Mr. Fitzpatrick asked for details on the modification of standard relating to road length. "What are the impacts of pulling the cul-de-sac forward 105 feet?" he asked, a figure which would bring the road length back into compliance. Mr. Fitzpatrick also asked what the strategy toward compliance would be should the back 30 acres get developed.

Vice-chair Cough said, "We don't have a plan for anything further than this." He said the party he is in discussions with wants to take two lots as well as the rest of the acreage. Vice-chair Cough said that "may or may not happen" and the subdivision may be smaller. One option would be an outright purchase, said Vice-chair Cough, while another would be a conservation easement.

Discussion on
modifying
standard relating
to road length

On the question of moving the cul-de-sac, Mr. Moore said it is located where it is because there is a wetland and steep slope nearby and bringing it back would impact both. The neck of the cul-de-sac is at 1,947 feet, he said, not including the 300-foot circle. He said it could be argued it's not a dead-end as it has access.

"It's conceivable to me that we could have this road connect to the town parcel and then the town parcel have a one-way access either to or from Route 3 so we would no longer be dealing with a 2,000-foot dead end road, there would be a way in and a way out in both directions," said Mr. Moore. But, he added, "That's a pigs-have-wings discussion. When they grow wings, we'll have that discussion."

In response to questions, Mr. Moore clarified that to the cul-de-sac is 1,947 feet, the length of the road around the cul-de-sac is 300 feet, the circumference of the cul-de-sac is 100 feet, while the radius is 50 feet.

Asked for his opinion, Mr. Fitzpatrick said he considers the road going to the heel of the cul-de-sac but said he wasn't sure how DOT would classify it. Mr. Moore said he'd prefer that the board clarify that the road is more than 2,000 feet but that "based upon the site conditions that was appropriate."

Mr. Eleftheriou wondered if Maine Department of Environmental Protection officials looked at the vernal pools; Mr. Moore said yes, that scientists sampled pools one and two in the spring of 2019 and the third one this spring. They counted more than 20 spotted salamander egg masses in all three of the pools and filed a report with the DEP on whether the pools are significant, said Mr. Moore.

Question about
DEP and vernal
pools

Mr. Eleftheriou asked for an explanation of the wildlife tunnel. "It's essentially a box culvert," said Mr. Moore, with an open top. It doesn't need to be maintained, he said, but will provide a crossing so amphibians can move up and down without having to cross the road. "It is a very new technology," he said.

Question about wildlife tunnel

Mr. Eleftheriou asked what the timeline for the phases of the project is; Mr. Moore said that as soon as state permits are completed and Lot 1 is monumented, they could sell that lot per the ordinance, (Section 125-85), which prohibits lots from being sold, leased or otherwise conveyed until the street upon which the lot fronts is completed, said Mr. Moore, reading from the ordinance.

Discussion about time frame for the subdivision

Mr. Moore said that if everything works out ideally, the applicant would like to have Eden Farm Road built this fall and paved no later than next spring, and offer those lots for sale after that, about a year from now. Chauncey's Way would follow, said Moore. He noted one variable, however: "Sometimes there's a lot of them on the market and they don't move."

If, for instance, the Eden Farm Road lots did not sell, he said, the applicant would like "to have the flexibility to come back to the board and say, 'This is how much longer we think we need to wait.'"

Mr. Fitzpatrick moved to modify standard 125-67 G. (3) (b) as the dead-end road exceeds the 2,000 feet maximum length by 104 feet and as the proposed "minor street" tangent between stations 3+00 and 4+00 is 3.64 feet short of meeting the required 100 feet, as it does not pose a traffic safety issue, and due to site conditions. The motion was seconded by Mr. Eleftheriou and then carried without opposition (4-0) on a roll-call vote.

Modify standard 125-67 G. (3) (b), exceeding max. road length: APPROVED, 4-0

Mr. Fitzpatrick moved to modify standard 125-67 G. (3) (a) as a sidewalk is not proposed, as the low amount of traffic in this rural subdivision does not warrant a sidewalk to provide for the safety of pedestrians. Mr. Eleftheriou seconded.

Mr. Eleftheriou asked what the procedure is to get the town to add a sidewalk, for instance, on Ledgewood Road. Vice-chair Cough said the first thing would be to decide what the rights of way are for the town on either side of the road; if the town has rights of way then it's just about "ownership and funding," he said.

Modify standard 125-67 G. (3) (a), no sidewalk: APPROVED, 4-0

The motion on 125-67 G. (3) (a) then carried 4-0) on a roll-call vote.

Mr. Fitzpatrick moved to modify 125-67 G. (3) (b) the radius of the cul-de-sac and to substitute a cul-de-sac with a hammerhead on Chauncey's Way, as neither interfere with the ability of public safety to respond. Mr.

Eleftheriou seconded the motion, which then carried without opposition (4-0) on a roll-call vote.; the motion carried, 4-0.

Modify standard
125-67 G. (3) (b),
cul de sac radius:
APPROVED, 4-0

Mr. Fitzpatrick moved to modify 125-67 G. (3) (m) the sight distance requirements at the intersection with LedgeWood Road as it does not currently met the required 450 feet for an unposted road (45 MPH) — it is short 150 feet to the east and 160 feet to the west, as the project engineer stated that the “sight distance appears suitable for the existing and projected traffic volume and function of this road.” Mr. Eleftheriou asked whether this is predicated on the speed limit being lowered; Planning Director Gagnon directed him to the staff report. Mr. Eleftheriou seconded the motion which then carried, without opposition (4-0), on a roll-call vote.

Modify standard
125-6 G. (3) (m),
sight distance:
APPROVED, 4-0

Mr. Fitzpatrick moved to modify 125-67 DD., requesting elimination of installation for underground utilities because of the existing ledge and as the above-ground utilities will not have a dis-harmonious relation to the neighboring properties or the site. Mr. Eleftheriou seconded the motion and it carried without opposition (4-0) on a roll-call vote.

Modify standard
15-67 DD., RE:
underground
utilities:
APPROVED, 4-0

Mr. Fitzpatrick moved to have the town ask the Maine Department of Transportation to conduct a speed limit analysis for the LedgeWood Road to be supported (funded) by the applicant. Mr. Eleftheriou seconded the motion and it carried without opposition (4-0) on a roll-call vote.

Request speed
limit analysis
from MDOT for
LedgeWood Road,
w/ applicant
bearing the cost:
APPROVED, 4-0

Mr. Fitzpatrick moved to approve the application SD-2019-01 (The Farm) per the Bar Harbor Land Use Ordinance sections 125-67 General standards and 125-69 Standards for particular uses, structures, or activities (N. Subdivision) per the draft decision dated June 3, 2020, with the following conditions to be met prior to issuance of a building permit:

1. Provide, in addition to the level of service analysis and peak-hour traffic generation, “an estimate of the amount and type of vehicular traffic to be generated on a daily basis” as required by 125-66 U;
2. Deeds for lots 2 through 13 shall include requirement for residential fire sprinkler system;
3. Secure NRPA, DEP stormwater, and Maine General Construction (MCGP) permits and that they are received prior to the issuance of a building permit.

After discussion and input from Mr. Moore, a fourth condition was added to the motion:

4. Certification from civil engineer, PE, that the proposed subdivision road meets standard engineering practices for safe roads design pertaining to sight distance.

Following discussion on the subject of phasing as presented earlier by Mr.

Moore, and suggested language read aloud by Mr. Moore, the following language was also added to the motion: **That lot #1 will be available for sale upon receipt of a letter from the surveyor that the monuments are in place, lots with frontage off Eden Farm Road will be available when that road is complete with a target completion date of December 2021 and Chauncey's Way will be constructed and complete by 2022; and if not the applicant will return to the board for modification.**

Move to approve SD-2019-01 (The Farm), with conditions as noted in motion APPROVED, 4-0

Ms. Brooks seconded the motion, as modified and amended, and it carried without opposition (4-0) on a roll-call vote.

Vice-chair Cough returns to meeting at 5:57 PM as voting member of board

At 5:57 PM, Vice-chair Cough rejoined the meeting as a voting member of the board.

c. Completeness Review/Public Hearing/Compliance Review for SP-2019-03 —56 Cottage Street Parking Area

Completeness Review / Public Hearing / Compliance Review for SP-2019-03, 56 Cottage Street parking area

Project Location: 56 Cottage Street —Tax Map 104 Lot 327, encompassing ±0.45 acres in the Downtown Village II zoning district

Applicant/Owner: Karol A. Foss

Application: To develop a private, 42-space private parking area at the corner of Cottage and Kennebec streets. The project would use a single entrance/exit from the existing westerly curb cut on Cottage Street. No entrance or exit is planned on Kennebec Street. The project includes construction of a sidewalk-accessible landscaped esplanade along Cottage Street.

Mr. Eleftheriou and Ms. Brooks both recused themselves as they both are noticed abutters of the project. Both had been recused in the past, and after brief discussion no motion was made or vote taken to formalize the action. With their recusals, the voting membership of the board was reduced to three members.

Members Brooks and Eleftheriou recuse themselves as notified abutters of the project

Engineer Greg Johnston was present to represent the applicant and refreshed the board on the project. Some redesigns were made after an earlier sketch-plan style neighborhood meeting, chiefly changing to a single entrance on Cottage Street.

Greg Johnston present to represent applicant

A planting schedule was included in the packet, Mr. Johnston said, at the board's suggestion. Shade trees and perennials are included. He said a "very specific" soil erosion control plan was also included.

The applicant received a Certificate of Appropriateness from the town's Design Review Board, said Mr. Johnston. That board asked that the radius of the curb at the intersection of Kennebec and Cottage streets be softened; Mr. Johnston said that area is in the public way but that "as part of our curb we would coordinate that," if the Bar Harbor Public Works Department approved

Discussion of COA from DRB, and its request

of it.

Outstanding capacity statements have been provided, said Mr. Johnston. He also referenced discussion about a performance guarantee for plantings and said that there is a provision on that matter in the ordinance. He said the applicant found that provision to be reasonable and is able to commit to complying with it.

Mr. Fitzpatrick moved to find application SP-2019-03 (56 Cottage Street parking area) complete per the Bar Harbor Land Use Ordinance Section 125-66. Vice-chair Cough seconded the motion and it carried without opposition (3-0) on a roll-call vote.

At 6:04 PM Chair St. Germain opened the public hearing and Assistant Planner Steve Fuller read aloud the contact information necessary to participate. As there were no callers and no comments, the public hearing was closed at 6:06 PM.

Mr. Johnston said he had received phone calls from the public; one caller was concerned about vegetation and the size of the trees that were proposed. “There are at least two layers of tall, large-growth trees” between Cottage Street and the applicant’s location, said Mr. Johnston.

Ms. Brooks spoke as an abutter and not as a Planning Board member, she said that the plans look “really great” and that the lot will look “really nice.” She said she thought it would add to the neighborhood and had heard similar feedback from her neighbors.

Mr. Fitzpatrick said he thought the project was a good one as presented, and then moved to approve application SP-2019-03 (56 Cottage Street parking area) per the Bar Harbor Land Use Ordinance sections 125-67 per the [draft] decision dated June 3, 2020 and with the conditions that the water and wastewater construction plans shall be reviewed and approved by the Water and Wastewater departments, respectively, prior to issuing a building permit, and to ensure a guarantee of landscape survival the applicant shall provide a bond, escrow, or other documentation acceptable to the Code Enforcement Officer prior to issuance of the building permit consistent with Land Use Ordinance [Section] 125-98. Vice-chair Cough seconded the motion; and it carried unanimously (3-0) on a roll-call vote.

- d. Completeness Review/Public Hearing/Compliance Review for PUD-2020-01 - Subdivision/Planned Unit Development (Village) — Schooner Head Housing**
Project Location: Tax Map 253, Lots 10 and 11 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

Find application SP-2019-03, 56 Cottage Street parking area, complete: APPROVED, 3-0

Public hearing opened at 6:04 PM, closed at 6:06 PM with no comments

G. Johnston notes comment he received

E. Brooks compliments the proposal, design

Move to approve SP-2019-03 (56 Cottage Street parking area), with conditions as noted in motion APPROVED, 3-0

Completeness Review / Public Hearing / Compliance Review for PUD-2020-01, Schooner Head

district.

Applicant/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.

Mr. Eleftheriou and Ms. Brooks returned to the meeting, returning the board's voting membership to five.

Mr. Fitzpatrick noted that similar to the meeting on May 6, 2020, he would be recusing himself because the applicant is his employer. He said he would be turning his camera and microphone off, but would be available if there were specific questions. With his departure, the voting membership of the board was reduced to four members.

Katy Longley, executive vice president and chief operating officer of the Jackson Laboratory, was present as a representative of the applicant along with engineer Sarah Nicholson of Woodard & Curran, and attorney Andy Hamilton. That team attempted to begin a PowerPoint presentation but there are technical issues and the board decided to take a break beginning at 6:15 PM. Brooke Collier, representing an applicant slated for review later in the meeting, asked if her application could be moved up but there was no response to that request. The meeting resumed at 6:21 PM.

Ms. Longley presented the project and said she hopes the housing (44 units) will build on the town's efforts to increase affordable housing on the island. The housing is a catalyst for the economy, she said. The lab has had to reduce expenditures during the COVID-19 pandemic, said Ms. Longley, but this project has survived because it will bring jobs and opportunities for the local economy. "We really believe it's critical to our ability to recruit and retain employees," she said. She said the project is of "paramount importance" to the lab and is not a wish-list type of idea.

The housing is meant to be year-round housing, said Ms. Longley, not seasonal. She said she was sharing that to dispel any concerns. She said it would provide housing for a "diverse group of employees" ranging from front-line workers in the mouse production facility to students and post-doctoral candidates and from administrators to scientists. She said this project ties in with Strategy 7 from the town's Housing Policy Initiative.

Ms. Nicholson spoke next, laying out details about the project including plans for parking lots, impervious surface, stormwater runoff, dark-sky compliant lighting and walkways. She laid out plans for buffers as well. She said the lab has been responsive to neighbor concerns around buffering, by taking advantage of remaining vegetation along the roadway as possible. She said the lab is trying to minimize its site footprint in terms of impervious surfaces.

Housing

B. Eleftheriou and E. Brooks return to meeting

J. Fitzpatrick recuses himself, voting membership of board down to 4

K. Longley, S. Nicholson and A. Hamilton present to represent JAX

Board takes a six-minute break

K. Longley gives overview of plan

S. Nicholson speaks about plan specifics

Ms. Nicholson said the applicant provided information from a traffic engineer with traffic analysis, which showed no need for a Maine Department of Transportation traffic movement permit (that the project would not trigger such a permit). She said the development is projected to generate 300 trips on a daily basis. The intersection of Schooner Head Road and Route 3, said Ms. Nicholson, will continue to meet the standard for traffic movement capacity.

Mr. Hamilton took over the presentation and spoke to the phasing plan and modification of standards requests. The lab wants to get started immediately, he said, but it will be a three-phased project. He referenced and read aloud Bar Harbor Land Use Ordinance § 125-90 C. (1).

A. Hamilton outlines plan for three-phase project

Mr. Hamilton then discussed the proposed schedule for the project. Phase one would be 44 units, started in 2020 and completed within a year. The second phase would begin in 2023 and be complete in 2024, while the final phase would begin in 2026 and be complete in 2029. The second two phases would each have 28 units, for a total of 100 units between the three phases.

Mr. Hamilton moved into a discussion about the Planning Board’s authority to modify standards in relation to the project, citing §125-64 of the Land Use Ordinance and the specific circumstances that allow for such modifications, including particular site characteristics. He said the site “really does demand that we modify standards,” and said the lab does not want to crowd the site. Mr. Hamilton also referenced §125-69 S. (7) (a).

A. Hamilton speaks about requests to modify standards

Mr. Hamilton summarized the standards the applicant is seeking to modify, which include §125-69 S. (6) (b), which requires the minimum number of affordable units or lots to be 20 percent of the base development density. The applicant could “max out” the site at 160 units, Mr. Hamilton noted (under base development density), said again the lab doesn’t plan to build more than 100 total units. “We are not using the full, maximum development potential,” he said.

The applicant is proposing to build 44 units in Phase 1, nine of which would be affordable; and 28 units each in Phases 2 and 3, six of which (an additional 12) would be affordable. Those numbers would exceed the required number of affordable units for each phase, said Mr. Hamilton (8.8 units for the 44-unit phase and 5.6 units for each of the 28-unit phases). The total number of affordable units for all three phases would be 21 out of 100, or 21 percent.

Explanation of phasing and base development density

Mr. Hamilton then explained the reasoning behind the applicant’s request for modifying the base development standards. It does not want to build the site out to the maximum 160 units, he said. The applicant considered applying under the §125-69 M., Planned Unit Development — Outlying Area (PUD-O), an option available because the site is in the Village Residential zoning district and is not connected to town sewer (although sewer is 1,000 feet away). Under

Mention of looking at PUD-O

that route, none of the units would be need to meet affordability standards.

The applicant is proposing to pay the capital cost of necessary water, sewer and power extension to the site, said Mr. Hamilton, and proceed under PUD-V. He called this a “more generous way to work with the site.”

Mr. Hamilton described the project as a low-revenue, tailored workforce housing project and not a market, affordable unit of a traditional type. He said the foundational reason the applicant is asking to modify standards is that it would like to tie the percentage of affordable units to the total number of units, rather than the maximum number of units allowed to be built on the parcel. Mr. Hamilton said that is due to “the particular site characteristics and the need to make both standard and affordable units available to JAX workforce.” He said those factors “support a proportional affordable unit approach for the JAX workforce and not the max affordable units for the broader market.”

A. Hamilton’s explanation continues

“Let’s not allow the perfect — the maximum buildout — to become the enemy of the good,” said Mr. Hamilton. He referenced letters of support sent to the Planning Board by local community organizations and said they reflect that this is a meaningful contribution of affordable housing.

Mr. Hamilton then referenced section §125-64 of the LUO as it relates to the public health, safety and welfare of the community. The project would satisfy those requirements by eliminating the need for a septic system in the Bear Brook watershed, reducing vehicle traffic on and off the island by 29 trips per day, eliminating the generation of 145 tons of CO2 annually, preserving 7 acres in open-spaces designation and keeping the Acadia National Park and Friends of Acadia walking trail on the property.

Mr. Hamilton then discussed request to modify a standard. With a traditional market-based housing project, he said, the board would be considering standards including §125-69 R. (3) of the Land Use Ordinance. He read aloud a part of the section. He said it isn’t clear that standard would need to be modified because “these units are not being offered to the market, these are workforce units.”

More discussion of modification of standards

The second aspect of §125-69 R. (3) the applicant is seeking to modify relates to advertising, said Mr. Hamilton, again reading part of it aloud. “Again, we’re not seeking to put these units out into the marketplace,” he said. The applicant is requesting that the preferential selection and advertising criteria be waived to allow use exclusively as JAX year-round workforce housing, he said. All of the units are needed for the JAX workforce. He elaborated on this subject.

Mr. Hamilton then outlined how the project aligns with the town’s comprehensive plan, including the following goals and policies: Policy 1A, protecting ground and surface waters; Policy 1G: protecting air quality; Policy

2E: Continued use of Planned Unit Development provisions; Goal 3: Encourage economic development; Goals 5C and 5G: Proper use of sewer and buildout of water system and Goal 6: To encourage and promote decent and affordable housing opportunities and slow off-island migration. He elaborated on how specific aspects of the plan relate to those policies.

Ms. Longley wrapped up the presentation and said the lab expects many renters will ultimately buy homes on the island; two-thirds of employees commute from off-island and the lab would like to reverse that, she said. Chair St. Germain thanked the applicant for the thorough presentation.

Vice-chair Cough asked why the board is considering phases when the application is for 44 units. Bringing in the phases “changes the dynamic” of the application, he said, adding that it was not “properly advertised” for a public hearing on 100 units, and he said the board should not entertain that idea. Mr. Hamilton replied that the applicant is not looking for approval of 100 units right now but wanted to be transparent about its overall plan.

J. Cough notes his problems with the phasing proposal

Vice-chair Cough said he appreciated the transparency but that the advertising for a public hearing on a 44-unit project does not square with a phased approach. Mr. Hamilton said they can declare that is the intent; he said the lab would rather have support of the project getting underway but wanted to be clear on intention.

Attorney Bearor said the board can’t entertain approving a 100-unit development if it hasn’t been advertised as such; he said the applicant appeared to be most concerned that the waivers would be granted for the future phases so that they wouldn’t be facing the question of whether the waivers would be in place or not.

E. Bearor weighs in on phasing

Mr. Hamilton said they would withdraw the phasing plan but asked the board to fashion a condition saying it is clear that that is the lab’s intent, to have 100 units.

Hamilton: lab will withdraw phasing proposal

Chair St. Germain said that “at some point” it was made clear the lab intends to seek waivers throughout the project’s several phases. He said he wasn’t aware of the timeline but that he was aware of plans for 100 units as a long-term goal; but agreed with Vice-chair Cough that there is a big difference between 44 and 100.

Board members have questions for the applicant

Mr. Eleftheriou said he would approve of guaranteeing that whatever modifications or conditions are made now would apply in the future.

Ms. Brooks asked about the PUD-V language, she said she understood where the lab was coming from about keeping the housing restricted to employees but said her concern was that it doesn’t follow the language of the ordinance and

once such a modification is made for one project, “we need to be consistent.” She added that the board has a precedent that they’ve held certain applicants to certain standards and changing the rules at this point is not what the board is supposed to be doing.

Chair St. Germain the board recently handled a PUD-V in the same zoning district and held the applicant thereto the letter of the LUO, which he said set a precedent. He asked Mr. Hamilton how that relates to this. Mr. Hamilton said he believes this is a very different project from the one mentioned by Ms. Brooks and Chair St. Germain, where the applicant was seeking to maximize development. He added that he “greatly” respects both Ms. Brooks and Chair St. Germain.

Discussion on the PUD standards

Mr. Eleftheriou weighed in and said that the PUD is a “tool to get as much as you can put in.” He said that to ask 20 percent of whatever is being built is a “fair request.” “I like taking what’s said on the pages and enforcing that,” said Mr. Eleftheriou, but in this case, although it’s not the board’s responsibility, “I’d be mindful of what it really takes to cost and develop certain things,” he said. “It’s very expensive to build in this community.”

Vice-chair Cough said he felt the project “doesn’t meet the ordinance,” with respect to the base unit development and number of affordable units. In his view, said Vice-chair Cough, you can’t look at what the intent is, you have to look at the lot. If the lab wanted to separate the lot and make it smaller, it might be able to do this, “but the ordinance is what it is.”

Vice-chair Cough said he did not believe the board is allowed to modify §125-68, Shoreland standards. Mr. Hamilton replied that the board cannot. Cough reads a section of §125-68 B. and said he agreed with Mr. Hamilton. Vice-chair Cough read from more of the ordinance, and said he did not think that the particular standards in question could be modified by the Planning Board.

Discussion on what the board can and cannot do with regard to modifying PUD standards

Vice-chair Cough said that although they’re discussing the potential of a “nice development,” and that while he “happens not” to agree with the standards of the PUD, he said he did not believe the standards can be modified.

Asked to weigh in, Attorney Bearor said he believed §125-64 of the LUO is “broad” and said that “site plan standards can be modified.” He added, “I believe that is general. I view the entire section of Article 5 as being site plan review.” Vice-chair Cough said he differed with Attorney Bearor on this question.

“I don’t think the word ‘site plan,’ as used in Section 64,” said Bearor, “is meant to limit the scope of modifications of standards.” Shoreland zoning standards are “pretty much dictated to us by the state,” said Attorney Bearor, but “I don’t think that your hands are tied and that you cannot apply the power

of discretion that you're given in Section 64 to a PUD and determine the number of affordable units based on the premise that it's a percentage of the units being developed."

Vice-chair Cough asked Attorney Bearor to clarify whether that means "Anything in the ordinance can be modified by the Planning Board" except for §125-68, Shoreland standards. Attorney Bearor replied that "Section 64 is pretty clear" that the board can modify standards at the request of the applicant and that he did not see it as "limiting language."

Ms. Brooks said the modifications being asked of the board "don't fit" the sentence in §125-90 C. (1), which reads in part: "to protect the public health, safety and welfare." Mr. Hamilton said he was looking to §125-69 S. (7) (a), (b) and (c) to answer the questions of authority the board was wrestling with. "Intent and purpose are relevant," said Hamilton. "It's a flexible tool."

Ms. Nicholson said that you could shrink the site and meet the standard, as Vice-chair Cough suggested, but said that "seems kind of silly" to shrink the site to build less. Building across the whole site is difficult, said Nicholson, and a clustered development is more appropriate. She clarified that the site is not in shoreland.

Chair St. Germain asked Ms. Longley to address median income; she said 81 percent of JAX employees would qualify to live there. Ms. Brooks said that she'd had conversations with many lab employees who say they choose to live off-island because they prefer to. Some still wouldn't choose to live here, said Ms. Brooks.

Ms. Longley replied that out of 1,500 JAX employees, only 340 have a Bar Harbor ZIP code. "There's more than enough interest," she said. The lab has conducted a housing survey that's indicated plenty of demand and wouldn't do this if it didn't believe the units would be rented.

Ms. Brooks said that although the project makes sense and the units would likely be filled, "A lot of larger employers probably feel the same way and if we're holding one person to a standard...unfortunately the ordinance is what it is." She said that in her opinion it isn't complying. Ms. Longley said it's a "good thing" if any employer wants to build workforce housing. Ms. Brooks said the Planning Board recently had a large employer try to move forward with modifications and that the board held them to the standards.

Chair St. Germain said Ms. Brooks raised a "really good point." He said the modification of standard described in §125-64 "may not be applicable here," but that §125-69 S. (6) (b) allowed the board to consider multi-family dwellings otherwise not allowed. He asked Attorney Bearor whether the ability given in that particular part of the LUO is separate from the PUD process or

More discussion on PUD standards and how this project aligns with those

with respect to the rest of the provisions in §125-69 S. He added that the ability to modify the standards in §125-64 may not apply here because “it’s not public health and safety,” it’s affordability. If the board made a modification, said Chair St. Germain, it might be based on §125-69 S. (5), rather than §125-64.

Attorney Bearor said he believed the question is how broadly the board could construe the term “health, safety and welfare.” “Whether it’s affordable housing or whether it’s the quality of your air, I think it all goes to the public health, safety and welfare,” he said. While he said he was not necessarily comfortable “anytime I see an ordinance that gives a board authority to modify standards,” the Bar Harbor Land Use Ordinance “plainly” has vested the board with that authority. §125-64 would be applicable, said Attorney Bearor. He said he didn’t believe it stopped at Section 67, and that he believed it’s applicable to all of the sections under Article V.

E. Bearor offers his thoughts on modifying standards

Chair St. Germain noted the provision of §125-69 R, which stipulated that the housing should be available to all residents of Bar Harbor. He asked about a presentation given by Mr. Fitzpatrick in his work capacity five years ago that the project was meant to be a “crash” place where employees would be living for a short period of time. Rather than ask for the modification of standard as to who will be prospective tenants, said Chair St. Germain, if it truly is a 90- or 180-day place to live, that would only be something a lab employee would want to live at. It would be “unattractive” to other renters, said Chair St. Germain, and the lab would not be asking for the modification. Ms. Longley clarified that that plan is outdated and said this is not intended to be temporary housing of that nature; she said the lab had talked about having a “five year maximum” stay but hadn’t yet made a decision.

Discussion on availability of this housing to lab employees vs. residents of Bar Harbor in general

Ms. Brooks asked whether the letters of support that came in were solicited by the lab or came in organically; Ms. Longley said she wasn’t directly involved. The lab did have neighborhood meetings and asked people, including Acadia National Park, to support the project, but some letters came in naturally.

Planning Director Gagnon said that an ordinance is the “regulation of the law but we need to take projects and find ways to fit into the ordinance. I think that’s important,” she said, as long as it’s within the confines.

Chair St. Germain said the hardest aspect for him to make sense of is having the base development density be something other than what it is explicitly defined as and how that relates to the phased approach that might be undertaken. “The Land Use Ordinance is quite explicit” in how to calculate base development density, he said, but the phased approach complicated that. Should the board require the 20 percent as part of the initial phase, he asked, or acknowledge that it will eventually be more than that?

Discussion of base development density

Vice-chair Cough said the idea of “locking in” something for a future Planning

Board would be “irresponsible.” “It’s what’s before us,” he said, not what the board thinks or hopes might happen. He said the board can’t look at base development anything by acreage and said they have been admonished for doing so by the Board of Appeals in the past.

Mr. Eleftheriou said that board members largely agree that the development is good, particularly the affordability aspect. There are two critical modifications, the 20 percent and the restricting housing to the lab’s employees, he said. He said he’s fine with the 20 percent, but isn’t fine with restricting the housing to the lab’s employees. “I think we ought to have it offered to other town residents,” said Mr. Eleftheriou.

Vice-chair Cough said that if the affordability aspect is important to the board then so, too, is the calculation and making sure more of those units could be affordable and advertised. To limit the percentage class, he said, “is somewhat counterproductive.”

Ms. Brooks agreed. She said she supported the project and thinks the PUD language is somewhat dated and perhaps not applicable. She said she understands why an employer spending so much money doesn’t want to open it up to the public but “That is the way the ordinance reads.” “I wish it was easier to change the ordinance,” said Ms. Brooks, because there might be more development of this type happening.

Chair St. Germain said that the idea of modifying base development density didn’t make sense to him. If someone appealed the board’s decision to modify that it would likely be overturned, he said.

Ms. Nicholson said the lab is asking for the affordability standard, one of the things that comes out of the base unit development, to be applied on an as-we-go-basis. “We’re asking for 20 percent of the units to meet the affordability standard” to be in-line and proportional to the number of these the lab is building as it is building.

The ordinance, Ms. Nicholson continued, would require 32 of the 44 units to meet the affordability standard and would need to be advertised to the town’s people. “It’s a pretty steep ask,” she said.

“I believe this was not anticipated by those who wrote the PUD standards,” said Chair St. Germain, with an applicant asking for it to be proportional. “It’s hard for us to imagine telling a Planning Board of the future that they must adhere to a decision we make now,” he said.

Mr. Hamilton said the applicant might consider the purpose and intent is designed to give flexibility and that he believes the board has the ability to modify the standards.

Discussion among board members and applicant representative about standards, base development

Mr. Eleftheriou moved to find the application PUD-2020-01, Subdivision PUD-V Schooner Head Housing, complete per the Bar Harbor LUO section §125-66. Vice-chair Cough seconded the motion, which then carried without opposition (4-0) on a roll-call vote.

Move to find application PUD-2020-01, PUD-V for Schooner Head Housing, complete: CARRIES, 4-0

At 7:58 PM Chair St. Germain opened the public hearing. Dean Read was on the phone. He said that as a former banker if he had been asked to approve financing for a 44-unit development he would ask whether financial viability of the 44-units depended upon having the 100 completed or if they can stand on their own; if they could stand on their own, Mr. Read said he would consider the 44; if not, he would consider the 100.

Public hearing at 7:58 PM

Dean Read speaks, voices concerns about the project

Mr. Read said that he thought the 44-unit, three-story project, while it may be a good one, “is pretty squeezed in” to a small space and not in conformance with the character of the neighborhood. He said he was also concerned about an increase in traffic. “There are no three-story residential units around here,” said Mr. Read. Hearing no other callers, the public hearing was closed at 8:03 PM.

Ms. Brooks said that when the project was presented earlier in the year the two items were brought up and not much has been done to address them. Vice-chair Cough echoed what she said and that the board alerted the lab that this would be a problem. “The project is a great project; it just doesn’t fit the PUD-V ordinance,” he said.

E. Brooks: good project, but doesn’t fit PUD-V

Mr. Eleftheriou said, “I’m not sure if we’ve ever had a PUD in this town like this.” He said he’s in favor of modifying the standard §125-69 S. (6) (b). Chair St. Germain said he’s in favor of modifying the standard and allowing the lab to restrict housing to the lab’s employees but not modifying the base unit development standard. Chair St. Germain said he sees that aspect of the LUO as providing a “real disincentive” to prospective developers.

B. Eleftheriou OK with modifying one standard, but not base development density

“I don’t think this applicant has a lot of choices,” said Mr. Hamilton. The lab looked at this, he said. “If you’re going to use PUD as a straitjacket and capping off an opportunity...I think that’s a difficult interpretation, a difficult construction of the ordinance.” Mr. Hamilton suggested that the board table the discussion. The lab has “worn itself out” looking at other alternatives, he said. “We’ve got to figure this out.”

A. Hamilton suggests tabling the project

Vice-chair Cough made a motion to table the PUD-2020-01 subdivision application for Schooner Head Housing. Mr. Eleftheriou seconded the motion, which then carried without opposition (4-0) on a roll-call vote.

Table PUD-2020-01, PUD-V, Schooner Head Housing: CARRIES, 4-0

Chair St. Germain thanked everyone, saying “That was not easy.”

J. Fitzpatrick returns to board

Mr. Fitzpatrick rejoined the board at this point, and with that the board’s voting

membership was returned to five members.

e. Completeness Review/Public Hearing/Compliance Review for SP-2019-06 —Theede Pier

Project Location: 481 Eden Street —Tax Map 224, Lot 009, encompassing ±1.73 acres of land in the Village Historic and Shoreland Limited Residential zoning districts (the proposed project is located entirely within the latter district)

Applicant: Frenchman’s Bay Boating Co, Inc.

Owner: Frenchman’s Bay Real Estate Holdings, LLC (Steve Theede)

Application: To construct a new concrete retaining wall fastened to the ledge at the top of the bank with a concrete slab to hold the shore end of a 120’x6’ aluminum pier, with a 10’x10’ transition platform at the end of it to accept the ramp, which is at an angle to the pier. From there, an 80’x4’ gangway extending to two, 16’x24’ timber floats, moored with two granite moorings and chain.

Brooke Collier, present along with Bob Collier to represent the applicant, reviewed the application for the board’s benefit. She noted that the floats will be seasonal, installed in spring and removed in the fall.

Ms. Collier also noted that the applicant had received its permit from the Maine Department of Environmental Protection as well as approval from the Maine Historic Preservation Commission. Board members had no questions or comments about the application.

Vice-chair Cough moved to find application SP-2019-06 (Theede Pier) complete [per the Bar Harbor Land Use Ordinance]. Mr. Fitzpatrick seconded, and the motion then carried unanimously (5-0) on a roll-call vote.

At 8:18 PM, Chair St. Germain opened the public hearing and Assistant Planner Fuller read aloud the information on how to call in and make comment. There were no callers, and the public hearing was closed at 8:19 PM.

Mr. Fitzpatrick moved to approve the application SP-2019-06 Theede Pier, per the Bar Harbor Land Use Ordinance sections 125-67 General Standards and 125-68 Shoreland Standards per the [draft] decision dated June 3, 2020, with the Submerged Land Lease to be secured prior to issuance of the building permit and the Code Enforcement Officer to issue the Flood Hazard [Development] permit. Vice-chair Cough seconded the motion, which then carried unanimously (5-0) on a roll-call vote.

f. Completeness Review for SP-2020-03 –Coastal Computers

Project Location: 1311 State Highway 102—Tax Map 227, Lot 90, encompassing ±2.81 acres of land in the Town Hill Business zoning

Completeness Review / Public Hearing / Compliance Review for SP-2019-06, Theede Pier

Brooke Collier and Bob Collier present to represent applicant

No questions from the board

Find SP-2019-06, Theede Pier, complete: CARRIES, 5-0

Public hearing opened at 8:18 PM, no comments

Approve application SP-2019-06, Theede Pier, w/ condition as noted in the motion: CARRIES, 5-0

Completeness Review for SP-2020-03, Coastal Computers

district.

Applicant/Owner: George Grohs & Kristina Minott, dba Sonoma Properties, LLC

Application: To demolish an abandoned house and construct an office building.

Bill Hanley, Heli Mesiniemi and Mike Gillis were present to represent the applicants. Mr. Hanley gave an overview of the project: a single-use, 2,600-square-foot, one-story building, for the “word headquarters” of Coastal Computers on what is now a vacant lot in the Town Hill neighborhood. There will be two entrances coming off Route 102 and 10 off-street parking spaces.

B. Hanley, H. Mesiniemi and M. Gillis present to represent the applicant, give overview of project

Chair St. Germain opened the public comment period at 8:24 PM and Assistant Planner Fuller read aloud the information on how to call in and make comment. There were no callers and the public comment period was closed at 8:25 PM.

Public comment period at 8:24 PM, no comments

Mr. Fitzpatrick said the board was looking for information on wells; Mike Gillis said no permits are needed because it’s a single-use well serving fewer than 21 people. Mr. Fitzpatrick asked about subsurface wastewater disposal and Mr. Gillis said a plan was submitted as part of the application for this project.

Question and answer about wells

Mr. Fitzpatrick asked if anything had been received from the Maine Department of Inland Fisheries & Wildlife and the State Historic Preservation Office; Mr. Gillis said he had done a self-review of sources for those areas and that Planning Director Gagnon found that to be a sufficient effort for the requirement. Planning Director Gagnon confirmed as much later in the meeting.

Question about state agency review, explanation of self-review

Mr. Fitzpatrick asked about the parking spaces. He said they were annotated on the drawings, but that the board typically asks for spaces to have numbers and dimensions, width length and numerically. Mr. Gillis said he would add that.

J. Fitzpatrick flags items board would like to see on application at next meeting

Mr. Fitzpatrick asked whether the applicant planned to annotate the drawings on the erosion and sediment control plan; as he said the board typically sees it on the drawings to instruct the contractor. Mr. Gillis said he could break it out separately, but also noted it is on the landscaping plan (sheet L3) under the landscaping and buffering section. He verbally explained the erosion plan.

Vice-chair Cough asked Planning Director Gagnon for clarification about some permits regarding information in the staff report and comments made during the meeting. Planning Director Gagnon responded.

Questions from board, staff responds

In response to a question from Mr. Fitzpatrick, Planning Director Gagnon and Code Enforcement Officer Chamberlain discussed requirements for overhead

utility standards. Code Enforcement Officer Chamberlain noted the requirement applies to all projects subject to Planning Board review, not only subdivisions (as had been suggested).

After a discussion between board members and staff about waiver requests, **Mr. Fitzpatrick moved to grant the waivers requested by the applicant as listed in the checklist, as such waivers will not unduly restrict the review process, as they are inapplicable, unnecessary or inappropriate for a complete review, with exception of the following items: 1 I (letter of no violation). There were questions about other items possibly needing to be added, but none were. Mr. Eleftheriou seconded the motion, which then carried unanimously (5-0) on a roll-call vote.**

**Move to grant waivers requested by applicant, with exceptions as noted in the motion:
CARRIES, 5-0**

Mr. Fitzpatrick moved to find the application SP-2020-03 (Coastal Computers) complete, per the Bar Harbor Land Use Ordinance section 125-66, with the exception of the following: letter of no violation [from the Code Enforcement Officer], item 9 II, requesting applicant to number and dimension the parking spaces, and item 17 A, requesting applicant to denote erosion and sedimentation devices on the plan (if they're not already shown); and further, if the items are submitted by June 11, 2020 to request staff to schedule a public hearing on July 8, 2020. Mr. Eleftheriou seconded the motion, which then carried unanimously (5-0) on a roll-call vote.

**Find application SP-2020-03, Coastal Computers, complete, with exceptions as noted, and to schedule for public hearing on July 8, 2020:
CARRIES, 5-0**

VIII. OTHER BUSINESS

Planning Director Gagnon noted there was a Planning Board workshop scheduled for the next day (June 4) to discuss vacation rentals. She said the board was sent information last week and that she would be working on language pertaining to transference of license to a family member. Mr. Eleftheriou asked if that was the only change; Planning Director Gagnon said yes.

Vice-chair Cough asked if the rules around transference would be in perpetuity or a one-time transfer; Planning Director Gagnon said she wasn't sure yet and would be working to make sure it's enforceable.

Discussion about vacation rentals

Secretary Eleftheriou asked whether the Planning Board's endorsement matters to the Town Council; Planning Director Gagnon said she believes it does. Discussion on the respective roles of the Town Council and the Planning Board followed.

Chair St. Germain thanked the board for attending several long meetings lately and having to go through a lot of material. Planning Director Gagnon noted that she's taken a different approach in staff reports given to the board and said she's trying to improve the process. She asked the board to share their

Chair St. Germain thanks board members for hard work

thoughts; both Chair St. Germain and Vice-chair Cough said they liked the format.

IX. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

None.

None

X. REVIEW OF PENDING PLANNING BOARD PROJECTS

At 8:48 PM Vice-chair Cough moved to adjourn; Mr. Fitzpatrick asked what was coming up for projects. Planning Director Gagnon said Coastal Computers (for compliance review/public hearing), possibly the Maller/MacQuinn subdivision and maybe the Weathersby subdivision. Mr. Fitzpatrick seconded Vice-chair Cough's motion to adjourn.

Move to adjourn

Questions about upcoming projects

Chair St. Germain noted that there are warrant articles coming up for a vote in July; in the past the board has attempted to put information out to the public (such as in the newspaper) in an attempt to explain the reasoning behind some of the proposals.

Discussion about board voicing support for LUO amendments

Vice-chair Cough noted that Member Brooks had asked earlier when the board would go back to meeting in-person (with the public still participating via Zoom) and voiced his support for such a format. He said he thought it could be more efficient.

Question about returning to in-person meetings

XI. ADJOURNMENT

At 8:54 PM, the vote was taken on Vice-Chair Cough's motion (seconded by Mr. Fitzpatrick) to adjourn. On a roll-call vote, the motion passed unanimously (5-0).

Adjourn meeting at 8:54 PM: CARRIES, 5-0

Minutes approved by the Bar Harbor Planning Board on August 5, 2020:

8.10.20 
Date Basil Eleftheriou Jr., Secretary, Bar Harbor Planning Board