

**Bar Harbor Planning Board**  
**Wednesday, July 8, 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 4:00 PM.

Planning Board members present at the start of the meeting were Chair St. Germain, Vice-chair Joe Cough, Secretary Basil Eleftheriou and member John Fitzpatrick. Member Erica Brooks was not present at that time.

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

**II. ADOPTION OF THE AGENDA**

**Mr. Eleftheriou moved to adopt the agenda. Mr. Fitzpatrick seconded the motion, and it carried unanimously (4-0) on a roll-call vote.**

**III. EXCUSED ABSENCES**

Chair St. Germain noted that Ms. Brooks was running late, but said she would be here at any moment and so the absence did not need to be excused.

**IV. PUBLIC COMMENT PERIOD**

Chair St. Germain opened the public comment period at 4:03 PM and Assistant Planner Fuller read aloud the number for members of the public to call to make comment. As there were no comments, the public comment period was subsequently closed. Ms. Brooks arrived at 4:05 PM.

**V. APPROVAL OF MINUTES**

- a. April 29, 2020
- b. May 6, 2020
- c. June 3, 2020

There was a discussion about the June 3 meeting minutes, which were distributed to board members only a short time before the start of the meeting.

**Mr. Eleftheriou moved to approve the April 29, 2020 and May 6, 2020 minutes and to table the approval of the June 3, 2020 minutes to the August Planning Board meeting. Ms. Brooks seconded the motion, which passed unanimously (5-0) on a roll-call vote.**

Call to order  
at 4:00 PM

Four board  
members present at  
start of meeting

Three town staff  
members present

Agenda adopted as  
presented, 4-0

Note that E. Brooks  
will be here soon

No comments from  
the public

E. Brooks arrives at  
4:05 PM

Minutes of April 29  
and May 6, 2020  
approved, minutes  
from June 3 meeting  
tabled for approval  
until August meeting

**VI. REGULAR BUSINESS**

**a. Public Hearing/Compliance 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 district and a de minimis amount of land in the Town Hill Residential District

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

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

**Public Hearing / Compliance Review for SP-2020-03 — Coastal Computers**

Mike Gillis and Bill Hanley were present, representing the applicant. Mr. Gillis updated the board on changes to the site plans, noting that the plans now reflect more detail on sediment and erosion control, including where silt fences and hay bales would go. Parking spaces are now numbered on the plan, said Mr. Gillis.

**Mike Gillis and Bill Hanley present to represent applicant**

Mr. Hanley shared the site plan via screen share and provided the board and the public with an overview of the project. The project is for the “new world headquarters” of Coastal Computers, said Mr. Hanley. The proposal involves a one-story building with a single commercial occupancy right off Route 102 north of L.E. Norwood in Town Hill. The lot is currently vacant. The applicant is using existing entrances off Route 102 onto the property. There will be public parking in the front and additional parking in the back with a pull-through service garage and employee parking.

**Overview of project**

Coastal Computers, explained Mr. Hanley, is one of the “local, on-island tech businesses.” There will be space for roughly 10 staff in the building. Mr. Hanley showed the board renderings of the building, an aerial view of the site and floor plans. The lot is fairly straightforward to build on, said Mr. Hanley: “A commercial use in the commercial corridor.”

**Chair St. Germain opened the public hearing 4:16 PM. Assistant Planner Fuller read the contact information (phone numbers and passcode) aloud. There were no comments and the hearing was closed at 4:19 PM.**

**Public hearing at 4:16 PM, no one speaks**

Chair St. Germain asked Mr. Hanley about parking standards in the district. The applicant representatives said they were exceeding the standard for the district with the proposed 10 parking spaces shown in their application. Mr. Fitzpatrick spoke about the parking standard, and agreed that the proposed parking is more than adequate. He went on to say that he thinks it’s a “great project” that will “rehabilitate that lot quite well.”

**Parking standards**

**Mr. Fitzpatrick moved that the board has received all outstanding information requested at the meeting of June 3, 2020. The motion was seconded by Vice-chair Cough, there was no discussion and the motion passed unanimously, 5-0, on a roll-call vote.**

**Board has all of the outstanding information requested: CARRIES, 5-0**

**Mr. Fitzpatrick moved to modify standard 125-67 DD., Utilities, as presented in the application, as the electrical [wires] feeding the building remaining above ground are located in harmony with the neighborhood properties and the site. The motion was seconded by Vice-chair Cough, there was no discussion and the motion passed unanimously, 5-0, on a roll-call vote.**

**Modify Utilities standard:  
APPROVED, 5-0**

**Mr. Fitzpatrick moved to approve application SP-2020-03 Coastal Computers as it meets the standards of the Bar Harbor Land Use Ordinance Section 125-67 per the [draft] decision dated July 8, 2020. The motion was seconded by Vice-chair Cough, there was no discussion and the motion passed unanimously, 5-0, on a roll-call vote.**

**Application SP-2020-03, Coastal Computers:  
APPROVED, 5-0**

**b. Sketch Plan Review PUD-2020-02 — Subdivision/Planned Unit Development (Outlying Area) — 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 district.  
**Applicant/Owner:** The Jackson Laboratory  
**Application:** The applicant proposes a multi-family residential subdivision on Schooner Head Road. The first phase is the construction of 44 units in one three-story and four two-story buildings. The project will include peripheral parking areas, internal walkways and communal green space. The project will connect to the town water system and use an on-site private septic system.

**Sketch Plan Review for PUD-2020-2, Schooner Head Housing (PUD-O)**

**Mr. Fitzpatrick asked to be recused from the meeting as The Jackson Laboratory is his employer. He said he would step away, mute his microphone and turn off his camera but would be available to answer any questions.**

**J. Fitzpatrick requests recusal**

**Vice-chair Cough moved that Mr. Fitzpatrick be recused. The motion was seconded by Ms. Brooks and passed without opposition, 4-0, on a roll-call vote (Mr. Fitzpatrick did not vote). Mr. Fitzpatrick turned his camera and audio off, and with his departure the board's voting membership was reduced to four members.**

**Recuse member J. Fitzpatrick:  
CARRIES, 4-0**

**Board's voting membership at 4**

**Kelly Doran, director of engineering and capital projects, was present to represent the Jackson Laboratory. Sarah Nicholson, engineer from Woodward & Curran, was also present.**

**K. Doran and S. Nicholson present on behalf of JAX**

**Ms. Doran introduced the project and spoke about the year-round housing shortage and associated challenges in Bar Harbor. "Many of our JAX employees have significant difficulty finding housing nearby," she said, with 66 percent commuting from off-island.**

**Need for housing**

Employees will be nearby campus, said Ms. Doran, and would be able to walk or bike to work. “We’re hoping that this project will bring 44 new families to town in this first phase,” she said, who would in turn support the local economy. The site is approximately 37 acres on the Schooner Head Road. The first phase will be 44 units, a mix of one-, two- and three-bedroom units.

Ms. Doran turned over the presentation to Ms. Nicholson. The project is a multi-family II project, she explained, with five buildings and 44 units. As a clustered development, it will have a reduced footprint and minimize site disturbance, part of the applicant’s efforts to make it environmentally friendly, she said.

The applicant is coming as a PUD-O (Planned Unit Development — Outlying area), Ms. Nicholson explained. Parking will be in front with pedestrian access to the building. It will be dark-sky compliant, buffered in the front and along the northern side, where residents are. The land to the south and east is owned by the Jackson Laboratory, said Ms. Nicholson.

Ms. Nicholson said stormwater management will be along the front of the property in the form of underdrain soil filters. The facilities will be connected to town water, she said, on Schooner Head Road. A communal septic system is being planned for further south on the property from the development site, close to Schooner Head Road. She spoke about the proposed layout of the system. “It’s a significant size septic system,” said Ms. Nicholson, but will be designed and built in accordance with state law.

Ms. Brooks asked a question about septic. Would the proposed septic field, she wondered, be just for phase one or for the entire long-term development?

Ms. Nicholson said they would ensure there is expansion capacity in the system, but that it wouldn’t be built to accommodate the full planned development until the second and third phases come online. The applicant would be coming back before the Planning Board to review the expansion at that point, but “we will account for the desire for future expansion of the housing development” in the plans.

Most likely, said Ms. Nicholson, the septic system will slide further south to accommodate plans for future phases.

In response to a question from Mr. Eleftheriou, Ms. Nicholson said the leach field box is roughly 1 acre. Taking the flow rates required for an engineered septic system per unit, she said, is 180-270 gallons per day flow, depending on the size of the unit, multiplied by the area needed for base units for the septic system. “It’s scaled, but it’s not designed,” said Ms. Nicholson.

**Overview of project**

**Discussion of proposed septic system**

Mr. Eleftheriou asked about nitrate analysis in the soils, which is covered in Bar Harbor Land Use Ordinance 125-67 K. (8). He said there is likely to be some scrutiny about that in this case. "You might want to provide as many numbers for your case as you can," he said. Ms. Nicholson thanked him for the suggestion.

**Nitrate analysis**

Chair St. Germain wondered how many units will be proposed in total and if there is a framework for subsequent phases. Ms. Nicholson said that the applicant's assessment is base development density for the site is 80 units and that is their target. She went through the calculation.

**Discussion on phasing, base development density**

Ms. Doran said that no determination has been made on phases two and three.

Chair St. Germain asked whether there are any modifications of standards that are likely to be requested, and Ms. Nicholson answered no.

**No modifications of standards requested**

Mr. Eleftheriou pointed out that the cover letter referenced building 80-100 units. Ms. Nicholson said that anything above 44 would come back to the board; anything above 80 would be "another conversation." There are no outside developers associated with the project, said Ms. Nicholson, in response to a question — only the Jackson Laboratory.

**More discussion of modifications**

Ms. Brooks wondered about environmental impacts from a large septic system; Ms. Nicholson said that "it is a big system, but you can absolutely engineer a system that will do its job and not create an environmental impact."

Ms. Doran said the applicant had been in discussions about that. "We do not want to be requesting any modifications for this project," she said.

**At 4:40 PM, Chair St. Germain opened a public comment period. Assistant Planner Fuller read the contact information (phone number and passcode) aloud.**

**Public comment period opened at 4:40 PM**

It is not a public hearing, said Planning Director Gagnon, but the ordinance is clear that the board needs to listen to public comment during sketch plan review. It was not listed in the agenda because it is not a public hearing, she clarified.

**Explanation of what the ordinance calls for, how notices were done and sent**

Planning Director Gagnon, at the request of Chair St. Germain, also clarified that PUD-O, which is not on public sewer, requires notices to abutters within 600 feet, rather than 300 feet as is required under PUD-V.

"People that may not have received the previous notices when the applicant came under a PUD-V now have received notices," said Gagnon. The process is

restarting because the applicant effectively retracted the first application and reapplied under PUD-O.

Chair St. Germain referenced an earlier community meeting held at The Jackson Laboratory. Discussion ensued on this subject. Mr. Fitzpatrick unmuted himself. He said that the lab had called a private meeting with neighbors and abutters rather than people from within a certain distance. "Basically, anybody that's within earshot of JAX we just invite as a courtesy," he said. After outlining the approximate geographic area involved he said the invite also went out to other interested parties (such as the town).

**Discussion about earlier public meeting at JAX**

Ms. Doran asked whether the board agreed with the applicant's calculation of the base development density. "We're really not looking to exceed that 80," she said. The applicant calculated the density based on a requirement of 20,000 square-foot per family on a property without sewer. Discussion followed. Chair St. Germain said that the lab's calculations are correct.

**Does board agree with calculation of base development density?**

Will Schroeder, a resident who lives at 128 Schooner Head Road, said the online meeting stream has been spotty. He asked about the size of the leach field; Chair St. Germain replied that it is roughly 1 acre. Mr. Schroeder said he appreciated the lab's efforts to make the project environmentally friendly, but that "having a 1-acre leach field is not the most environmentally-friendly thing you can do when you have sewer fairly close by." He said there's a lot of ledge in the area and likely enough drainage to put it in, but that the proposed septic system "doesn't strike me in the ethos of being environmentally-friendly."

**Will Schroeder concerned about environmental impacts**

Ms. Doran replied that this has been discussed and thought about quite a bit and that "We do believe we can design it to be as environmentally-responsible as possible for the site," she said. The applicant will work within ordinance requirements, said Ms. Doran.

Mr. Schroeder said it seemed like it would be a fairly large clearing that might be visible from Acadia National Park. He then asked what the project will imply in terms of town taxes and whether there will be an increased voluntary contribution from the lab. Ms. Doran said that had not been discussed in detail for the Planning Board application.

**Will this project pay property taxes?**

There will be increased traffic on the road, said Mr. Schroeder, which will mean more wear and tear on the roads. Neighbors are concerned about noise, traffic and safety, he said. "It would be nice to seriously consider what the traffic impact is," with regard to safety, cost to residents and the potential tax burden.

**W. Schroeder concerned about traffic impact**

Assistant Planner Fuller re-read the call-in number for anyone who might have missed it. Vice-chair Cough suggested having a screen with the number pop up in a static display in case residents can't hear.

**Hearing no other commenters, Chair St. Germain moved on from the public comment period at 4:58 PM.**

Planning Director Gagnon noted there was a request to act on submission of waiver requests. She said staff was recommending the Planning Board advise on those requests, rather than act on them. She said that is because this is a pre-application where the applicant has no vested rights, and that it is early in the process to make such determinations. She said the board needed to act, however, under the requirements of the ordinance.

**Mr. Eleftheriou moved that the board not act on submission of waiver request as this is only a pre-application, the applicant has no vested rights, and it is too early in the process to make such decisions, and because the board would have to act again on the submission of waiver request at the completeness review meeting.**

Vice-chair Cough said he struggled with the idea that the board is making a "negative" motion, and suggested they table any action on it until the next meeting. "It is odd," agreed Mr. Eleftheriou, but said that as the ordinance calls for it "there isn't too much harm."

**The motion was seconded by Ms. Brooks. There was no discussion after the second, and the motion passed unanimously, 4-0, on a roll-call vote.**

**Mr. Eleftheriou moved not to require the applicant to have a conventional layout plan as the applicant has provided sufficient information to determine the base development density.**

Vice-chair Cough wondered whether anything in the PUD-O might affect the base development. Mr. Eleftheriou said it can still be discussed at future meetings. Vice-chair Cough said that as long as the board is not giving "tacit approval" to 80 as the base development density he is "fine with that."

**Ms. Brooks seconded the motion. Discussion followed.**

Ms. Nicholson said that "it's been a little bit of a rocky road getting to this point," and that although the applicant won't be presenting anything more than 44 units in this application, she said "it is important to know that you all don't see any reason why there's anything unusual about this that would change the assessment of the site based on area and area per family." Vice-chair Cough said he doesn't

**Public comment period closed at 4:58 PM**

**M. Gagnon speaks about acting on submission of waiver requests**

**Board not to act on submission of waiver requests: CARRIES, 4-0**

**Motion to not require the applicant to submit a conventional layout plan**

**Discussion on the motion**

see anything wrong with the 44 that was presented but that he was not ready to act on anything. "It sounds appropriate," he said, but he "hasn't done the application against the PUD-O," as he wasn't aware the board would be acting on it today. Ms. Nicholson said it was included because it was in the staff report and the applicant didn't want to surprise the board. Mr. Eleftheriou said he was sure by the time there is a public hearing the board would make a motion to confirm the number of 80. Vice-chair Cough agreed.

Motion to not require the applicant to submit a conventional layout plan:  
CARRIES, 4-0

Planning Director Gagnon said what's in the staff report followed what the Planning Board needed to do at this particular level of review.

**The motion carried unanimously, 4-0, on a roll-call vote.**

**Mr. Eleftheriou moved to schedule a virtual self-guided site visit from July 9, 2020 starting at 10:00 AM until July 15, 2020 ending at 1:00 PM and to schedule a neighborhood Zoom meeting on July 15, 2020 at 3:00 PM. Ms. Brooks seconded the motion, and it carried unanimously, 4-0, on a roll-call vote.**

Set self-guided site visit for 7/9 through 7/15 and virtual Zoom neighborhood meeting for 7/15:  
CARRIES, 4-0

- **Public Hearing – Draft Warrant Article LAND USE ORDINANCE AMENDMENT – VACATION RENTAL.** Shall an ordinance, dated June 18, 2020, and entitled "An amendment to Vacation Rental allowing currently registered vacation rentals to continue operating as long as the registration is renewed annually; creating three types of vacation rentals (VR-1, VR-2, and VR-3) allowed in the same 34 zoning districts where vacation rentals are presently allowed; creating definitions for primary residence and vacation rental license; and regulating the rental of the entire dwelling unit or a part of thereof, the rental period (minimum number of nights), the maximum number of licenses that may be issued, and the transferability of licenses;" be enacted?

Public Hearing on proposed Land Use Ordinance amendment, on Vacation Rentals

**Mr. Fitzpatrick reentered the meeting. With his return, the board's voting membership was back at five.**

J. Fitzpatrick returns to board, voting membership at 5

Assistant Planner Fuller clarified the plan for the meeting and public hearing, explaining how the public comment period and process would work. There were 16 people attending the webinar, he said.

S. Fuller explains how public participation will work

Mr. Fitzpatrick explained how the process had worked so far. The town assembled a Zoning Advisory Group specifically to look at the pros, cons, issues and benefits of vacation rentals, he said. Six town residents, with a mixture of those who own rentals and those who don't, met to brainstorm and understand what is out there.

J. Fitzpatrick recaps process that led to this point



That built on several listening sessions held by town staff earlier in 2020 in Salisbury Cove, Town Hill and Bar Harbor, said Mr. Fitzpatrick, which gave residents an opportunity to share their thoughts. The board heard repeatedly that vacation rentals were an avenue for year-round residents to be able to afford to live in Bar Harbor, said Mr. Fitzpatrick. "A small minority" said that vacation rentals were disruptive to their neighborhoods and were detracting from the sense of community that once existed in the "not-so-recent past."

**More discussion and review of the process**

The committee looked at publications, common themes from the meetings and what actions have been taken in other towns. The ultimate goal, said Mr. Fitzpatrick, was to be able to sustain a year-round community and prevent further degradation away from that goal.

"It's a pretty well-thought-out plan to allow folks that want to live here the ability to bring in additional revenue, limit vacation rentals expanding as a commercial activity and allowing other folks to be able to pass on their property to their heirs, if and when the time comes to do so," said Mr. Fitzpatrick, after describing the background and the process that led to the current proposal.

Planning Director Gagnon said that anyone with a current registration would be able to continue operating. She said the board had heard that many people had invested with the intention of renting and wanted to make sure they would get a return on that property if they chose to sell it. "We kind of honored that," she said, which is why the VR-2 language, as written, allowed the license to be transferable.

All three categories are allowed in the same districts that presently allow vacation rentals, said Planning Director Gagnon. VR-1 is targeted toward primary residences, it can be an entire dwelling unit or part of one. It must be either in a primary residence or on the property of a resident's primary residence. Residents are allowed up to two VR-1 licenses and can rent those properties nightly. They are not transferable. "If you meet these requirements," she said, there are no caps and there is no need for transferability.

**Planning Director Gagnon gives an overview and explanation of what is in this proposal**

VR-2 is not someone's primary residence. It must be the entire unit and the minimum rental period is 4 nights. The maximum number of VR-2 licenses issued, said Planning Director Gagnon, would be capped at 7.5 percent of the town's total dwelling units. As proposed, she explained, the VR-2 license is transferable to a new owner and runs with the land.

The value of a VR-3, said Planning Director Gagnon, must be more than twice the median assessed value of all dwelling units in the town. "We also heard that some of the properties are just not attainable to the median-income person," she explained. It is not a primary residence, the rental period is four nights, there would

be no maximum number of licenses, it would not be transferable and the rental must be the entire unit.

Planning Director Gagnon said that, after hearing comments previously from Ms. Brooks and then consulting with the town assessor, she would like to see the board consider changing the VR-3 threshold to be twice the median sale price of the town's dwelling unit sales for the last five years, rather than the median assessed value. That would be recalculated every five years and would have more current values, said Planning Director Gagnon. It would also be a set number for a period of five years so people have can expect predictability about what is happening.

**Continued  
explanation from  
Planning Director  
Gagnon**

Planning Director Gagnon said she would also like to see VR-3 limited to single-family dwellings. "We keep listening, we keep trying to do a bit better," she said.

If someone has a current registration and falls into one of these three categories, said Planning Director Gagnon, you still can hang onto it. The only difference, she said, is the town would likely not be issuing new VR-2 licenses "for a while." She explained the benefits of each category: VR-1 gives flexibility to homeowners, VR-2 is transferable and VR-3 covers homes not affordable to median incomes.

Chair St. Germain asked whether this would eliminate the definition of vacation rental that is presently in the Land Use Ordinance. Planning Director Gagnon said yes, it would be struck and the VR-1, VR-2, VR-3 categories would be added.

Mr. Eleftheriou asked if someone did not renew their VR-2 license would it go away; Planning Director Gagnon said yes, they would, and that she would recommend that if someone wants to operate in the future that now would be the time to get the license (especially for someone who would fall under the VR-2 category) She reiterated that that is because if the proposal passes as presented, there would not be any more VR-2 licenses issued by the town for a while.

**Questions from  
board members**

"We've been talking about this for a while," said Planning Director Gagnon. She said the town is aware of one instance in which someone is struggling because a building is currently under construction but that at least two of the four units in the building will probably be able to get a VR-2.

Mr. Eleftheriou asked for clarification about what is in Chapter 15 and what is in Chapter 190. Planning Director Gagnon responded. In response to a question from Vice-chair Cough, she said there are 2,759 dwelling units in town at the moment.

Staff has done a "great job" on this, said Mr. Fitzpatrick. He noted VR-1 addresses the concerns of VR-1 owners and that VR-3 has addressed homes out of reach to average-income citizens, but he said VR-2 has been "watered down." Being able

to transfer the license ad infinitum will never get the town down to 7.5 percent of the housing stock, he said — not if those licenses can recirculate forever.

Planning Director Gagnon said there are 152 licenses that would qualify as VR-1s at the moment; Mr. Fitzpatrick, meanwhile, said there are more than 280 that would qualify as VR-2s. “I think this is a case where it’s for the good of the majority, not the good of the minority,” he said.

Ms. Brooks said she did not believe this was an appropriate time to be tackling this intense and complicated issue with a pandemic going on. She said she appreciated the work that had gone into this, but believed there is a lot of work to do and was concerned there are upcoming things on the ballot that could open more affordable housing that would be “more constructive.” She said it wasn’t fair to those who might be in hardship and forcing them to get a VR-2 license to protect themselves for the future.

**E. Brooks expresses opposition to the proposal, outlines her reasons**

The VR-3, said Ms. Brooks, would create a “a lot of additional work” for town staff for a “not-so-positive outcome.” She said she wished the matter could be tabled and pushed off into the future.

Vice-chair Cough asked Planning Director Gagnon what twice the median sale price of the town’s dwelling unit sale price for the past five years would be; Gagnon said that figure is \$750,000.

Ms. Brooks said she worried if the country were to enter a major recession in the next year it would skew that number and that while a sales price is more accurate than an assessed value, it would not be worth the amount of work it would take to calculate the number and would not necessarily create the outcome the town wants.

**At 5:42 PM, Chair St. Germain opened the public hearing. He noted that the normal rule of three minutes per person, and one turn per person, would apply. He said the board would listen to comments but would not respond.**

**Public hearing opened at 5:42 PM**

Assistant Planner Fuller explained how participants in the Zoom webinar could speak during the public hearing. The following comments were made:

- Norman Beamer said he has a vacation house in Hulls Cove and a current vacation rental permit. He said he was not sure he would make it to Bar Harbor this season. He said he supported the idea of a VR-3 and that his property might fall under that. Higher-end properties, he said, aren’t in competition for year-round residents who want to live on the island. It’s unlikely, he said, that he would ever rent his house to someone year-round. He said he doesn’t believe that’s impeding the market the town is

**Norman Beamer speaks, likes VR-3, and also has questions**

interested in. Mr. Beamer asked how staff would determine sales price of a property — whether it would be what it sold for 10 years ago, or whether a resident would have to present current financial evaluation.

- Michael Farkas thanked staff for their hard work. He asked how the plan would treat currently pending applications for a rental license, which is the situation he is in, he said. Mr. Farkas said his application has been pending for more than a year. In his case, the fire chief noted certain improvements that needed to be made. The pandemic, he said, has meant certain parts (for windows) have been on backorder for months and that has held his improvements up. He asked if there would be any allowance for pending applications in light of such circumstances.
- Sean Sweeney, who said he sat on the Appeals Board for years, said he felt the plan “gives a pass to the wealthy” but uses the value of their homes in determining the average assessed value, forcing up the number of homes affected, as well as their value. “I doubt one would consider a \$600,000 or \$750,000 home a low-income home,” he said, “but that’s what you’ve done.” The sale value differentials between homes that are able to be rented and those that aren’t, said Mr. Sweeney, are “significant” and affects the cash value of all homes belonging to residents of Bar Harbor that are not weekly rentals, he said. “For the average person, their home is their greatest cash investment, and you are now taking away their ability to realize this when they sell it.” Sweeney said he has spoken with three real estate agents and they’ve said the plan will cost those who didn’t join the “weekly rental bandwagon” a “great deal of money.” He asked the board to table the plan and find alternate ways to encourage ways to increase affordable, year-round housing stock.
- Ed Damm said he did not understand the non-transferability of VR-1. He said he would rather hear it clearly state that it is transferable. Mr. Damm said that in regard to VR-3, he did not think it was fair that it seemed like someone with an expensive house would automatically get a license. He said he also worried hotels would buy up those houses. Mr. Damm said he lived at 24 Ledgelawn for more than 25 years and never had any problems with vacation renters. He asked the board to table this issue because it is a “terrible summer,” with many people backing off on doing vacation rentals. “I just don’t think that much of this is fair,” he said.
- Kimberley Wolfe said she has a rental that would qualify as a VR-2 and asked whether that is transferable to a new owner. She said she had trouble hearing the meeting on the town’s online stream. Ms. Wolfe asked why there is a minimum of four nights, because people seem to want to be doing shorter stays. She said the discussion should be postponed until after the pandemic.

**M. Farkas asks about how pending applications would be treated/impacted**

**S. Sweeney questions legality, and also dollar figures used in plan**

**E. Damm wants clarity on VR-1 and transferability, thinks this is bad time for proposal**

**K. Wolfe asks why VR-2 has 4-night minimum, says discussion should wait until later**

- Joseph Bonaventura said that he owns a VR-2-type rental and that he felt VR-2 licenses should be transferable. He said he was happy to see that changes had been made. He asked questions about the specific mechanisms of the how the proposal would work.
- Christine Yetka said that while she is not a formal resident, she sees herself as a resident because she spends “the majority” of her time here (although Bar Harbor is not her primary residence, as defined in this proposal). She purchased a home in September and has a pending VR registration and is waiting for a fire department inspection, she said she told the fire chief not to hurry because she hadn’t planned to rent during the pandemic. She said she is now worried about getting the license before this goes to a vote. Ms. Yetka said she would like to see a clearer definition of primary residence.
- Leslie Tibbetts asked about the number of VRs. She asked what 7.5 percent of the dwelling units is for this year. Ms. Tibbetts also asked how many vacation licenses there are now and how many more will be able to be licensed in the future.
- Garric Worcester thanked staff and the Planning Board for the work being done and wanted to know what happens when a VR-2 property is sold — what would happen to that VR permit/license.
- Abigale Parker said she felt the plan, as written, would advantage the rich and disadvantage the middle class. She said it seemed “counterproductive” to the larger, overall goal. Homes owned as second homes that aren’t rented, she said, don’t contribute to the tourist economy, which she said is the primary way people make their living in Bar Harbor. That is something positive contributed by vacation rentals. The current zoning and rules, Ms. Parker said, really discourage year-round rental on one’s property. She encouraged the board to reconsider the direction and provide Bar Harbor residents more opportunity, rather than less.

**J. Bonaventura likes transferability for VR-2**

**C. Yetka wants clearer definition of primary residence, also has concern about pending registration**

**L. Tibbetts has questions**

**G. Worcester has questions**

**A. Parker has concerns about proposal, thinks it is counterproductive to stated goals**

Planning Director Gagnon answered some of the questions raised. If a license is transferable, it’s transferable, whether it’s being sold or inherited, she said. VR-2 licenses would be transferable under the plan as presented (the license would run with the land).

**M. Gagnon works on responding to questions raised by speakers**

Planning Director Gagnon said there are roughly 438 vacation rentals, about 286 of which are VR-2s. A 7.5-percent-of-dwelling-units target would be 210 rentals, she said, meaning the town has a surplus of roughly 76 at present.

Planning Director Gagnon said that language around pending rentals and those waiting for inspections “got no traction,” so she took it out. Code Enforcement Officer Angela Chamberlain said there are about 60 pending applications, some of which have been in the queue since early 2019 and many of whom rushed to get an application in when it seemed there would be changes to the ordinance. “Not necessarily everyone had the intention of renting,” she said, so they’re just sitting there, because “these people aren’t necessarily really in a hurry.”

**A. Chamberlain speaks about pending registrations**

CEO Chamberlain said a line has to be drawn somewhere. “Just because you thought in your head, ‘I might rent someday down the road,’ I don’t think we should include those people.” That would take away from the numbers in the future, as they’d be counted toward the 7.5 percent, said Chamberlain. Letting people sit there taking up space on the list, she said, would be “counterproductive.”

There was further discussion about transferability. As for how sale prices get calculated if the property hasn’t been sold in a long time, Gagnon said it was a good question. She said perhaps the language should stay as twice the median assessed value, rather than tying it to sale price. The median assessed value is \$297,500, so double that would be just under \$600,000. “At least you have a value on the books,” she said.

**Discussion about dollar value for VR-3**

Vice-chair Cough said he worried that if the board was not coming through clearly on the audio for the viewing public, which was mentioned by several speakers, he said he was not sure the public hearing was serving its proper purpose.

**Discussion about ability of public to follow the meeting**

Assistant Planner Fuller said he was not aware of any factor on the broadcast end that would be causing it. He said that those people in the webinar had said the audio was good. Broadcaster Stan Short informed Assistant Planner Fuller that there was an issue with Spectrum, affecting those watching on television.

Chair St. Germain noted the board also received numerous comments via email prior to the meeting, roughly 6 to 10 at least, on the subject of vacation rentals.

**Discussion about public comments**

Ms. Brooks said she felt it was pretty clear from comments that there was more opposition to the proposal than there was support.

Planning Director Gagnon said that the town had sent a mailing to every address in the assessor’s database explaining the proposal. She said that, respectfully, for a mailing of 3,000 or so pieces she thought there would be more comments that would come in.

Ms. Brooks said that she was referring mostly to her sense that in the past year that the board has been working on this, the majority of people she’s heard from are in opposition to the proposal.

Mr. Eleftheriou asked whether the moratorium on vacation rentals is in effect; Planning Director Gagnon clarified that the moratorium had been discussed but never enacted.

Mr. Eleftheriou said that while he felt it was a “hard nut to swallow at this time,” there had been a lot of work put into it. He said the board would love to look at other issues affecting housing. This has been discussed for a couple of years, he said, and it’s not the end-all, be-all fix to housing, but one facet. He said he thought it was a start and noted that the Town Council had directed the Planning Board to discuss the issue.

In response to a question, Planning Director Gagnon said the Town Council would review final draft language on July 21, if the Planning Board sent it along. She said there was room for adjustment on the language that night and with the Town Council at its meeting as well. She proposed again that VR-3 be limited to single-family dwellings.

Mr. Eleftheriou said the Town Council “really wanted this done,” and that what was presented was “pretty good,” with room for improvement down the road. The Town Council could choose not to advance the proposal if the feedback at its public hearing is negative, he said.

Vice-chair Cough said it was important the Planning Board do this properly so it doesn’t end up coming back. He said he did not know if the board was there. “We’re just ignoring the other elements,” he said, citing density as an example. That had not been addressed, said Vice-chair Cough. There are no dates in the proposal, he said, meaning there was no protection for those who have already applied for vacation rentals. The Town Council could backdate the proposal or put it off, he said. Vice-chair Cough said he did not think the proposal was ready yet, and he said he thought that was sad.

Mr. Eleftheriou said he agreed with Vice-chair Cough and that he would have preferred to have done a comprehensive housing study instead. But, said Mr. Eleftheriou, “We were directed by the Council to do this.”

Vice-chair Cough said he thought the Planning Board needed to do what the Town Council directs but added, “We have to do it right.” Does it make sense, he asked, to look at this and say it’s largely there and we may look at it for June of 2021 (rather than for November of 2020). The Town Council could still put a moratorium on it, he said, although he hoped they would not. But putting something forward would not be the right answer right now, he said.

**Discussion among board members about pros and cons of moving forward**

Mr. Fitzpatrick said he felt this was one tool in the toolbox. The solution, he said, will be made up of a dozen different little actions, like “eating the elephant one bite at a time.” The board took initial action a year and a half ago to address housing issues, he said, and there are proposed ordinance changes relating to housing on the July 14 ballot.

This, said Mr. Fitzpatrick, will help to sustain the housing stock that’s available for year-round town residents and will over time return more housing units to the overall available stock. He said he doesn’t want to use the word affordable, because “Nobody making \$31,000 a year is going to be able to afford a home in Bar Harbor, probably ever,” he said, adding that he preferred the word “accessible.” But a dual-income family, said Mr. Fitzpatrick, making \$100,000 or \$120,000 should be able to afford to buy a home in the town that they work in. He said the ordinance changes, as proposed currently, address the goals the committees came up with.

Mr. Fitzpatrick said he understood the concern about creating two classes, but the “meat and potatoes market” they’re looking to bring back on the island is not looking at the \$750,000 home in the VR-3 category. The majority of VR-2s, costing between \$200,000 to \$350,000, have a chance of coming back and being year-round rentals or homes for purchase — and that’s the goal, he said.

**Continued  
discussion among  
board member  
about whether this  
plan and the timing  
are right**

There will never be a good time to do this, said Mr. Fitzpatrick. He said he believed the proposal addressed the majority of concerns, although he disagreed with the transfer of VR-2 licenses. He said less than 1 percent of the housing units in Bar Harbor had commented on the plan. “I think the silence says a lot,” he said.

Chair St. Germain said the set of proposals should move forward but that it should move forward accompanied by plans to address density. He said that while it’s a good proposal this was not the right time and said he felt it had been rushed. He said he was afraid of potentially making a mistake by moving too quickly.

Vice-chair Cough said he felt the issue came up initially because there were VR-1s not in compliance (i.e., length-of-stay issues), but that there’s been little desire to “come down on them for that.” If that’s the case, said Vice-chair Cough, it’s up to the Town Council to decide whether that will continue if the Planning Board pushed this proposal out six months. He said he felt the board was “close on this, but I don’t think we’re there.” He said the winter months could be a good time to look at the proposal in more detail.

Chair St. Germain said there is a citizen’s initiative on the July 14 ballot that addresses the length of stay. The outcome of that, he said, could be an indicator for the Planning Board to think about going forward.



Planning Director Gagnon echoed Mr. Fitzpatrick and said the timing would never be perfect. She said that while this may not be perfect, unless it's legally deficient and going to cause problems there should be no issue with sending it to the Town Council and seeing what happened. The Town Council can decide at that point; if it does move forward, then the residents would ultimately decide. The proposal was "diluted considerably" to take into account comments, she said, adding that she was not sure what plans could be put in its place.

**Planning Director Gagnon weighs in**

Planning Director Gagnon suggested adding the word "single-family" to VR-3 and clarifying transferability to VR-1, saying "transferability is not applicable." The Town Council could also tweak this, she said, adding that she was not sure what would change in the next six months.

Vice-chair Cough said he remembered one of the efforts the Planning Board previously made getting kicked back.

Chair St. Germain said Planning Director Gagnon made good points. If the board sent it to the council, there would still be an opportunity to comment, he said. Would it be better to put the framework in front of voters on its own, he asked, or would it be better served pairing it with another part of the large housing policy framework? Advocates, he said, state there is no good time to deal with this "rather unpleasant subject."

Mr. Fitzpatrick said he'd like to see these rules in place before density is addressed so that new dwelling units could be controlled as they're created. As the number of dwelling units go up, under this model, so would the number of licenses, he pointed out.

**More comments from board members about what is the appropriate course of action at this time**

Planning Director Gagnon said that the process from here on is consensus. There will be a lot of questions, she said; the Town Council could stop the process. The Warrant Committee and Planning Board will indicate to voters how they feel about the issue if it does appear on the ballot, she said.

Ms. Brooks referenced the speaker from earlier who said that he was on the Appeals Board who said he did feel it was legally deficient. Planning Director Gagnon said the town's lawyer was reviewing the language and would say whether the language was deficient or not.

Vice-chair Cough said that if the board increased density, that would likely increase VR-1s and possibly single-family homes. He expressed some concern about how that process might play out. With the 60 pending applications that are in process, he said it would be a long time before the town gets to that level, possibly 20 to 30 years, before attrition would come into play.

Planning Director Gagnon recommended that under VR-1, transferability, the board add “not applicable.” Under VR-3, where the proposal referenced an “entire dwelling unit,” she suggested changing the language to “an entire single-family dwelling unit.”

Mr. Fitzpatrick asked whether they could make a change to say that VR-2s would be non-transferable. Planning Director Gagnon said that while she did not believe transferability was in the best interest of what the town was trying to do, she felt it would be the fair action to leave the proposal as it is, given the comments staff had received.

**Mr. Fitzpatrick moved to recommend that the draft order [on vacation rentals] move forward to the Town Council with the [condition that the] revisions that Planning Director Gagnon previously mentioned were made. Mr. Eleftheriou seconded the motion.**

In discussion, Chair St. Germain explained that if the board voted in favor of sending the proposal on to the Town Council, where the Town Council would be able to review it and decide whether to send it to voters. It would also go to the Warrant Committee and come back to the Planning Board, with both bodies getting to make a recommendation on whether they feel the proposal ought to pass. Chair St. Germain said he felt it was fair to let the process play out. He said short-circuiting the process would not be in the best interest of the discussion that had evolved during the process. Ms. Brooks noted her continued opposition to the proposal.

**When the vote was called, the board split 3-2 in favor of the motion on a roll-call vote, with Vice-chair Cough and Ms. Brooks opposed.**

## **VII. OTHER BUSINESS**

Planning Director Gagnon said there would be a roundtable involving developers and other interested parties in the future to discuss what hurdles to housing development are with regards to the Land Use Ordinance. She said staff would also be looking at solar as a stand-alone use.

Ms. Brooks asked when the board might return to in-person meetings. Planning Director Gagnon said the Town Council had said that not before August, at the earliest. With the physical distancing required between board, staff and applicants it would be difficult to find a large-enough space. Directive will come from the Town Council, she said. Vice-chair Cough said he thought in person meetings could be manageable, even with distancing requirements.

**Motion to send the proposal on to the Town Council:  
CARRIES, 3-2  
(Cough and Brooks opposed)**

**M. Gagnon mentions roundtable discussion planned on Hurdles to Housing**

**Discussion about returning to in-person meetings**

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

Mr. Eleftheriou asked whether Planning Director Gagnon could address the underground utility portion of the ordinance. She said staff would add that to the list.

**Underground utilities requirement in LUO**

Mr. Eleftheriou asked whether there is a way to do things concurrently, even though many of the issues are very time-consuming, including housing. Planning Director Gagnon said that staff are looking at the Town Council’s vision and goals but if the Planning Board has issues it would like addressed it can raise them. “It becomes so difficult to stay connected to the topic and be able to answer questions when you have so many going on at once,” she said. It depends what the Planning Board feels staff should be looking at. If they only work on big things, she said, there will be smaller issues that need addressing. Mr. Eleftheriou suggested possibly having a professional facilitator at the “Hurdles to Housing” roundtable. Planning Director Gagnon said that would “have value.”

**Discussion about how best to proceed with LUO amendments moving forward, with timing and process**

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

None.

**No review**

**X. ADJOURNMENT**

**At 7:03 PM, Mr. Eleftheriou moved to adjourn the meeting.**

Chair St. Germain acknowledged Mr. Fitzpatrick’s contributions to the Planning Board over the years. Vice-chair Cough said Mr. Fitzpatrick had “set the bar high” and thanked him for his contributions. Mr. Eleftheriou also thanked Mr. Fitzpatrick.

**J. Fitzpatrick is thanked for his service on the Planning Board**

**Mr. Fitzpatrick seconded Mr. Eleftheriou’s motion, and it then carried unanimously (5-0) on a roll-call vote.**

**Meeting adjourned at 8:37 PM, 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