

Meeting Minutes
Bar Harbor Planning Board
Wednesday, February 2, 2022 at 4:00 PM
Meeting conducted remotely, via Zoom

Under the Board's Remote Participation Policy (adopted 9/29/2021), the February 2, 2022 Planning Board meeting was conducted fully remotely (via a Zoom webinar) due to the urgent issue of the continuing COVID-19 pandemic and the declarations of a public health emergency by both the US and Maine departments of Health & Human Services.

Members of the public were able to view the proceeding by visiting the Town Hall Streams website (<https://www.townhallstreams.com>) and selecting "Bar Harbor" from the dropdown menu. Instructions on how to attend the Zoom webinar and offer comment during the February 2, 2022 Planning Board meeting were posted online at this address in advance of the meeting: <https://www.barharmormaine.gov/282/Planning-Board>.

I. CALL TO ORDER

Chairperson Tom St. Germain called the meeting to order at 4:03 PM. Planning Board members present were Chairperson St. Germain, Secretary Millard Dority, and members Ruth Eveland, Earl Brechlin and Elissa Chesler. Vice-chairperson Joe Cough was absent.

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

Greg Johnston, Kay Stevens Rosa and Chris Maller were also present for agenda item 6 b.

II. ADOPTION OF THE AGENDA

Ms. Chesler moved to adopt the agenda. Ms. Eveland seconded the motion. It then carried unanimously, 5-0, on a roll-call vote.

III. EXCUSED ABSENCES

Chairperson St. Germain noted that Vice-chairperson Cough would be absent. **Ms. Eveland moved to excuse Vice-chairperson Cough's absence. Mr. Brechlin seconded the motion. It then carried unanimously, 5-0, on a roll-call vote.**

IV. PUBLIC COMMENT PERIOD

Chairperson St. Germain opened the public comment period at 4:05 PM. Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one indicated a desire to speak, however, and so the public comment period was subsequently closed at 4:06 PM.

V. APPROVAL OF MINUTES

a. December 1, 2021

Secretary Dority moved to approve the minutes of December 1, 2021. Ms. Chesler seconded the motion, which then carried unanimously (4-0), on a roll-call vote. Mr. Brechlin did not vote, explaining that he was not a member of the Board during its December 1, 2021 meeting.

b. January 5, 2022

Secretary Dority moved to approve the minutes of January 5, 2022. Mr. Brechlin seconded the motion, which then carried unanimously (5-0), on a roll-call vote.

VI. REGULAR BUSINESS

- a. Continuation of Public Hearing for Proposed Land Use Amendment: Removal of the Two-thirds Majority Vote Requirement.** This amendment provides that a simple majority vote at Town Meeting is required to adopt a proposed amendment to the Land Use Ordinance, regardless of whether or not the Planning Board votes to recommend the amendment. This is a Town Council-initiated proposed amendment.

Ms. Chesler commented that the two-thirds majority seemed to incentivize residents to go around the Planning Board and use the citizen's initiative process instead. She said she was in favor of the proposed amendment. Ms. Eveland echoed that and said that citizens feeling they need to go around the Board puts it in a role where it seems more contentious than it needs to be. "There's a perception we need to be worked around," she said, and reducing the threshold would help more people feel the Board is participating in the process in a positive way.

Mr. Brechlin said he initially felt the two-thirds threshold served as a check-and-balance, but said he now felt that a simple majority was likely the way to go. Secretary Dority said he understood his fellow Board members but that the coincidence was strong between events of the last few months and this effort. Secretary Dority said he saw the benefits of both approaches, but if this amendment were to pass he hoped a Board recommendation against a future amendment would still carry some weight. Chairperson St. Germain said he had no new comments to offer.

Chairperson St. Germain invited members of the public to speak, continuing the public hearing that was opened at the January 5, 2022 meeting. Assistant Planner Fuller read information on how the public could join the meeting and offer comment. No one present indicated they wanted to speak. **Chairperson St. Germain then closed the public hearing at 4:17 PM.** He said the item would go to the Town Council and that the Board would likely see it again in the future.

b. Public Hearing and Completeness/Compliance Review for a Subdivision Plan SD-2021-03 Harbor Lights Retirement Community

Project Location: 18 Hamor Lane (Tax Map 216, Lot 50), encompassing a total of 58.97 acres according to town tax records, in the Shoreland Limited Residential, Hulls Cove Residential Corridor, Hulls Cove Rural, Resource Protection and Ireson Hill Residential districts.

Owner/Applicant: Harbor Lights, LLC, 80 Exchange Street, Bangor, ME 04402

Application: The applicant proposes to construct a retirement community on a 58.97-acre parcel of land, according to tax record. The area of the parcel that will be developed

is an 18.7-acre portion wholly contained within the Hulls Cove Rural District. The application consists of 42 dwelling units, offices for qualified assisted living and care practitioner along with a community space building. The development will be served by public sewer and public water. The shore front portion, as well as the easterly portion of the parcel, are not part of the retirement community application. The easterly portion of the parcel will be 1-acre, single-family dwelling lot to be retained by the owner.

Greg Johnston and Kay Stevens Rosa were present on video representing the owner/applicant. Chris Maller was also present but was not on audio or video. Mr. Johnston gave an update on completeness and a general recap of the project for the benefit of the Board. Chair St. Germain gave an overview of the next steps in the Board's process.

Secretary Dority moved to find the application SD-2021-03 Harbor Lights Retirement Community complete, per the Bar Harbor Land Use Ordinance Section 125-66, as the capacity letters from the Water, Sewer, Public Works, Police, and Fire departments were submitted; and recognizing that the Maine Department of Environmental Protection Tier 1 permit and the Army Corps of Engineers self-verification letter, had not been submitted but do not unduly restrict the review process and will be listed as conditions of approval. Ms. Eveland seconded the motion, and it carried unanimously (5-0), on a roll-call vote.

Mr. Johnston shared his screen and gave an extensive overview of the project, including site plans and photographs of the site and the proposed project layout. He noted that Hamor Lane would not be part of the project, as discussed previously. The pond that already exists on site will be enlarged to increase the length of time for stormwater to be treated between inlets and outlets. There will be a one-way loop into the site, he explained. The site will contain sidewalks and more than 240 trees to be planted for buffering.

Kay Stevens Rosa presented about the buildings and units. She indicated there will be a variety of sizes, from one- to three-bedroom units. The two larger buildings are intended to look like a large farmhouse. There will be a "little bit of everything that one could want" on the compound, she said. Everything will be connected by walkways. Mr. Johnston noted that the amenities will not be open to the public, which was something that had been asked about previously.

Secretary Dority asked a question about sight lines and distances. He asked if there would be trouble with residents of this project attempting to exit onto Route 3. No, said Mr. Johnston. He explained permit requirements established by the Maine Department of Transportation and what that agency's standards are, noting it is beyond what is required in the Land Use Ordinance.

Mr. Brechlin asked whether this would be a multi-phase project, with additional development coming in future applications. It is not perceived as being larger than what was before the Board at present, said Mr. Johnston. There was an iteration of the project that included additional units but there are wetlands on the property which limit the buildable envelope, Mr. Johnston said.

Chairperson St. Germain opened the public hearing at 4:40 PM. Assistant Planner Fuller read the contact information aloud and displayed it on the screen. After waiting to give anyone

who might wish to speak a chance to do so, but seeing no one present indicating they wanted to speak, **Chairperson St. Germain closed the public hearing at 4:43 PM.**

Ms. Chesler shared concerns over hazardous waste. There will be small amounts of hazardous materials she said, given the medical facility and the maker's space, and there should be safety and disposal plans in place. That is a valid comment, said Mr. Johnston. The applicant indicated how the biomedical waste would be handled in the application, he said. There will be disposal units in the clinic offices.

Chairperson St. Germain asked about the Fire Chief's sign-off regarding the modification of standard requests, as both relate to emergency vehicle access. There was an email addressing this, said Mr. Johnston. The Fire Chief did not mention any issues or conditions in his capacity letter, said Planning Director Gagnon, so that email was not included in the board's materials.

Secretary Dority commended the applicant representatives for making revisions to the plan that apparently addressed public concerns, as no members of the public were present to protest the proposed project (he said he had encountered angry abutters at an earlier site visit).

Planning Director Gagnon introduced the last piece of the application, a request for phased development. Mr. Johnston explained that the request for extension was included so that the applicant would not have to come before the Board again. He apologized for the late submission, but said a reading of the Land Use Ordinance showed this was the appropriate time for this.

Secretary Dority moved to approve the application SD-2021-03 Harbor Lights Retirement Community per the decision dated February 2, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance sections 125-67 and 125-69 N. with the following:

- 1. The following information shall be submitted to the Code Enforcement Officer prior to the issuance of building permits:**
 - a. Maine Department of Environmental Protection Tier 1 permit;**
 - b. Army Corp of Engineers self-verification letter;**
 - c. Demonstration that water flows are sufficient to meet the domestic and fire suppression standards;**
 - d. Wastewater construction plans approved by the Wastewater Department; and**
 - e. Proof that the plat plan has been recorded at the Hancock County Registry of Deeds within 90 days of the plan being signed by the Planning Board.**
- 2. The Water Department requires that all new water service lines, valves, meters and any associated equipment be installed according to the Water Division Standards.**
- 3. The Planning Board has approved the following modifications of standards:**
 - a. 125-67 G. (2)(h): Two street connections are not needed, as to avoid impacting mobility on Route 3 and as supported by the Maine Department of Transportation;**
 - b. 125-67 G. (3)(b): A cul-de-sac is not needed as the one-way road provides the intended loop for traffic, as well as adequately serves emergency vehicles both in turning radius and in staging, and**

c. 125-67 BB.: Should the applicant want a sign in the future, they will need to need to secure a Certificate of Appropriateness from the Design Review Board for the sign and related lighting.

4. The applicant requests the Planning Board to permit the project to be completed in two consecutive phases, each benefitting from the time frames allotted to individual projects by 125-90 A. This will give each phase of the project 18 months for completion. The first phase extends utilities from the public way [Route 3] and constructs the access 700 feet into the site. The first phase preserves the health and safety of the public by completing necessary improvements to be out of the public way. Following the first phase of the project a sales effort for the project will be commenced. As all sales are secured the Second Phase of units, access and utilities will be brought further into the site.

Secretary Dority's motion was seconded by Mr. Brechlin, which then carried unanimously (5-0) on a roll-call vote.

VII. OTHER BUSINESS

a. Comprehensive Plan Update

Ms. Chesler, who serves on the Comprehensive Planning Committee, gave a brief update. A chairperson and vice-chairperson were elected, she said. This is the first of a three-phase process. There will be a web-based form for stakeholder input, but the link is not yet live. There is public comment allowed at all meetings, she said. Topics covered during the last meeting included population and demographics, and natural, historic, and cultural resources. The committee emphasized that population and demographics data should come from the post-pandemic era, said Ms. Chesler. It was an interesting discussion, said Ms. Eveland, who listened in.

VIII. BOARD MEMBER COMMENTS/SUGGESTIONS FOR THE NEXT AGENDA

There were none.

IX. REVIEW OF PENDING PLANNING BOARD PROJECTS

Planning Director Gagnon thanked Ms. Chesler for the Comprehensive Plan update. She noted that Planning Board members had received a copy of the packet sent to Comprehensive Planning Committee members.

Projects coming up include the subdivision for Jennifer Fisk and possibly the College of the Atlantic dormitory project. She said on Wednesday, February 23 at 5 PM there would be a Planning Board workshop, with representatives from the Maine State Housing Authority, Island Housing Trust and local housing authority. Secretary Dority said it would be important to add developers to the mix. He thanked Chairperson St. Germain for emailing an article from MaineBiz on the subject of construction in Portland in the wake of that city passing a "Green New Deal." Ms. Eveland said she felt it was a prime example of people being well-intentioned but not well-informed — if it's not something that's workable there's no point following through with it. Planning Director Gagnon said Bar Harbor has some very restrictive standards.

X. ADJOURNMENT

At 5:09 PM, Ms. Chesler moved to adjourn. Mr. Brechlin seconded the motion, which then carried unanimously (5-0) on a roll-call vote.

Minutes approved by the Bar Harbor Planning Board on March 2, 2022:

03.09.22

Date


Millard Dority

Secretary, Bar Harbor Planning Board