

Meeting Minutes
Bar Harbor Planning Board
Wednesday, September 7, 2022 at 4:00 PM
Council Chambers — Municipal Building — 93 Cottage Street

I. CALL TO ORDER

Chairperson Millard Dority called the meeting to order at 4:00 PM. Planning Board members present were Chairperson Millard Dority, Vice-chairperson Ruth Eveland, Secretary Elissa Chesler, and members Joseph Cough, Earl Brechlin, Zach Soares and Cali Martinez.

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

Chairperson Dority welcomed new member Cali Martinez to the Board. Ms. Martinez said she is a recent graduate of the College of the Atlantic, and that she now works for The Musson Group as an associate planner. Chairperson Dority also recognized Mr. Brechlin for the news that he will be inducted into the Maine Press Association Hall of Fame later this year.

II. ADOPTION OF THE AGENDA

Chairperson Dority asked that the Board **amend the agenda to add a recommendation of endorsement for a decision on a minor change to a subdivision (MSD-2022-01, McFarland Farm LLC), and to amend the decision SD-2019-01, The Farm, a subdivision dated June 3, 2020 and signed on June 11, 2020, and suggested adding this to other business, as new item A, and to have the items already there move down one letter. Vice-chairperson Eveland made a motion to this effect, which was seconded by Mr. Brechlin. The motion then carried 5-0, with Mr. Cough abstaining because he is the applicant/developer of that project, and Mr. Soares abstaining because he is a noticed abutter for the project.**

Chairperson Dority asked the Board to consider another amendment under regular business, suggested **switching items F and H for one another (meaning that the article relating to removing the two-thirds majority vote requirement would be discussed third rather than first among the warrant article recommendations).**

Mr. Brechlin asked the reasoning for the proposed change. Chairperson Dority said he thought the discussion on the other two items (retail marijuana and cruise ship disembarkations) might inform the discussion on the third item (removal of the two-thirds majority requirement). **Mr. Brechlin made a motion to make the change to the agenda order. Mr. Soares seconded the motion, which then carried unanimously (7-0).**

Vice-chairperson Eveland then made a motion to adopt the agenda as amended. Mr. Brechlin seconded the motion, which then carried unanimously (7-0).

III. EXCUSED ABSENCES

As all Planning Board members were present, there were no absences to excuse.

IV. PUBLIC COMMENT PERIOD

The Planning Board allows up to 15 minutes of public comment on any subject not on the agenda nor on a pending application before the board, with a maximum of 3 minutes per person. There were members of the public present, but there was no public comment.

V. APPROVAL OF MINUTES

a. August 3, 2022

Vice-chairperson Eveland made a motion to adopt the minutes as presented. Secretary Chesler seconded the motion, which carried 5-0 (Mr. Brechlin abstained as he was absent from the August 3, 2022 meeting, and Ms. Martinez abstained because she was not yet a member of the Planning Board when that meeting occurred).

VI. REGULAR BUSINESS

a. Public Hearing and Completeness/Compliance Review for Site Plan SP-2022-08 — JAX Childcare

Applicant/Owner: The Jackson Laboratory (JAX), 600 Main Street, Bar Harbor, ME 04609

Application: The proposed project is to construct a new childcare center to serve JAX employees. The wood-framed, single-story building is designed to be approximately 6,800 square feet and will serve approximately 53 children and 20 staff. The proposed facility will be constructed adjacent to Parking Lot A at the southerly end of campus in a currently undeveloped area. The project includes a fenced outdoor play space and a drop-off loop with ten parking spaces.

Project Location: The property is located 600 Main Street/Route 3 and known as Tax Map 253, Lot 7. The parcel encompasses a total of ±21.16 acres, according to town tax records.

District: Scientific Research for Eleemosynary Purposes

Secretary Chesler recused herself as she is employed by The Jackson Laboratory, and as she said her staff might benefit from the facility. She then left the room, and with her departure the voting membership of the Board was reduced to six (6) members. There was no vote on this, as Secretary Chesler's recusal was in keeping with her past practice.

Kelly Doran from The Jackson Laboratory and Sarah Nicholson from Woodard Curran, working for the applicant, were both present. Ms. Doran gave an introduction of the project, while Ms. Nicholson gave additional details. Ms. Doran said recruitment and retention of employees on the island is a significant challenge for the lab, and child care is a factor. The proposed facility will accommodate about 53 children. It is anticipated there will be approximately 20 staff members, though that number is still to be finalized. The property will still be owned by the applicant, but will be run in partnership with the Down East Family YMCA.

Ms. Nicholson said the project is located at the south end of campus, adjacent to Lot A, and will be built on presently undeveloped land. The building will have a fenced-in outdoor play space with an artificial turf surface. She spoke about the change in parking spaces, and said there will be 10 parking spaces for the childcare center. Ms. Nicholson said the project will use the existing entrance to Lot A from Route 3, so there will not be any changes to the driveway entrance.

Chairperson Dority asked if there were any questions from the Board. There were none. He took a moment to give a procedural explanation, noting that the applicant had previously come before

the Board and that the application had been found incomplete at that time. He said they were before the Board tonight for both completeness (and compliance) as well as for a public hearing.

Vice-chairperson Eveland made a motion to find the application SP-2022-08 — JAX Childcare complete, per the Bar Harbor Land Use Ordinance Section 125-66, as capacity letters from the Fire and Wastewater departments have been submitted and as the capacity letter from the Public Works Department; the Maine Department of Environmental Protection Site Location of Development Permit amendment; the Maine Department of Transportation Driveway Permit amendment; and the Fire Marshal approval can be considered conditions of approval. Mr. Brechlin seconded the motion.

As the vote began to be called, there was discussion about whether Ms. Martinez and Mr. Brechlin should be voting on the application, as neither was at the previous meeting where the application was reviewed. Ms. Martinez said she had watched a recording of the earlier meeting and had reviewed the application materials, and asked whether she could vote or should abstain.

Mr. Cough made a motion that Ms. Martinez be able to hear the application, adding that he would like to hear from the applicants if they had any issues. In response, both Ms. Doran and Ms. Nicholson said they did not have any concerns about Ms. Martinez reviewing the application. **Mr. Soares seconded Mr. Cough's motion, which then carried 5-0 (with Ms. Martinez not voting and Secretary Chesler out of the meeting).**

Mr. Brechlin said he was in the same situation as Ms. Martinez, that he had watched the recording of the last meeting, read the minutes and reviewed the application. **Mr. Cough made a motion to allow Mr. Brechlin to hear the application. Mr. Soares seconded the motion.** Chairperson Dority asked the applicants if they had any concern with this, and they said they did not. **The motion then carried unanimously (5-0), with Mr. Brechlin not voting and Secretary Chesler out of the meeting.**

Voting on the original motion, to find the application complete with the stipulations noted in the motion by Vice-chairperson Eveland, then resumed. Ultimately, Vice-chairperson Eveland's motion carried unanimously (6-0, with Secretary Chesler out of the meeting).

Mr. Cough noted there is opportunity during the review process for the Board to ask questions.

At 4:15 PM, Chairperson Dority opened the public hearing. Peter Farragher, executive director of the Down East Family YMCA, said the project is well thought out and said it is an extension of the YMCA's current partnership with The Jackson Laboratory in Ellsworth. As no one else came forward to speak after Mr. Farragher, **the public hearing was closed at 4:16 PM.**

Mr. Cough asked if the project was for Bar Harbor-based Jackson Laboratory employees or any and all Jackson Laboratory employees. Ms. Doran said the facility will be open to all of the lab's employees, with first priority going to those who work on-site, full-time in Bar Harbor. She noted some Bar Harbor-based lab employees currently travel to Ellsworth to take their children there for childcare needs. Ms. Doran said the facility is designed to serve Jackson Laboratory employees first, and that if there is open space it would then be opened to other Bar Harbor residents. Ms. Doran said there is a strong demand/employee need for childcare in Bar Harbor

among lab employees. She said the last survey the lab had done indicated there was a need of childcare services for 40-50 children, just among Bar Harbor lab employees.

Vice-chairperson Eveland made a motion to approve the application SP-2022-08 — JAX Childcare per the decision dated September 7, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance Section 125-67 with the following conditions of approval: capacity letter from the Public Works Department; the Maine Department of Environmental Protection Site Location of Development Permit amendment; the Maine Department of Transportation Driveway Permit amendment; and the Fire Marshal approval; the wastewater utility plans get reviewed and approved by the Wastewater Department; the water utility plans get reviewed and approved by the Water Department, which are to be provided to the Code Enforcement Officer prior to permits being issued; and all wastewater connections be inspected by the Wastewater Department, that lots 253-2, 253-3 and 253-7 be merged through the Assessor's Office, and as-built plans be provided to the Code Enforcement Officer prior to the certificate of occupancy being issued. Mr. Soares seconded the motion, which then carried unanimously (6-0) on a roll-call vote.

Several Board members said the project would be serving a critical need for childcare in the area. Following the vote, Secretary Chesler returned to the meeting room, and with her return the voting membership of the Board was once again seven (7) members.

b. Public Hearing and Completeness/Compliance Review for Subdivision SD-2022-01 Red House Farm

Applicant/Owner: Finback on Cottage LLC % Michael Boland, PO BOX 10, Bar Harbor, Maine 04609

Application: To subdivide a 27-acre lot into three (3), two-acre, single-family lots with a fourth, 21-acre lot to be retained by the owners.

Project Location: 16 Hadley Point Road (Tax Map 202, Lot 58), encompassing a total of ±27 acres.

Districts: Salisbury Cove Corridor and Salisbury Cove Residential

Greg Johnston was present representing the applicant. Mr. Johnston recapped what had happened with respect to the project since it was last before the Board, which included a follow-up with the fire chief. Mr. Johnston recapped the specifics of the proposal: it involves a 27-acre parcel, that there would be three new lots created (one of which has an existing farmhouse under renovation), and that approximately 21 acres would remain undeveloped. He explained how the lots are situated with respect to Hadley Point Road and Route 3. Mr. Johnston noted that the subdivision does not require the construction of a road because the two new, 2-acre lots without houses on them yet both have frontage on Hadley Point Road. He said the lot size is similar to other lots in the area, and he said private wells and septic systems will serve the properties. There was discussion about stormwater needs and requirements, and how water drains from the site.

Secretary Chesler asked about Section 125-69 N. (7), Future redevelopment. She said it appeared to not have been addressed (specifically, with the remaining 21-acre lot being “substantially larger than the minimum size required in the district). She asked how any future additional buildable lots on the 21-acre parcel would be accessed, and said the Board should address it. Mr. Johnston said the reality of the lay of the land meant the applicant had no future plans for

developing the 21-acre parcel. Should that change, he said, the 21-acre parcel still had access to both Route 3 (though that is less than ideal, he said) and Hadley Point Road, as well as on Bayview Road (though wetlands would likely impede access there).

“It’s been planned in a way that there’s still access to the property,” said Mr. Johnston, “though how it would be developed or if it would be developed hasn’t really been contemplated.”

Chairperson Dority asked about lot coverage. He noted Lot 3 is the only lot, presently, with a building on it, and said even though it seemed clear it was not violating the lot coverage standard he thought it should be made part of the application. Chairperson Dority said it could be made a condition of approval. Mr. Johnston did some quick calculations and estimated the lot coverage on the to-be-created Lot 3 to be approximately 4 percent, well under the 25 percent allowance. Chairperson Dority said he was satisfied with that, and then asked a question about the path referred to on the plan. Mr. Johnston explained it is a woods road that runs through the property.

Vice-chairperson Eveland made a motion to find the application SD-2022-01 Red House Farm complete, per the Bar Harbor Land Use Ordinance section 125-66, as the capacity letter from the Fire Department has been submitted, and as the capacity letter from the Public Works Department can be considered a condition of approval. Mr. Cough seconded the motion.

There was discussion about the ability of Ms. Martinez to vote on this application for the same reasons noted last time. She said she had done her due diligence on this application as well, and Chairperson Dority asked if the Board was satisfied that the earlier vote could be understood to carry through and apply to all of the relevant applications on the agenda. There was no objection to this approach. **With that settled, the vote was unanimous (7-0) in favor of the motion.**

At 4:30 PM, Chairperson Dority opened the public hearing. As no one came forward to speak, the public hearing was subsequently closed.

Vice-chairperson Eveland made a motion to approve the application SD-2022-01 Red House Farm per the decision dated September 7, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance sections 125-67 and 125-69 N. with the following conditions of approval: capacity letter from the Public Works Department; the requirement for residential sprinkler system compliant with 2019 NFPA 13.d. be in the deed for the new house lots; and a stormwater management plan be submitted approved by the Highway Superintendent for Lot 1 and for Lot 2 showing that runoff from the building(s) and driveway will not create a burden on the town’s infrastructure and to the abutter; and that the subdivision plan be signed by a land surveyor, all to be provided to the Code Enforcement Officer prior to permits being issued. Mr. Brechlin seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

Mr. Johnston said he had plans for the Board to sign, which he would leave with staff for the Board to sign at the end of the meeting. Planning Director Gagnon asked a clarifying question about deed restrictions for the residential sprinkler systems, and Mr. Johnston responded to that.

**c. Public Hearing and Completeness/Compliance Review for Site Plan SP-2022-07
Bluenose Inn**

Applicant: Bluenose Inn, 90 Eden Street, Bar Harbor, Maine 04609

Owner: Lafayette Bluenose LLC, 155 Littlefield Ave, Bangor Maine 04401

Application: The construction of a new four-story hotel building (±9,725 square feet footprint) in the approximate location of the former Bluenose Inn structure that burned in February 2022. The new hotel will have 21 suites.

Project Location: 90 Eden Street (Tax Map 101, Lot 21), encompassing a total of ±4.65 acres, according to town tax records

District: Bar Harbor Gateway

There was a slight delay as staff worked with applicant representative John Kenney to try and resolve (unsuccessfully) some technical issues. In response to a question from Chairperson Dority, Mr. Kenney said he had no problems with Ms. Martinez or Mr. Brechlin reviewing and adjudicating on the application. Mr. Kenney gave an overview of the project, what it entailed and why it was necessary (a fire there in February 2022). Assistant Planner Fuller helped by bringing site plans up on the screen after Mr. Kenney's tablet was unable to connect and project images.

Mr. Kenney said the building will go from 45 guest rooms previously to 21 suites under this proposal. He said that meant fewer vehicle trips and less water and wastewater. Mr. Kenney said a stormwater analysis was done. He said there would be a reduction in peak flow due to a reduction in impervious area.

Chairperson Dority asked if anyone had any questions. Mr. Brechlin asked about how building height is calculated. The applicant answered the question. Secretary Chesler asked why there wasn't a study point for the stormwater runoff near Eden Street. As the applicant began to explain, Planning Director Gagnon explained that the applicant is not increasing impervious area so technically they did not have to do stormwater analysis. As the applicant was already changing a few things on site, she said, staff asked them to show there was no burden on downstream properties or on the town's catch basin. Mr. Kenney elaborated on the subject.

Secretary Chesler asked if there was a loading berth proposed anywhere on the site. Mr. Kenney said a lot of the services would come from the main hotel over to the new building. Fred Lindsey, Bluenose Inn general manager, said most of the supplies are unloaded in the parking lot and then loaded into the respective areas they are needed in. Mr. Kenney noted there was no restaurant in the new building, and said the laundry area is in the main building as well.

Chairperson Dority asked the board if it had any concern about completeness. Mr. Cough asked if an applicant wanted to change an interior detail, for example, a door in a bedroom, would the applicant need to return to the Planning Board? Code Enforcement Officer Chamberlain said "typically we have allowed interior modifications because that doesn't really affect the site" under site plan review. Mr. Kenney said he believed the architect had addressed the concern. Secretary Chesler asked about the fire department capacity letter about ladder truck placement. Mr. Kenney said they were willing to work with whatever the fire department needs. Planning Director Gagnon said the fire chief issued a capacity letter and did not write that as a condition (it was instead listed as a comment in the Fire Department's capacity letter). Planning Director Gagnon said because the fire chief did not put it as a condition, she did not carry it through as a

condition of approval. She said it could be added as a condition if the Planning Board wanted to. Mr. Kenney advised that Chief Bartlett said he was going to investigate to see what would be needed. "We told him to let us know," said Mr. Kenney. Chairperson Dority asked for a motion.

Mr. Brechlin made a motion to find the application SP-2022-07 Bluenose Inn complete, per the Bar Harbor Land Use Ordinance section 125-66, because the capacity letter from the Fire and Water departments were received, and the capacity letter from the Public Works Department and Fire Marshal approval can be conditions of approval. Vice-chairperson Eveland seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

At 4:57 PM, Chairperson Dority opened a public hearing. No one came forward to speak, and the public hearing was subsequently closed.

Secretary Chesler made a motion to approve the application SP-2022-07 Bluenose Inn per the decision dated September 7, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance section 125-67 with the following conditions of approval: capacity letter from the Public Works Department; the Fire Marshal approval; the wastewater utility plans get reviewed and approved by the Wastewater Department; the water utility plans get reviewed and approved by the Water Department, which are to be provided to the Code Enforcement Officer prior to permits being issued; and all wastewater connections be inspected by the Wastewater Department; and as-built plans be provided to the Code Enforcement Officer prior to Certificate of Occupancy being issued. Vice-chairperson Eveland seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

d. Completeness Review for SD-2022-06 – Natures Gift Subdivision

Applicant/Owner: Kay and William Koplovitz Trustees, 1115 State Highway 3, Bar Harbor, Maine 04609

Application: To subdivide a 35.08-acre lot into five lots.

Project Location: 1115 State Highway 3 (Tax Map 213, Lot 5-1), encompassing a total of ±35.08 acres, according to town tax records.

Districts: Shoreland Limited Residential and Town Hill Residential

Paul Monyok, a civil engineer with Haley Ward, was present to represent the applicants (who were also present). Also present was Pamela Gleichman, who is also working with the applicants. Mr. Monyok explained that he had taken over from an earlier applicant representative, and that there had been some catching up that needed to be done as a result. Mr. Monyok said he and his clients had read the staff memo and were working to comply with it.

Mr. Monyok gave an overview of the project: the property is along Route 3. He recounted the history of the property, formerly owned by the Buhners and now owned by his clients. Mr. Monyok said his clients intend to build their personal residence on the main portion (center lot) of the proposed subdivision. He said a road would be necessary. It was initially to be called Nature's Gift, but upon talking with the town's addressing officer they went with Heavenly Place instead due to Nature's Gift being too similar to another, already existing street name.

Mr. Monyok spoke about other lots, including a small lot abutting Route 3 that is set to be deed-restricted to prevent any future development on that parcel. He said there is a six-foot wide walking easement over a property line along that parcel, which would afford the Buhners a

chance to walk down to the water from their residence on Route 3. Mr. Monyok spoke about the characteristics of the proposed roadway. He referred to discussions with town staff and needing to have adequate turnaround space for a fire truck, and he said that was now included in the plan.

Mr. Monyok said a proposed right-of-way to give access to Lot 3 was shown in a generic location, and suggested it could be shifted if needed in working with a future owner of Lot 3.

Mr. Monyok said Maine Historic Preservation Commission suggested an archeological dig be done, and that someone had come out on site and found an old cellar hole. He said it was thought that should be protected, so there was a proposed deed restriction there, too. Mr. Monyok said it wouldn't get tampered with anyway because it is within the setback from the water. Mr. Monyok said the Maine Department of Transportation had granted a driveway permit. He said it referred to three lots because one lot (Lot 5) is set to be deed restricted while the Buhners (Lot 1) already have access to Route 3 via a driveway at their house. Mr. Monyok elaborated on access matters.

Mr. Monyok said he was aware that his clients had done some tree trimming in the area which put them in violation. He said he and his clients had worked with town staff to come up with a revegetation plan, and that there had been feedback back and forth on the plan. He said he was not sure if it was fully resolved from the town's perspective, however. Mr. Monyok said there were also some capacity letters that the applicant was waiting for that town staff usually gets.

Mr. Cough said if there is a violation, he was not sure the Planning Board could hear the application. Planning Director Gagnon referenced a recent application from the Andersons, where there was not a no-violation letter from Code Enforcement. Code Enforcement Officer Chamberlain said the Land Use Ordinance says that the Planning Board cannot approve a project that has an outstanding violation, approve being the key word. Planning Director Gagnon explained why there had been two choices for the Board presented in the staff report.

Chairperson Dority said the question would be if the Planning Board could find the application complete without a no-violation letter. Mr. Monyok said his applicants wanted to give full disclosure and explain how they had gotten to that point and how they planned to move forward. "We are looking to progress and move forward in this project," said Mr. Monyok. "We know that in terms of completeness we are there, if not just right there."

Secretary Chesler referred to several items that she believed should be listed as exhibits rather than waivers, and explained why. She and Planning Director Gagnon discussed the matter. The ordinance reference was 125-66 J. 39, corresponding to checklist item 9 FF. Secretary Chesler said she did not feel it should be listed as a waiver because information about it was provided (an exhibit). Secretary Chesler also referred to 125-66 D. 1, which Planning Director Gagnon said corresponded to checklist item 4A. Planning Director Gagnon gave more background details.

Planner Gagnon said if the Planning Board chose to find the application incomplete, as far as what is missing is also the letter of no violation. Chairperson Dority asked for any other questions from the board. Vice-chairperson Eveland asked for clarification about where the old cellar hole referenced in the application was located. Mr. Monyok answered that, as well as questions about septic system locations and stormwater runoff. He also answered a question from Mr. Brechlin about septic system layout and leach field easement.

Chairperson Dority asked for more information about the archaeological dig that was done. He said considering the property sits in the lee of Thomas Island, he could imagine that it might be an important spot for indigenous people. Mr. Monyok said the Maine Historic Preservation Commission had said there was no record of historic buildings there, but did recommend an expert come out and do a site evaluation. He said that was done, and that expert then sent a letter back to Maine Historic Preservation Commission stating there were no additional findings. William Koplovitz, who along with his wife Kay is the applicant, joined Mr. Monyok at the table and said he had spoken with Dr. Arthur Spiess and that an expert was sent out to look at the land.

“The gentleman who went out found out there was no problem with former Indian relics or other prehistoric problems,” said Mr. Koplovitz. “But he did note in his report back that there had been some foundation of some old building there.”

Mr. Koplovitz said there was another visit and additional correspondence, and that the ultimate conclusion from Maine Historic Preservation Commission was that they would like to see the cellar hole preserved. Mr. Koplovitz said he and his wife were agreeable to this, and that specific language was developed stating they would not build in that area. Mr. Koplovitz spoke about this some more, and Chairperson Dority asked for more of the correspondence on the subject.

Planning Director Gagnon said the site plan could use improvement for clarity in terms of lot lines. She said there should also be a demonstration that each lot has sufficient frontage. Planning Director Gagnon said additional information about vernal pool and wetland space could be provided. She said a 200' x 200' square on each lot, to show it meets lot width, could be helpful. She spoke about the right-of-way depicted across Lot 2 (designed to access Lot 3). She said the applicant would be held to whatever is on the plan, and that relocating it would require at least minor review. “This process kind of sets things in stone,” said Planning Director Gagnon. Mr. Monyok said there is a lot going on, on the 35 acres, but that he would work to make it clear.

Chairperson Dority said there seemed to be a lot of contradictory information in the application, and it would be great if it could be looked at and cleaned up for compliance review. There was discussion about the time frame that triggered subdivision review in this particular case.

Secretary Chesler made a motion to grant waivers requested for application SD-2022-06 — Nature’s Gift with the exception of 125-66 J. 39, as such waivers will not unduly restrict the review process, are inapplicable, unnecessary or inappropriate for a complete review. Vice-chairperson Eveland seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

After brief discussion, Vice-chairperson Eveland made a motion to find application SD-2022-06 — Nature’s Gift incomplete per the Bar Harbor Land Use Ordinance section 125-66, because it is missing capacity letters from the Police, Fire and Public Works departments, a permit by rule from the Maine Department of Environmental Protection, and an Army Corps of Engineers self-verification letter, and a letter from the Code Enforcement regarding no violations, and to schedule a public hearing on October 5, 2022. Mr. Cough seconded the motion.

Mr. Cough asked if the applicant would be able to provide the needed information within that time frame. Mr. Monyok said everything was being worked on, and that the applicant would continue to work with town staff.

Secretary Chesler amended the motion to include the site plan issues referenced by staff. Vice-chairperson Eveland and Mr. Cough were both fine with that change as a friendly amendment. Chairperson Dority said he thought the application needed some more work before it came back. **The vote on the amended motion was then called, and it passed unanimously (7-0) on a roll-call vote.**

Chairperson Dority took a moment to ask if there was any public comment on the application. There was not.

e. Completeness Review for SP-2022-09 - KOA Terramor Employee Housing

Applicant/Owner: Kampgrounds of America, 550 North 31st Street, Billings, Montana, 59101

Application: Reconfiguration of the existing employee campsite area to include the remodel of the three existing trailers used for employee campsites, two new trailers, one 2-unit trailer, one employee mess hall trailer, a laundry trailer, and laundry building. There will be 14 parking spaces for the employees. The changes are taking place over an area that was reflected in the drawings in the previously approved Wellness Tent permit. The applicant is proposing to convert approximately 26,694 square feet of the existing employee area to reinforced turf. A new septic system will serve existing demands along with the proposed.

Project Location: The property is located at 1453 State Highway 102, Bar Harbor, ME, 04609 (Tax Map 219, Lot 38)

Districts: Town Hill Business, Town Hill Rural

Civil engineer Chip Haskell was present in-person, while project manager Kim White of KOA and Terramor Resorts was present via Zoom. Mr. Haskell gave an overview of the Terramor property and this particular project, as presented. He said the area to be modified already serves as an existing employee campsite area, where there are trailers in place for the employees to stay. Mr. Haskell said there are already RV hookups in place, and that this proposal involves reconfiguring within that area and reworking utilities to accommodate additional units for employees. He said a laundry building is proposed in addition to a mess hall trailer. The laundry would be for workers. Mr. Haskell spoke about a new septic field that is proposed, and what units would utilize that. He spoke about stabilized turf that was proposed for areas, and how it would serve as an impervious surface. Planning Director Gagnon asked if he had submitted details on that turf, and Mr. Haskell said he had not yet done so.

Mr. Brechlin asked about the setback for the proposed new leach field. Mr. Haskell responded, as did Code Enforcement Officer Chamberlain. Mr. Brechlin asked if there were any wells nearby, and Mr. Haskell noted the site had been located by a site evaluator who looked for wells in the database. Mr. Haskell also noted the campground has a public drinking water supply, and the septic infrastructure has to be located away from the campground's own wells.

Chairperson Dority asked for clarification of what has happened at the site previously. Mr. Haskell said there was an approved site plan already, and Chairperson Dority said it would be

nice to include that in the application. Planning Director Gagnon and Mr. Haskell responded to that feedback from Chairperson Dority. Chairperson Dority said it would be nice to see a before-and-after of that particular inset area of the overall site. Mr. Haskell said the RVs that the employees will be living in are not considered structures. He said the only structure is the laundry building. Ms. White said there were a total of eight trailers: three existing that will be remodeled, two new ones coming and one two-unit trailer (for a total of six residential trailers), plus the mess hall and the employee laundry (for a total of eight trailers overall).

Secretary Chesler asked about Section 125-69 C. (2), and how it was applicable in this case. Planning Director Gagnon noted the applicant is asking for a modification of that standard. There was discussion of the number of employees that would be living there, present vs. proposed. Chairperson Dority asked how there could be an increase in the number of people and the laundry uses, with an apparent reduction in wastewater. Mr. Haskell responded, and said the new field being created would be dedicated for this area (employee campsites) which would serve to decrease the flow to the existing field. Chairperson Dority asked if that was specifically shown.

Code Enforcement Officer Chamberlain suggested showing present and proposed plans, specifically for the section of the property being considered in this application. Board members said that would be helpful for them. She asked if the units were already on site, and Mr. Haskell said some of them might be. Code Enforcement Officer Chamberlain said they looked more like mobile homes to her than they did RVs. She asked if they would be on wheels. Ms. White said the units have wheels, but they can be up underneath the chassis where they are out of sight. Chairperson Dority asked if they had to be towed, and the answer was yes. He asked why they wouldn't be considered mobile homes. Mr. Haskell said they effectively are mobile homes.

Planning Director Gagnon said a home is considered a dwelling unit, that then needs to meet dimensional standards. If they are to be considered campsites, it has to be something that isn't considered a dwelling unit by Code Enforcement. Mr. Cough said it seemed like a good design feature, a towable living space that has the appearance of a permanent unit. He said he didn't know why it was such an issue for the Planning Board if they can be towed and moved off site.

Planning Director Gagnon said campgrounds have morphed over the years. She said she was not passing judgment. She said there was a domino effect if such structures were considered dwelling units: would it trigger subdivision law, for example? She said it was important for the structures to pass the straight-face test. Mr. Cough asked Mr. Haskell more questions about the units, and how they were moved and whether they had wheels. Mr. Haskell said they are hooked up to RV pedestals. There was discussion of what vehicles were needed to move the units.

Mr. Soares asked how long the existing units had been on site. Mr. Haskell and Ms. White responded. Mr. Soares said he was concerned about what he saw as a gray area, about how the buildings were classified and how they were used. He said they looked like houses to him. Planning Director Gagnon suggested the Planning Board start with the definition of recreational vehicle, to see if these units fit that bill and then, by extension, if this fits in as an allowed use. Ms. White said they had received a letter from the manufacturer about what standards the units meet. Chairperson Dority read the definition of recreational vehicle aloud, and noted part of the requirement is that they have to have a Vehicle Identification Number (VIN) because they have to be registered with a state's Bureau of Motor Vehicles. Ms. White said the units all have VINs.

Secretary Chesler asked about Sheet 3, and said she wasn't sure what she was looking at. Mr. Haskell said he would work to clarify that for the next round of review.

Chairperson Dority asked if there was anyone in the public who wanted to comment on the application. There were no takers, and the Planning Board moved on to waiver requests. Chairperson Dority asked about 7.1 C, and Mr. Haskell responded. It was determined that the information had been provided.

Secretary Chesler asked again about Section 125-69 C. (2), and said she would like to have some clarification on that. Mr. Haskell said that in his discussions with staff, his understanding was that it was not necessarily 2,500 square feet of space immediately at the location of the campsite (in this case, trailer), but rather that there was sufficient space for all such campsites across the entirety of the lot. Planning Director Gagnon said she thought there was room for interpretation either way. Mr. Haskell referred to his project narrative. Secretary Chesler said if the Planning Board is expected to evaluate, it needed the information and it needed it illustrated. There was discussion on whether the applicant is, in fact, meeting the standard, and if so how.

Planning Director Gagnon referred to Section 125-69 C. (2) and said the Planning Board could decide how to interpret that language. Mr. Cough asked when the property was last before the Planning Board, and it was estimated it was three years ago. Mr. Cough asked if this standard was referenced at that time. Mr. Haskell said if it's a matter of interpretation, and the Planning Board said there had to be 2,500 square feet at the site of the employee campsite, he would be asking for a modification of standard. Secretary Chesler said she thought the language in 125-69 C. (2) was clear that the "suitable land" referenced needed to be located at the site of the campsite. Mr. Cough asked about the meaning of word site, and whether the Planning Board was looking at each individual site and how that contrasted with site plan review — the overall site. Mr. Cough said he believed the entire lot needed to be looked at. Secretary Chesler said she saw the situation differently, and explained what her interpretation was. Discussion continued.

Mr. Brechlin moved to grant the waivers requested for application SP-2022-09 — KOA Terramor Employee Campsite Infrastructure and Laundry Building, as such waivers will not unduly restrict the review process, are inapplicable, unnecessary or inappropriate for a complete review. Secretary Chesler seconded the motion, which then carried unanimously (7-0) on a roll-call vote.

Secretary Chesler moved to find the application SP-2022-09 — KOA Terramor Employee Campsite Infrastructure and Laundry Building, incomplete per the Bar Harbor Land Use Ordinance section 125-66, because it is missing a capacity letter from the Fire Department, and the per RV area on the site plan, and to schedule a public hearing on October 5, 2022. Mr. Brechlin seconded the motion. There was discussion about the scope of the term "site plan," and the motion then carried unanimously (7-0) on a roll-call vote.

The Planning Board agreed to take a five-minute break before the next application review.

h. f. Warrant Article #4 — Recommendation of the Planning Board, to be posted on the warrant for the Special Town Meeting of the Town of Bar Harbor on November

8, 2022, to adopt or reject a Land Use Ordinance Amendment, dated August 16, 2022, and entitled “An amendment to allow Retail Marijuana Stores in the Downtown Village I, Downtown Village II, Bar Harbor Gateway, Downtown Village Transitional, and Shoreland Development III districts.”

Chairperson Dority explained the process: the Planning Board needed to make a recommendation on the proposed Land Use Ordinance amendment, and no changes could be made to the proposal. He said the Board’s job was to discuss, deliberate and decide. The Board could choose between whether or not to recommend that an article ought to pass, he explained.

Mr. Brechlin said he read the amendment would create a new zoning district and asked how that would work. Member Brechlin asked whether the amendment would create a new district. Planning Director Gagnon said it was simply an error by the petitioners when they drafted the proposal, and it appeared that the names and numbers of districts had gotten a bit jumbled. She said it effectively created a new district, but one that would not exist (as it was not defined).

Planning Director Gagnon said the section with the error in it could be severable from the rest of the proposal, and that it would not nullify the petition as a whole. She said if the proposal were to pass, the town could then use the minor Land Use Ordinance amendment process, established in the most recent Town Charter revision. With a two-thirds favorable vote from both the Town Council and the Planning Board, she explained, the language in question could be removed.

Mr. Brechlin asked if, in a perfect world, if it would have simply been better to get it written correctly the first time around? Chairperson Dority said it was a good point.

Secretary Chesler noted there are two pieces of proposed legislation, one being this proposed amendment to the Land Use Ordinance and the other a separate, standalone licensing ordinance. She asked what would happen if one passed and the other did not. Planning Director Gagnon noted recreational marijuana sales require an opt-in vote under state law — a municipality must actively choose (vote) to allow them. So, if retail marijuana were not added to the Land Use Ordinance, it would not be an allowed use. Licensing would then essentially be moot, even if it had been passed. She said if the Land Use Ordinance amendment passed and the licensing piece got voted down, she thought it was likely the town manager would suggest to the Town Council that a moratorium be enacted in order to give the town time to develop a licensing ordinance.

Vice-chairperson Eveland shared some observations on the licensing component, though she noted that is not the purview of the Planning Board.

Chairperson Dority said he found it confusing that the proposal as written implies the creation of a new district when in fact the district in question already exists. “I just think it’s a mess,” he said. “But that’s the way it was written.” He said he supported the idea, but felt the way the document was written had created confusion. Mr. Brechlin said he felt the proposal should be done right before it is voted on.

Vice-chairperson Eveland said she intended to support the proposal because she felt a good faith effort had been made. She said this proposal was an improvement over an earlier version. She said she understood the frustration that was voiced by others, and the hazards and difficulties it would approve for town staff if approved as written. She said there would be opportunities to fix

the language as needed, and that it would not be a terribly complicated remedy. Vice-chairperson Eveland said a long-term solution would be for would-be petitioners to talk to town staff (and not just a random lawyer working for a given campaign) before collecting signatures so that they could be assured the language they came up with would eventually pass muster. Vice-chairperson Eveland reiterated her belief that this proposal was an improvement over its predecessor, and said she could support it with the understanding that it was going to be fixed.

Secretary Chesler said she did not think it was a great use. She said she thought 5,000 square feet was a very large space, along with associated parking and security features, particularly in districts on the approach to and going into Bar Harbor. She said there are a lot of other retail marijuana establishments in other service centers where people live. In Bar Harbor, she said, it would be juxtaposing retail cannabis with tourism. In areas where that's been done, she said, you see more emergency issues.

"This is bringing that use right in proximity to where people are more footloose and carefree," said Secretary Chesler. She said that could lead to increased mistakes and errors, with people who are visiting staying in lodging all over the island. She noted there are dark, back-country roads, confusing directions, and National Park lands.

Secretary Chesler said she didn't think retail marijuana was a good fit here. She said the matter of local benefit was questionable. She spoke about the marketing of marijuana products, and said for 10 percent of people who use it there is cannabis use disorder. Secretary Chesler said if this proposal passed, there would potentially be more zoning districts where recreational cannabis is allowed than where treatment facilities are allowed. She reiterated her overall opposition.

Mr. Soares said he agreed with what much of what Secretary Chesler said, as well as with Vice-chairperson Eveland previously. "There's no incentive to actually create clearer language if we just keep saying that we'll fix it later," said Mr. Soares. He said getting it right the first time was a lot easier than trying to fix something in the future.

Mr. Cough referred to Planning Director Gagnon's comments about the minor Land Use Ordinance amendment route. He said he had not seen that process used, or even an attempt to use it, since the changes to the Town Charter allowing for that were approved two years ago. He predicted the same thing would happen here, that no action would be taken to make a fix. He asked why such changes had not been brought forward. Returning to the subject of marijuana, he said he did not support it and that allowing the use would be the wrong message to send.

Chairperson Dority said he wished he could support the proposal, but he said knowing that a change would subsequently need to be made if the proposal was approved did not feel good.

Mr. Brechlin made a motion to not recommend passage. There was discussion on how the motion should be worded. Assistant Planner Fuller read from Section 125-9 D, which states in part that the Planning Board shall "make a recommendation as to whether the proposed amendment ought to be adopted or ought not to be adopted." With that in mind, **Mr. Brechlin re-stated his motion as recommending that [the proposed amendment] ought not to be adopted. Mr. Cough seconded the motion, which then carried 5-1 (with Vice-chairperson Eveland opposed and Ms. Martinez abstaining).**

Mr. Brechlin asked Ms. Martinez if she would clarify why she had abstained from voting. He said Robert's Rules of Order require that someone who abstains must have a legitimate reason and not, by contrast, simply wish to avoid taking a position. Ms. Martinez said her reason was that she had been busy moving, and that the time she had to get ready for this meeting was spent focused on the site plan applications rather than these agenda items. "I don't think I had enough time to review the background information on this for me to feel good about taking a vote on this," she said.

There was then discussion about how an abstention is treated in the overall vote count, whether it is treated as a positive vote, or a vote with the majority, or something else. Planning Director Gagnon asked for clarification on this matter. It was suggested that staff should consult with the Town Clerk.

g. Warrant Article #3 — Recommendation of the Planning Board, to be posted on the warrant for the Special Town Meeting of the Town of Bar Harbor on November 8, 2022, to adopt or reject a Land Use Ordinance Amendment, dated July 19, 2022 and entitled "An amendment to the Town of Bar Harbor Code to Impose Daily Limits on Cruise Ship Disembarkations."

Mr. Brechlin said he had supported reducing cruise ship passenger levels for some time. Setting aside the specific details of this proposal, however, he said he objected to this proposed amendment on a fundamental level: "I don't believe this belongs in the zoning ordinance," he said. He said it should be a regular ordinance, instead.

Vice-chairperson Eveland said she shared Mr. Brechlin's perspective. She said she shared the concerns of the community, relating to cruise ship passenger numbers, and was mindful of the results of the recent community-wide survey on the subject. She said she understood residents wanted some control, but said she feared if this were approved that it would be difficult for staff to enforce. "I don't think it's possible to implement the way it was intended to be implemented," she said. "It's set up to fail in that sense, of how it can be handled on a day-to-day basis." Vice-chairperson Eveland said she supported the Town Council and Town Manager working on a management plan with the cruise industry to address issues that had been identified.

Mr. Cough said he agreed with Mr. Brechlin and Vice-chairperson Eveland. He said this petition, which proposed a permanent solution rather than a focused fix, seemed counterproductive. He also shared concerns about enforcement, and what it would mean for staff. Mr. Cough said he thought this proposal represented a "horrible way to have our Land Use Ordinance used."

Secretary Chesler called the petition a "commendable effort" to address the situation and said it has likely spurred motion at other levels, but said she largely agreed with the other Board members. She urged everyone interested in the issue to continue to look for solutions, but said this particular proposal did not seem viable.

Mr. Soares asked if this proposal were to be approved, if it would effectively deprive the town of the chance to work cooperatively with the cruise ship industry to come up with possible solutions. He said he would need "a lot more data" to convince him that the limit in this proposal

was the right number to use. Mr. Cough also raised the question of potential lawsuits facing the town, if this proposal were to be approved.

Vice-chairperson Eveland said the town would be managing the issue of cruise ship visitation in one way or another, even if this proposal were voted down. "It just seems to me a poor use of our town's resources," she said, adding that she hoped the Town Council moves forward with the management plan now being worked on. She called that the "better course of action."

Secretary Chesler said the town should not live in fear of lawsuits, because they are inevitable, and said the question should be: is this proposal the best way to address the issue? She elaborated. Mr. Brechlin took a moment to thank petitioner Charlie Sidman for his work on the issue. Mr. Brechlin said he believed the petition had forced the town to look at the issue more.

Mr. Cough made a motion to recommend that the article ought not to pass. Mr. Brechlin seconded the motion, which then carried 6-0 on a roll-call vote (Ms. Martinez abstained).

f. h. Warrant Article #2 — Recommendation of the Planning Board, to be posted on the warrant for the Special Town Meeting of the Town of Bar Harbor on November 8, 2022, to adopt or reject a Land Use Ordinance Amendment, dated November 19, 2021, and entitled "An amendment to remove the two-thirds majority vote requirement to amend the Land Use Ordinance."

Vice-chairperson Eveland noted the issue had been talked about a lot already. She said she supported this proposal. She called the two-thirds threshold an "anomaly" in the way the town conducts its business and said such an anomaly needs sufficient reason(s) for justification. She said the fact the process has been used for a long time was not sufficient justification to her. Vice-chairperson Eveland said it essentially "overweights" the votes of the members of the Planning Board, and she explained why she saw it that way. She said she hoped the new Comprehensive Plan, which work has started on, would be more useful than the current version of the plan. She said she hoped that would mean less need for contentious battles on issues.

Mr. Cough said the two-thirds threshold has been standing practice for almost 40 years. He said the idea that it was somehow difficult to accept from a democratic standpoint contradicts the Charter changes discussed earlier in the meeting (which allow the Planning Board and Town Council to make minor changes to the Land Use Ordinance by way of a supermajority vote). He said what he heard when he served on the Charter Commission was that changes to the Land Use Ordinance cannot be entrusted to anything other than the threshold of a high vote percentage. He recounted a previous instance of the Planning Board interacting with the Town Council on Land Use Ordinance amendments. He explained the differences between the two bodies on the matter.

Mr. Cough asked, if this change were approved, why anyone would ever wait for the Planning Board to finish its work on a given subject and instead simply go out and do a citizens' petition. "My worry is this board will become a simple review board for applications," said Mr. Cough. He contrasted the responsibilities, and outlooks, of the Planning Board and the Town Council.

Mr. Brechlin said he had a different view on the two-thirds proposal and the politics of it. He said he had given the matter a lot of thought and considered different factors. He said the

Planning Board already gets to have, and would still get to have under this proposal, its recommendation printed on the ballot. He said ultimately, he was in favor of a simple majority.

Secretary Chesler said one of her biggest issues with the two-thirds threshold was that there were many ways in which it has been manipulated. She said she thought the removal of the two-thirds majority would encourage people who want to see a Land Use Ordinance change to use the process of working with town staff and the Planning Board instead of using a citizens' petition. She noted Planning Board members are appointed by the Town Council, the members of which are elected by the citizens of the town. She said that means it is possible for the entire membership of the Planning Board to be determined by the wishes of the majority of the Town Council. She called the two-thirds majority threshold an "artificial force multiplier" for what the majority of the Town Council wants to do. She elaborated, and concluded, "It is possible to have a Planning Board that becomes seriously, quantitatively departed from the inclination of voters." Like Mr. Brechlin, Secretary Chesler said she thought the Planning Board's recommendation being printed on the ballot was enough.

Chairperson Dority asked Secretary Chesler for examples of where the process had been manipulated with regard to the two-thirds supermajority threshold. Secretary Chesler said she had been asked about the issue during her interview with the Town Council's Appointments Committee, prior to being appointed to the Planning Board. She said that was before the contentious issue of vacation rentals had come front and center. She said her comment was more about perceptions of manipulation. She said there is a perception of personal interests getting in the way of proper planning sometimes. "I do think that the two-thirds supermajority vote requirement has a toxic effect in this community," she concluded.

Mr. Cough said he was "shocked that the Council would put their thumb on the process of nominating with the question of a two-thirds issue." He said he thought it would be different if the proposed amendment had been put forward by a citizen. He said the fact that it came from the Town Council, and that the Council was asking applicants about it, was problematic.

Secretary Chesler said there were three councilors on the Appointments Committee. She said they had asked her a theoretical question about the subject, and she said she recalled her response was she would need to give it more thought. Secretary Chesler said she did not think her response had been used "as a litmus test" and that it could not have been used as such because no one could have predicted how events would unfold around the vacation rentals issue. She said her answer would likely not have been useful, if there had been a litmus test.

Vice-chairperson Eveland said citizens in Bar Harbor ultimately get to make their decisions at Town Meeting. She said the citizens elect the Town Council, and the Council appoints all board and committee members. She said there was an ebb and flow in membership and perspectives on those bodies, just as there is on the Town Council.

Chairperson Dority said he was sorry to have seen the matter come down to an issue of power. He said the job of the Planning Board was not to get a majority of people to agree with it, but rather to do sound planning for the town. He said he did not recall the two-thirds issue being contentious until just recently. He referenced the process by which the United States Constitution is amended, and noted a supermajority is required there (an amendment must be ratified by three-

fourths of the states). He said the two-thirds threshold in Bar Harbor is an important check on the process. He said the Planning Board's job is to make decisions in the best interest of the town of Bar Harbor, and he said it was unfortunate if there was a perception that that was not the case.

"This should not be taken lightly." Chairperson Dority cautioned. "We should really be careful before we get rid of this check."

Vice-Chairperson Eveland made a motion to recommend that the town support support the removal of the two-thirds majority vote requirement to amend the Land Use Ordinance. Mr. Brechlin seconded the motion, which then carried 4-2 on a roll-call vote (with Mr. Cough and Chairperson Dority opposed and Ms. Martinez abstaining).

i. Warrant Article #6 — Recommendation of the Planning Board, to be posted on the warrant for the Special Town Meeting of the Town of Bar Harbor on November 8, 2022, to adopt or reject a Land Use Ordinance Amendment, dated August 11, 2022, and entitled "Amendment A — Historic Properties in Design Review Overlay District."

Assistant Planner Fuller noted that the Design Review Board has to look at the list each year and make any updates that might prove necessary.

Mr. Cough made a motion that the Planning Board recommend to approve the amendment. Vice-chairperson Eveland seconded the motion, which then carried without opposition, 6-0, on a roll-call vote (Ms. Martinez abstained).

**j. Minor Subdivision Plan Modification — MSD-2022-01 — McFarland Farm, LLC
Applicant/Owner: McFarland Farm, LLC (c/o Joseph Cough), 4 Holland Avenue, Bar Harbor, ME 04609**

Location: The project is located off of Route 3 and Ledgewood Road (Tax Map/Lot numbers 207-043-000, 207-043-001, 207-043-002, 207-043-003, 207-043-004, 207-043-005, 207-043-006, 207-043-007, 207-043-008, 207-043-009, 207-043-010, 207-043-011, 207-043-012, 207-043-013, and 214-004-000). The land encompasses ±72.78 acres and is located in the Salisbury Cove Corridor, Salisbury Cove Rural, Shoreland Limited Residential and Resource Protection.

Application: To modify SD-2019-01 The Farm Subdivision, recorded at the Hancock Registry of Deeds as Instrument NO. 180 File 47 NO. 63. The modifications will consist of 1) changing the phasing plan for road construction; 2) changing the vertical layout of the road; 3) changing the stormwater management plan to add filtration beds and easements; 4) adding easements and covenants to further protect vernal pools; and 5) revise the Homeowners Association.

A copy of the decision prepared by the Planning Director was provided to the Planning Board members. **Mr. Cough said he would recuse himself, as he was the applicant. Mr. Soares also said he would be recusing himself because he is an abutter, but said he first wanted to ask a broad procedural question. He asked what kind of information the Planning Board is expected to receive in situations like this, and when they should expect to get it. Both Mr. Cough and Mr. Soares left the table and took seats in the audience. With their departure, the voting membership of the Planning Board was reduced to five (5) members.**

Planning Director Gagnon said that since 2011 there had been at least seven minor subdivision applications approved. She said in each of those cases, there was no creation of new lots. She said the Planning Board's role in each of those cases had been to sign the plans, when presented. She said the Planning Director reviewed the application, prepared a decision and then had the Planning Board sign the plans. She explained the process outlined for minor subdivision modifications under Section 125-61 G. (4) of the Land Use Ordinance, and said in this case the deadline to make a decision was the next day (September 8). She said she had received the last piece of information she needed for her review that morning, and had then written and signed the decision. She said she then sent the signed the decision to Perry Moore, the applicant's agent.

Planning Director Gagnon said Mr. Moore flagged something she had missed, in 125-61 G. (4), about the role of the Planning Board (rather than the Planning Department) in the process. She said there were time frame issues (the Board would need to weigh-in on this application tonight, as the next regular meeting of the Board was outside of the established time frame) as well as logistical hurdles (only three copies of a minor application are required, not enough for the whole Planning Board). She said she would review the decision and see if the Planning Board was willing to endorse it in order to meet the required time frame.

Planning Director Gagnon summarized the application, and the conditions and requirements outlined in the decision that she had prepared. She recapped why the applicant was seeking the changes outlined in the application. She reviewed what was required from other town staff. She reviewed the conditions of approval that she had put in the decision.

Vice-chair Eveland asked some clarifying questions, to make sure she understood the process. Planning Director Gagnon said she had only found out about this issue a short time before the meeting. Code Enforcement Officer Chamberlain noted the process for minor subdivision review is different than minor site plan review, the latter of which the Planning Department sees more applications for. She also spoke about the constraints of the time frame. Mr. Brechlin said if staff was comfortable with the application, and the included conditions, then he was also.

Mr. Brechlin made a motion to endorse the decision for this application, which Vice-chairperson Eveland seconded.

Mr. Brechlin said in the short time he has been on the Planning Board so far, he has been impressed with town staff's desire to work with various applicants and being mindful of time constraints and deadlines that they are working under. Planning Director Gagnon spoke about the challenges of the time frame for projects like this, but said staff would continue to work with applicants.

When the vote was called, the motion then carried unanimously, 5-0, on a roll-call vote.

Mr. Cough and Mr. Soares resumed their roles as voting members of the Board. With their return, the voting membership of the Board returned to seven (7) members.

Chairperson Dority asked if the four items under other business could wait until the next meeting. Mr. Cough said item VII. a. could be saved until a future meeting.

VII OTHER BUSINESS

~~a. Submittal to the board to include electronic submission in PDF-Joe Cough~~

b. Special meetings

Planning Director Gagnon asked who would be available for a special Planning Board meeting on Wednesday, October 26. She confirmed that there would be a quorum of members present.

c. Registered Farmland-Steve Fuller

Assistant Planner Fuller said no one that he had spoken with keeps a record or database of registered farmland (referring to a specific program overseen by the state, rather than a certain designation used for assessing purposes). Planning Board members said they understood, and that checklists would continue to be marked indicating there is no registered farmland in town.

d. Comprehensive Plan Update-Elissa Chesler

Secretary Chesler noted a poster on the wall advertising two upcoming public forums on the Comprehensive Plan: one on Tuesday, October 25 from 6:00 PM to 8:00 PM at Mount Desert Island High School and the second on Wednesday, October 26, from 4:00 PM to 6:00 PM at Connors Emerson School.

VII. BOARD MEMBER COMMENTS SUGGESTIONS FOR THE NEXT AGENDA

None.

IX. REVIEW OF PENDING PLANNING BOARD PROJECTS

No review.

X. ADJOURNMENT

At 8:04 PM, Mr. Cough made a motion to adjourn. Secretary Chesler seconded the motion, which then carried without opposition (7-0) on a voice vote.

Minutes approved by the Bar Harbor Planning Board on September 7, 2022:



**Elissa Chesler, Secretary,
Bar Harbor Planning Board**

10/5/22
Date