

**Meeting Minutes — Bar Harbor Planning Board**  
**Wednesday, April 6, 2022 — 4:00 PM**  
**Bar Harbor Council Chambers, Municipal Building — 93 Cottage Street**  
**and Zoom online meeting platform**

*Under the Planning Board's Remote Participation Policy, this meeting was conducted in a hybrid format due to (as described in that policy) the "temporary absence of a member that causes significant difficulty traveling to the meeting location." (Mr. Dority was out-of-state at the time of the meeting). All Planning Board members except Mr. Dority, and all town staff members, were present in the Council Chambers in the Municipal Building at 93 Cottage Street.*

*Members of the public were able to view the proceeding by watching Spectrum channel 7 (in Bar Harbor) or by visiting <https://www.townhallstreams.com> and selecting Bar Harbor from the dropdown menu. Instructions on how to join the Zoom webinar and to offer comment during the public comment and public hearing portions of the meeting were posted online, in advance of the meeting, at: <https://www.barharmoraine.gov/282/Planning-Board>.*

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**I. CALL TO ORDER**

**Chairperson Tom St. Germain called the meeting to order at 4:01 PM.** Planning Board members present were Chairperson St. Germain, Vice-chairperson Joe Cough, Secretary Millard Dority, Member Ruth Eveland, Member Earl Brechlin, Member Elissa Chesler and Member Zachary Soares.

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

Others in attendance included: Jennifer Fisk, Joshua and Kaitlin Hodgkins, Timothy Lock, Michael and Fayelle Anderson, Greg Johnston, Meryl Reed, Rebecca Stanley, Steve Knapp of Biodiversity Research Institute, Nate Curtis of MidCoast Solar, Steve Thompson of Terrence J. DeWan & Associates, Chris MacDonald of BH2M, Micah Stanley with EDP Renewables, Chris Byers, Darron Collins of College of the Atlantic and Alina Watts of Hedefine Engineering, along with members of the public.

**II. ADOPTION OF THE AGENDA**

**Ms. Eveland moved to adopt the agenda. Vice-chairperson Cough seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

**III. EXCUSED ABSENCES**

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

#### **IV. PUBLIC COMMENT PERIOD**

**Chairperson St. Germain opened the public comment period at 4:03 PM and outlined the rules as printed in the agenda (15-minute limit, up to three minutes per person, on any subject not on the agenda nor a pending application before the Board). Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the public comment period was subsequently closed at 4:04 PM.**

#### **V. APPROVAL OF MINUTES**

- a. March 2, 2022

**Ms. Eveland moved to approve the minutes of March 2, 2022. Mr. Brechlin seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

#### **VI. REGULAR BUSINESS**

- a. **Public Hearing and Compliance Review for Subdivision Plan Modification SD-2021-05 — Clark Acres Subdivision, Fisk Lot Line**

**Applicant/Owner:** Jennifer Fisk, 54 Gretas Lane, Bar Harbor, Maine 04609

**Application:** The applicant proposes a modification to the 1989 Clark Acres Subdivision, most recently modified in 2020. The applicant proposes to split Tax Map 227, Lot 100, that encompasses  $\pm 12.08$  acres according to the town tax records, into two lots. Presently there is a house and the Acadia Woods Kennel (a full-service pet care facility) on the parcel. The split will create a front lot of about 5 acres to include the Acadia Woods Kennel and a back lot of about 7 acres to include the house. A 30-foot right-of-way, off the Crooked Road, will serve both lots.

**Project Location:** 54 Gretas Lane (Tax Map 227, Lot 100), encompassing a total of  $\pm 12.08$ , acres according to town tax records.

**District:** Town Hill Rural

Jennifer Fisk introduced herself and said she had nothing new to add to the application summary.

**Chairperson St. Germain opened the public hearing at 4:07 PM. Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the public hearing was subsequently closed at 4:10 PM.**

**Mr. Brechlin moved to approve the application SD-2021-05 — Clark Acres Subdivision, Fisk Lot Line per the decision dated April 6, 2022 as it meets the standards of the Bar Harbor Land Use Ordinance §125-67 and 125-69 N, with the following condition of approval: that the deed include the 30-foot right-of-way, as shown on the plat plan. Ms. Eveland seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

**b. Public hearing and Completeness/Compliance Review for Site Plan SP-2021-05 — Evergreen Yurts Applicant/Owner: Joshua and Kaitlin Hodgkins, 882 State Highway 3, Bar Harbor, Maine 04609**

**Application:** The applicant proposes to build eight, one-bedroom yurts with bathrooms, one common building with laundry, and recreational amenities. The existing driveway will be upgraded. A one-way loop will serve the yurts.

**Project Location:** Off of State Highway 3 (Tax Map 206, Lot 61-2), encompassing a total of ±21.15 acres according to town tax records

**Districts:** Salisbury Cove Rural and Stream Protection

Joshua and Kaitlin Hodgkins introduced themselves and gave an overview of the additional items that had been submitted since the previous meeting. Chairperson St. Germain asked whether staff had additional comments; Planning Director Gagnon noted that all items had been received with the exception of the Public Works Department Capacity letter and an agreement between neighbors regarding a right-of-way. Both are suggested as conditions of approval in a proposed motion.

**Mr. Brechlin moved to find the application SP-2021-05 — Evergreen Yurts complete per the Bar Harbor Land Use Ordinance §125-66 as the Fire Department Capacity letter has been submitted and it was demonstrated that the project does not require Fire Marshal approval, as requested by the Planning Board on March 2, 2022, and that the Public Works Department Capacity letter and the deeded 30-foot right-of-way over Betsy Corrigan's property can be conditions of approval. Ms. Eveland seconded the motion, which then carried, unanimously, 7-0, on a roll-call vote.**

**Chairperson St. Germain opened the public hearing at 4:16 PM. Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the public comment period was subsequently closed at 4:18 PM.**

Chairperson St. Germain was impressed with the updated packet. The updated site plan looks good, said Ms. Chesler, with the trails on it. Screening questions had also been addressed, said Mr. Brechlin.

**Ms. Eveland moved to approve the application SP-2021-05 — Evergreen Yurts per the decision dated April 6, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance, §125-67, 125-68 and 125-69 C, with the following conditions of approval: Capacity Letter from the Public Works Department, updated lot coverage to capture the paths to the water wetland on L1 - contact site plan, and recorded deed showing a 30-foot right-of-way over Betsy Corrigan's property to be provided to the Code Enforcement Officer prior to permits being issued. Mr. Brechlin seconded the motion.**

Secretary Dority asked whether the Board was considering pathways in the woods as lot coverage. “Just because it’s compacted...doesn’t mean it doesn’t allow permeation of water through it,” he said. CEO Chamberlain read part of the definition of lot coverage, which included that “unimproved natural surfaces of a site shall not constitute lot coverage.”

Ms. Chesler noted that they are not structured or built trails but that they already exist and will be maintained, which she said made it different in her mind than what Secretary Dority described. Kaitlin Hodgins noted that the trails were not included in the lot coverage calculations, as the applicant does not intend to add anything that’s not naturally there.

It would be relevant for the Board to include in its findings that an unimproved trail does not constitute lot coverage, said Chairperson St. Germain. “That makes perfect sense,” said Mr. Brechlin. Vice-chairperson Cough asked if the Board had drawn a distinct line for the future. What is the difference between a walking path and a nature path? he asked.

**Ms. Eveland amended the motion to approve the application SP-2021-05 — Evergreen Yurts per the decision dated April 6, 2022, as it meets the standards of the Bar Harbor Land Use Ordinance, §125-67, 125-68 and 125-69 C, with the following conditions of approval: Capacity Letter from the Public Works Department, that per the definition in the Bar Harbor Land Use Ordinance, the unimproved natural surfaces of a site shall not constitute lot coverage regardless of whether they are vegetated, and recorded deed showing a 30-foot right-of-way over Betsy Corrigan’s property to be provided to the Code Enforcement Officer prior to permits being issued. Mr. Brechlin seconded the motion. Discussion followed.**

Because the applicant has not included it in the lot coverage, said Secretary Dority, then the Board doesn’t have to delve into the issue. He was fine with the motion on the table. The reason the Board is discussing the trails, said Ms. Chesler, is because they may occur near sites that should remain undisturbed. If there’s a distinction between these paths and a naturally occurring path, that makes sense. If additional paths occur, are they something meriting review and survey or not? The Board seems to be veering toward not protecting the resource against future development of this type, as it’s not really considered development, she said.

Secretary Dority urged caution. This is a lot more complicated than it looks, he said. Lot coverage is very valuable, and an applicant might want to improve paths if they are going to be included in lot coverage calculations.

These paths have been in place for a really long time, said Ms. Eveland, and were not constructed or maintained by the applicant. They are more a geographic feature of the property.

That's part of the distinction, she said. Vice-chairperson Cough was okay approving the stated motion but also wanted to see the Board move forward with a delineation in the future. If the Board is looking to increase development of out-of-town sites it's an important issue, he said.

The applicant captured the trails on the site plan, said Planning Director Gagnon. If the applicant were to come for improvements they would have to capture those changes. The trails, she said, are historical and have not been used in years, and they're not close to the lot coverage threshold.

**The motion (as amended) carried unanimously, 7-0, on a roll-call vote.**

**c. Public Hearing and Completeness/Compliance Review for Site Plan SP-2022-01  
— College of the Atlantic Student Housing**

**Applicant/Owner:** College of the Atlantic, C/O Bear Paul, 106 Eden Street, Bar Harbor, Maine 04609

**Application:** The applicant proposes to build a three-story building for student housing. The building will house a maximum of 50 students. The building will be connected to existing campus utilities and infrastructure. Several small outbuildings will be relocated/removed. The project is intended to meet the needs of the existing student/staff population, not to expand it.

**Project Location:** 105 Eden Street (Tax Map 101, Lot 5), encompassing a total of ±36.07 acres, according to town tax records.

**District:** Educational Institution

**Mr. Soares and Secretary Dority recused themselves, as they had previously, because of their respective affiliations with the applicant. With their recusals, the voting membership of the Board dropped to five members.**

Darron Collins, president of College of the Atlantic, introduced the project. The whole idea is to be able to house existing students and maximize sustainability. Alina Watt of Hedefine Engineering and Scott Stark of OPAL Global LLC were introduced. Ms. Watt gave a brief overview of the addition and clarifications made to the application. Planning Director Gagnon gave an overview of missing items, which could be conditions of approval, she said.

**Ms. Eveland moved to find the application SP-2022-01 — College of the Atlantic Student Housing complete per the Bar Harbor Land Use Ordinance §125-66, that the Fire Department, Water Department and Wastewater Department Capacity letters were submitted as well as parking information, as requested by the Planning Board on March 2, 2022, and that the Public Works Department Capacity letter, the revised Site Location of Development Permit and the state Fire Marshal approval can be conditions of approval. Mr. Brechlin seconded the motion. Discussion followed.**

There are a few days a year when a lot of people will be moving in and out of buildings. Is there adequate parking in proximity for the building for those days? asked Ms. Chesler. The design on the western side of the building was designed specifically with those days in mind, said Mr. Collins. There is an entrance there with bike storage that is the perfect access to there. Ms. Chesler was satisfied with the explanation given.

**The motion then carried unanimously, 5-0, on a roll-call vote.**

**Chairperson St. Germain opened the public hearing at 4:45 PM.** Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the public hearing was subsequently closed at 4:48 PM.

Board members had no questions. **Ms. Eveland moved to approve the application SP-2022-01 — College of the Atlantic Student Housing as it meets the standards of the Bar Harbor Land Use Ordinance §125-67 and 125-69 Q with the following conditions of approval: Public Works Department Capacity letter, revised Site Location of Development Permit state Fire Marshal approval, demonstration that the hydrant was flow-tested and meets NFPA standards and demonstration that both the water and wastewater detail utility plans were reviewed and approved by the respective departments, to be provided to the Code Enforcement Officer prior to permits being issued, and the filing of the college-approved campus facility plan 15 business days prior to the Code Enforcement Officer issuing permits. Mr. Brechlin second the motion, which then carried unanimously, 5-0, on a roll-call vote.**

**d. Completeness Review for Site Plan SP-2022-02 — Bar Harbor Community Solar Applicant: Bar Harbor Community Solar, LLC, 6 Balsam Circle, New Harbor, Maine 04554**

**Owner: Robert L. Mitchell Sr. and Jennifer Mitchell, 29 Beech Hill Crossroads, Mount Desert, Maine 04660**

**Application: To develop a large-scale (15 acres) ground-mounted solar energy system providing approximately 1.99 megawatts of power to the electrical grid.**

**Project Location: Off of Knox Road (Tax Map 220, Lot 67), encompassing a total of ±57.5 acres, according to town tax records**

**District: Town Hill Rural District, Shoreland Limited Residential and Resource Protection**

**Mr. Soares and Secretary Dority rejoined the meeting, and with their return the voting membership of the Board returned to seven.**

Secretary Dority asked for a point of order. The Board received a letter from a staff member (in their capacity as a private citizen), he said, whom they normally rely heavily on (Code Enforcement Officer Chamberlain), and asked whether that information should be shared first.

CEO Chamberlain is an abutter to the project, as is the Fíre Chief, and both have interest in the process, said Planning Director Gagnon. She said CEO Chamberlain would be moving and sitting in the audience for this agenda item and it would be prudent not to ask her questions in her capacity as CEO, added Planning Director Gagnon. The Deputy Code Enforcement Officer is participating remotely and can answer questions, said Chairperson St. Germain. Outside experts can be brought in as needed, said Vice-chairperson Cough. This is a very technical packet, said Chairperson St. Germain.

Meryl Reed, Rebecca Stanley and Steve Knapp of Biodiversity Research Institute, Nate Curtis of MidCoast Solar, Steve Thompson of Terrence J. DeWan & Associates, Chris MacDonald of BH2M, Micah Stanley with EDP Renewables and Chris Byers were all present representing the applicant.

Mr. Byers and Ms. Reed gave an overview of the project. Good development involves a lot of stakeholder engagement, said Mr. Byers. The letter received from Angela Chamberlain was “really helpful,” he said, in pointing out the nuances of the Land Use Ordinance in Bar Harbor.

Mr. Byers gave an overview of Maine’s renewable energy goals. The purpose of this for Mainers to benefit, he said. This project must benefit Mainers, said Mr. Byers, meaning that, by law, it must be sold to those in Versant territory in Maine.

Mr. Byers said this project will use ground screws — the base/anchor pieces screwed into the ground — with steel racking and supports erected on top. All of the wiring between rows will be underground. Wires will be above ground only when heading out to the grid.

An equipment pad will be mounted fairly close to the end of the access road. There will be no roof on it. Every solar project must have a fence, per national electric code. The applicant proposes an agricultural-style fence, as opposed to chain link, which has an “industrial feel.” The proposed fencing is 8-foot tall bison fencing with wooden posts. It will be raised 6 inches off the ground so small mammals can pass through. There will also be a vegetated buffer. Construction will likely take 6 months, said Mr. Byers. The group has held a public informational meeting and met with abutters on site, said Mr. Byers. Significant changes have been made to the site plan since initial submission, hard copies of which will be provided to the Board, he said.

The project size has shrunk to 10 acres from roughly 15, said Mr. Byers. The planting buffer along the abutter line has not changed. There are two significant vernal pools on the property,

which will be avoided. Development is proposed in the middle upland area of the site, away from wetlands.

Steve Thompson discussed methodologies for the project. Bar Harbor has a good solar ordinance with a visual piece, said Mr. Thompson. For Bar Harbor, the visual analysis was conducted 3 miles out for all types of scenic resources, including historic buildings, trails and byways. Elevated viewpoints are also important and were considered into a study area beyond 8 miles. There was minor visibility from some areas in Acadia National Park. Internet connection issues then briefly disrupted the presentation.

The team hiked to the top of Cadillac Mountain, said Mr. Thompson. There would be some visibility on the summit of the transmission poles from the project to the road; there was no visibility of the panels from anywhere in Acadia National Park. The only place panels would be visible is from private property in the immediate area of the site. A nearby Maine Coast Heritage Trust property will have some visibility of panels, the applicant team stated.

The applicant is proposing vegetative screening intended to eventually grow up and screen the project more thoroughly from abutters. Native plantings were encouraged in comments from abutters; it's difficult using natives for screening, said Mr. Thompson, as many evergreen options don't grow fast and/or tall enough. The project proposes deciduous shrubs massing with evergreen trees to provide adequate buffering. Plantings would be outside the fencing.

Chris MacDonald of BH2M gave an overview regarding stormwater management for the project. The state found the erosion and sedimentation control appropriate, said Mr. MacDonald, in a permit-by-rule submitted to the Board January 25, 2022.

There is a condition proposed to restore the ground post-construction, said Mr. MacDonald. Runoff was reviewed under the Bar Harbor ordinances, including a 24-hour, 25-year storm occurrence, finding that proposed conditions would meet town requirements. We do not expect adverse conditions down-gradient, said Mr. MacDonald.

The major difference in the site plan has been to pull farther away from the wetland, said Mr. Byers, of changes to the plan. An additional gate has been added at the request of a landowner. Overhead poles have been shifted to the opposite side of the property, as requested by a landowner. The existing road is wider than shown on the site plan, said Mr. Byers, roughly 20 feet wide rather than 16 feet. That has been communicated with the Fire Department, he said.

A wildlife habitat enhancement plan has been drawn up, said Mr. Byers. It's still in draft form but will be provided to the Planning Board.



Mr. Knapp discussed the preliminary aspects of the plan. Bat boxes are approved for the edge habitat, along with nesting boxes for cavity nesting birds. Native wildlife seed mix is proposed for the meadow to encourage pollinators. No tree clearing is proposed within 75 feet of wetlands, said Mr. Byers.

Chairperson St. Germain asked members of the Board if they had any questions. Mr. Brechlin asked a question about provision of assurance of financial performance. Micah Stanley, whose organization, EDPR, will be operating the project and funding construction, discussed financial capability. Local electricians and groups will be used to help operate the facility. EDPR self-funds, said Mr. Stanley, and is one of the largest renewable owners in North America. All construction is funded on the balance sheet. Regarding end-of-life, there is a decommissioning requirement for bonding and a bond meeting the state of Maine's and town of Bar Harbor's respective requirements will be put up.

Decommissioning of the project and financial assurance, either a bond or letter of credit, is something the Town Council needs to approve, said Planning Director Gagnon. Maine DEP does not stipulate the amount; the town does. Components of the project have a lifespan of 25 years; the town asks that decommissioning be provided in an amount for 20 years, with 2.5% inflation. That amount will be presented to the council on April 19, 2022. The bond will likely be held by the state, Planning Director Gagnon said.

Is it expected the project will be fully decommissioned in 20 years? asked Chairperson St. Germain. It's not a lease, said the applicant team responded. Decommissioning plan and bond is in place if the project owner fails to decommission the project, should it not be operational for 365 days straight. These projects are designed to be powered for 30-40 years, the applicant said.

The 20-year criteria in most regulations line up with the Net Energy Billing program, said Mr. Stanley, but there is typically a lot of life left in the system after that point. Some are going out to 40 years. The intention is to let the system operate as long as it is able. Nathaniel Curtis of MidCoast Solar said the hope would be that in the future this could be part of an island-wide microgrid.

Vice-chairperson Cough asked when the wetland delineation survey was done. April and October of 2021, said Mr. Knapp. Vice-chairperson Cough asked a question about capacity and the 40-foot utility poles, assuming the project is three-phase power. That pole is adequate for a project of this size, said Mr. Stanley.

Ms. Eveland asked whether there had been discussion around storm frequencies, given that 25-year storms are now coming more frequently than that. Mr. MacDonald said the analysis was done using Maine Department of Environmental Protection tables. Will that include the last few

years as part of the calculation? Asked Ms. Eveland. They have not been updated in the past few years, said Mr. MacDonald. The tables were updated roughly 6-7 years ago, said Planning Director Gagnon.

Ms. Eveland asked a clarifying question regarding commercial and industrial uses. Are there specific things in the shoreland standards that are different from a generally understood commercial use? she asked. This is clearly a commercial use, she said. The applicant is no longer seeking the modification being previously sought and will be coming back with a revised statement on how they meet the shoreland standards, said Planning Director Gagnon, recognizing that Bar Harbor goes above and beyond state requirements.

Ms. Chesler asked about traffic impacts during construction. Construction is roughly six months; most of that will occur in the first 2-3 months. Once the project is operational there will be a pickup truck there four times a year, said Mr. Byers. There is no permanent staffing on site.

Mr. Brechlin asked about reflectivity. They are not a mirror, said Mr. Byers. Panels are designed with an anti-reflective coating; the Federal Aviation Administration has said this does not serve as a flight risk to navigation. The City of Sanford has a 50-megawatt array on their airport, within the runway apron, with the same technology. We don't expect glare or impact in that way, said Mr. Byers.

Secretary Dority thanked the applicants for their presentation. Chairperson St. Germain asked about the overhead poles — is that a request for modification of standards? Yes, said Ms. Reed. Overhead poles are being proposed as there is wetland on either side, and putting them underground would create greater impact, said Mr. Byers.

The interconnection will occur at Knox Road, he added. The road will be roughly 1,100 feet long, said Mr. Stanley, in response to a question from Chairperson St. Germain. There will be between 8-11 poles, said Mr. Byers, in response to a question from Vice-chairperson Cough.

**Chairperson St. Germain opened the meeting to public comment from audience members.**

Matt Bartlett, an abutter of the project, said one of his biggest concerns was the vernal pools. 10 acres of tree removal has an extensive impact, he said, and requested that the Board consider authorizing staff to hire a third-party outside engineer to review stormwater management plans and ensure they comply with provisions. "More in-depth analysis really needs to be done," he said. This is a for-profit venture, said Mr. Bartlett. It's a lot to take 10-15 acres of land that could be used for housing, he continued, given the town's housing crunch, or left as is if that's the best use. Mr. Bartlett said abutters were told this is better than having houses out there, which "shows

the callousness of how they feel about the valuable land we have in Bar Harbor... they don't value the land in Bar Harbor." He asked developers to seek a better place for this type of project.

John Kelly, management assistant at Acadia National Park, stated for the record that the National Parks Service does not have an opinion as to the merits of the project. Visual impact was a real concern, said Mr. Kelly. We're confident that what they're presenting is valid and reflects reality. The impact on the park is mitigated by distance and the vegetated buffer, and it is important the buffer is maintained over the years. The panels are hidden only because of the buffer, he added. We're confident this will not affect the scenic value of Acadia National Park, said Mr. Kelly.

Ms. Chesler asked whether the buffer would be contained on the lot or would be dependent on other properties. Are you depending on a buffer that exists outside the property? she asked. Both, said Mr. Thompson. There would need to be a lot of clearing outside the project area to have any meaningful impact on the view. It is still 6.5 miles away from the summit of Cadillac Mountain. It would take some vast open spaces to start to reveal portions of the project, he said. "Which we recently experienced in that area," said Ms. Chesler, referring to an issue with improper clearing.

Lori Bartlett, an abutter of the project, spoke next. "I have some deep concerns about it," she said, and asked whether the town had consulted an arborist regarding the impact of tree cutting on surrounding trees and increased blowdowns. She asked whether independent studies on protected wildlife in the area had been done. She asked about how the water would flow on the property once the project was operational.

Angela Chamberlain, an abutter, asked the Board to ensure the 250-foot buffer is shown. The 75-foot buffer is shown on the project, and although no development is shown within 75-feet, there are limitations in the 250-foot buffer. There is a specific definition in §125-68, she said.

**Chairperson St. Germain closed the public comment period at 6:05 PM.**

The applicants responded. An arborist has not been consulted, said Ms. Reed. Mr. Knapp responded to the questions around wildlife impact. There's a mosaic of uplands, wetlands and vernal pools outside of the project development area, he said, all of which are being avoided. The previously developed road allows access to the site without further impact.

Current proposals follow Maine DEP guidance to limit impacts within the 250-foot buffer to 25% or less, said Mr. Knapp. They stay out of the vernal pool itself. Species will still have access to upland areas to overwinter and complete their life cycle, he said. The project as proposed doesn't necessarily cut off access to any of the surrounding habitat. "From a habitat standpoint there is an impact but I don't think it's an impact that will be wholly negative," he said.

Mr. MacDonald discussed meadow conditions. DEP requires that mowing be done only twice per year, he said. Existing stormwater patterns will be maintained, he added. The vernal pool located to the south will not be much impacted by disturbance. Panels are north of that watershed, he said.

The 250-foot buffer will be included on the upcoming plan, said Ms. Reed, along with the 250-foot Bar Harbor shoreland zone. There is no state shoreland zone, she said, and the state has issued a Natural Resources Protection Act permit for the project. Secretary Dority asked a clarifying question regarding mowing and the stream.

Vice-chairperson Cough asked about the current vegetation on the proposed 10 acres. It's kind of a combination of older red oaks, said Mr. Knapp, along with early to mid-successional species, such as spruce, beech saplings, white pine and red oak. Aside from the trees, what is the soil depth? asked Vice-chairperson Cough. It varies, said Mr. Knapp. Mr. Stanley gave a further overview of the soil information.

Planning Director Gagnon clarified what an independent review for stormwater would consist of. It would be based on Bar Harbor's ordinance and would not create new information but would look at how the applicant's proposal is performing with regard to those standards and offer recommendations. That's the focus of such technical assistance, she said. Planning Director Gagnon also advised the Board on plan details and the 250-foot setback.

In addition, said Planning Director Gagnon, Acadia National Park spoke to the visual impact on the park's asset, but not on the neighbors. The Board may want to consider a limited review on visual impact from the neighbors' perspective, which would involve asking staff to seek technical assistance.

Chairperson St. Germain asked whether the applicant is far enough along to be considered for a public hearing at the next meeting. Vice-chairperson Cough said that, based on the reduction from 15 acres to 10 acres, it's difficult to see how the Board could do anything except suggest applicants return for completeness review. At that time the Board would entertain expert review. Secretary Dority agreed with Vice-chairperson Cough. There are pretty major submissions the applicant needs to come back with, he said. The applicant has not done anything wrong, he said, but public concerns should be addressed.

Mr. Brechlin agreed with Secretary Dority and Vice-chairperson Cough. This is a great body of work and a worthy project but we want to not have so many caveats when we approve this type of project, he said. Experts take time to line up and get done, he said. Could addressing that be concurrently with the work the applicants would be doing?

Vice-chairperson Cough appreciated Mr. Brechlin's comments and said his comments were not meant to diminish the expertise here. Part of the standard process relies on asking CEO Chamberlain technical questions, he said, and there's no reason for the Board to move forward yet. We're talking about a wholesale change, he said, in part to resolve issues the neighbors have. Ordering experts without the project in front of us is a waste of the applicant's money, he said.

Ms. Chesler wanted the Conservation Commission to weigh in on the application regarding habitat and open space. Vice-chairperson Cough was not convinced that the Land Use Ordinance relies on another committee; it would be a "sea change" in the process and approval, frankly, he said. We are a quasi-judicial board, he said, and it (the Conservation Commission) is not. I don't see how we can entertain that kind of review, he said, adding that reports from state agencies are meant to cover that.

It doesn't hurt to let the Conservation Commission know this application is available for review, said Planning Director Gagnon. They have the ability to review just as any resident or interested party. As a Planning Director you can mention that, said Vice-chairperson Cough, but in his opinion that request or directive shouldn't come from the Board.

Ms. Reed said the applicant wanted to get the project in front of the Board but did not expect it to make any kind of completeness decision today. The applicant will submit more information for the next meeting. There was a discussion on next steps. There was consensus to continue with the process without taking any specific steps on review of the application that night.

**Mr. Brechlin moved to have staff schedule a site visit. Ms. Eveland seconded. The motion carried unanimously, 7-0, on a roll-call vote.**

**e. Sketch Plan Review for Subdivision SD-2022-01 - Red House Farm Subdivision**

**Applicant/Owner:** Finback on Cottage, LLC, C/O Michael Boland, P.O. 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 ±27.18 acres, according to town tax records

**District:** Salisbury Cove Corridor and Salisbury Cove Residential.

Greg Johnston was present to represent the applicant. He gave an overview of the project. There is no proposed road construction.

Ms. Eveland asked about wells and septic for the lots. There are two wells on the existing lots that give a snapshot of what it may be like in the area, said Mr. Johnston. Location for wells will be shown on the plans, said Mr. Johnston.

**Chairperson St. Germain opened the public comment period at 6:55 PM.** Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the **public comment period was subsequently closed at 6:57 PM.**

**Ms. Eveland moved not to act on submission of waiver requests for SD-2022-01- Red House Farm Subdivision - 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, the Board will have to act again on the submission of waiver requests at the completeness review meeting and we don't want to create confusion and as the Board has provided guidance to the applicant on the waiver requests. Ms. Chesler seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

**Mr. Brechlin moved to schedule a site visit for April 13, 2022 at 10:30 AM. Ms. Eveland seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

**f. Sketch Plan Review for Subdivision SD-2022-04 – Lamb Subdivision – Anderson Lot Line**

**Applicant/Owner:** Michael and Fayelle Anderson, 25 Manteca Drive, Bar Harbor, Maine 04609

**Application:** The project consists of the modification of the Lamb Subdivision. The applicant seeks to divide Tax Map 206 Lot 14 (25 Manteca Drive) into two lots: an 11.85-acre lot with three existing dwelling units and a 2.2-acre lot with one existing dwelling unit.

**Project Location:** 25 Manteca Drive (Tax Map 206, Lot 14), encompassing a total of 14.05± acres, according to town tax records

**Districts:** Shoreland Limited Residential and Salisbury Cove Residential

Michael and Fayelle Anderson were present. No questions were raised by Board members.

**Chairperson St. Germain opened the public comment period at 7:01 PM.** Assistant Planner Fuller shared the information for how to join and participate in the Zoom webinar. No one present in the Council Chambers or on Zoom indicated a desire to speak, however, and so the **public comment period was subsequently closed at 7:02 PM.**

**Ms. Eveland moved not to act on submission of waiver requests for SD-2022-04 – Lamb Subdivision – 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, the Board will have to act again on the submission of waiver requests at the completeness review meeting and we don't want to create confusion and as the Board has provided guidance to the applicant on the waiver requests. Vice-chairperson Cough seconded the motion. Discussion followed.**

Ms. Chesler asked a question about how access to the lot would be maintained. She also asked about the conservation easement referenced and where it is on the lot relative to lot lines. It's roughly 2,000-3,000 feet from this particular lot, said Michael Anderson. The Andersons agreed to include the right-of-way language in the subsequent packet.

**The motion not to act on submission of waiver requests then carried unanimously, 7-0, on a roll-call vote.**

**Mr. Brechlin moved to schedule a site visit for April 13, 2022 at 10:00 AM. Vice-chairperson Cough seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

The Board took a break of approximately five minutes.

**g. Recommendation of the Planning Board, to be posted on the warrant for the Bar Harbor Town Meeting on June 14, 2022, to adopt or reject a Land Use Ordinance Amendment, dated December 8, 2021 and entitled "Rezoning of the Oceanarium and Education Center land from Shoreland Limited Residential District to Marine Research District."**

Ms. Eveland moved to recommend that the amendment ought to pass. Ms. Chesler seconded the motion. Discussion followed in which Mr. Brechlin asked a clarifying question about the applicant's plans. **The motion then carried unanimously, 7-0, on a roll-call vote.**

**h. Recommendation of the Planning Board, to be posted on the warrant for the Bar Harbor Town Meeting on June 14, 2022, to adopt or reject a Land Use Ordinance Amendment, dated December 8, 2021 and entitled "Expansion of the Scientific and Research for Eleemosynary Purposes District."**

Ms. Chesler recused herself due to her employment with The Jackson Laboratory. With her departure, the voting membership of the Board was reduced to six members.

Representatives from the Jackson Laboratory were present to answer any questions the Board might have, noted Assistant Planner Fuller. **Mr. Brechlin moved to recommend that the amendment ought to pass. Ms. Eveland seconded the motion, which then carried unanimously, 6-0, on a roll-call vote.**

Ms. Chesler re-entered the meeting, and with her return the voting membership of the Board returned to seven members.

**i. Signing of plat plans for approved Subdivision Plan SD-2021-03 Harbor Lights Retirement Community.**

**Ms. Eveland moved to sign the SD-2021-03 Harbor Lights Retirement Community subdivision plat plan April 6, 2022 and waive the 45-day signing requirements per page 4 and note number 7 of the decision. Vice-chairperson Cough seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.**

**VII. OTHER BUSINESS**

**a. Comprehensive Plan Update — Elissa Chesler**

Ms. Chesler briefly updated the Board. The two topics were the economy and transportation; engagement strategies were also discussed. The discussion recognized that growth and sustainability are dependent on housing. In the transportation discussion there was talk about active transportation and infrastructure, particularly for cycling and pedestrians.

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

Assistant Planner Fuller asked for thoughts on how the hybrid meeting went. Board members were supportive of the format. “It was seamless,” said Chairperson St. Germain. Planning Director Gagnon thanked Assistant Planner Fuller for his work organizing it. Assistant Planner Fuller thanked Information Technology Director Steve Cornell for all of his help.

Planning Director Gagnon updated the Board on discussions after the recent workshop. The applicant representatives (design professionals) she had spoken with were now attempting to design a workshop in which they would discuss some of the more significant hurdles they’ve experienced, namely around Planning Unit Development, with the Board.

Ms. Eveland noted that several comments had been made regarding the solar project and that it was an inappropriate use of the land. That is not something the Board addresses, she said. Can that be communicated? “I hear what they’re saying but there is nothing the Board can respond to,” said Ms. Eveland.

The Board will make sure concerns are taken into consideration per the Land Use Ordinance, said Secretary Dority, but eventually it must be communicated that it’s an allowed use. The previous owners made this the plan moving forward by selling the land to these new owners. The Board will do everything to ensure things are done appropriately, but how property is developed is not under the Board’s purview, said Ms. Eveland.



The Comprehensive Plan and Land Use Ordinance are areas where town officials can propose changes to express what residents desire, said Ms. Chesler, so the Board has “something useful” to work with.

This proposal is being made quickly on the heels of an ordinance change, said Chairperson St. Germain. Typically, ordinance changes do not result in such quick changes. It may seem abrupt. Applicants seem responsive to the neighbors, which might result in happier neighbors, said Chairperson St. Germain.

The state maintains a list of those solar projects in the queue for interconnection. So although staff did not know exactly where they were, staff was aware of several projects in the area, said Planning Director Gagnon. So she said she wasn’t surprised when they came before the Board.

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

There were none.

**X. ADJOURNMENT**

At 7:45 PM, Vice-chairperson Cough moved to adjourn the meeting. Mr. Brechlin seconded the motion, which then carried unanimously, 7-0, on a roll-call vote.

**Minutes approved by the Bar Harbor Planning Board on May 4, 2022:**

05.04.22  
Date

  
Millard Dority  
Secretary, Bar Harbor Planning Board

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