

**Minutes — Bar Harbor Planning Board
Wednesday, June 2, 2021 at 4:00 PM**

*The meeting was held via the Zoom online meeting platform,
and was broadcast live on Facebook, Spectrum channel 7 in Bar Harbor
as well as online via Town Hall Streams (where it is also archived).*

I. CALL TO ORDER

Chair St. Germain called the meeting to order at 4:02 PM. Planning Board members present were Chair St. Germain, Vice-chairman Joseph Cough, Secretary Erica Brooks, Member Basil Eleftheriou Jr., and Member Millard Dority.

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

Jim Kiser, Patrick Lyons, Greg Johnston, Roger St. Amand, Michael Tadanev, Marla O'Byrne, Kay Stevens-Rosa and Mike Rogers were also present.

II. ADOPTION OF THE AGENDA

Vice-chair Cough moved to adopt the agenda. Mr. Dority seconded and the motion then carried unanimously (5-0) on a roll-call vote.

III. EXCUSED ABSENCES

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

IV. PUBLIC COMMENT PERIOD

Chair St. Germain opened the public comment period at 4:04 PM and laid out the criteria for public comment. Assistant Planner Fuller noted that several members of the public present in the Zoom meeting were possibly interested in discussing agenda items under Item VII. Other Business; he read the contact information aloud. There being no takers for public comment, Chair St. Germain closed the public comment period at 4:06 PM.

V. APPROVAL OF MINUTES

a. May 5, 2021

Mr. Dority moved to approve the minutes of May 5, 2021. Vice-chair Cough seconded. The motion then carried unanimously (5-0) on a roll-call vote.

VI. REGULAR BUSINESS

a. Completeness Review for SP-2021-02 Oceanside KOA

Project Location: Tax Map 211, Lot 1 off of the County Road and encompassing 2.63 acres of land, according to town tax records. The subject land is in the Town Hill Residential Corridor, Town Hill Residential and Stream Protection zoning districts.

Owners/Applicants: The owner of the property is Kampgrounds of America, Inc. (550 N. 31st Street, Suite 400, Billings, MT 59101) and the applicant is Bar Harbor Oceanside KOA (136 County Road, Bar Harbor, ME 04609).

Application: The construction of nine worker campsites. This will improve campground operations and worker privacy. Worker sites will be relocated from the existing campground area (Tax Map 211, Lot 3, 104 County Road, in Bar Harbor) to this property.

Mr. Kiser brought the board up to speed on the project. The applicant is interested in constructing nine worker campsites, he said. A project approved last year for the campground included the manager's house, the maintenance building and the new dump stations. This year, Mr. Kiser explained, the applicant seeks to add the additional nine worker campsites to allow workers to move out of the central area. "The workers were kind of situated right in the middle of all the campsites," he said, and this will afford them more privacy during off-hours.

Mr. Kiser said he believed the applicant had met all the requirements of the ordinance, with one exception. He said the applicant is seeking to have campsites of roughly 960 square feet each, he said, not the ordinance-required 2,500 square feet, which he noted is "extremely large" for a campsite.

Chair St. Germain asked if staff were comfortable with modification of standards of campsite size for employees. Planning Director Gagnon said staff was comfortable with the modification and suggested that the Planning Board impose a condition that these sites are to be used only for worker housing. Mr. Kiser said the applicant was "fully agreeable with that."

Secretary Brooks said it was a great idea but asked how it would be enforced. The sites will be fully occupied throughout the campground season, said Mr. Kiser. If there were campers (meaning RVs, not people) missing, Mr. Kiser said, that would be an indication for the town to ask those questions.

Mr. Dority thanked staff for addressing concerns that arose during earlier review of the project.

Chair St. Germain opened the public hearing at 4:15 PM. Assistant Planner Fuller explained how to participate and read the contact information aloud. Seeing no one interested in offering comments, **Chair St. Germain closed the public comment period at 4:16 PM.**

Vice-chair Cough felt the potential waiver of the standards for employees was “entirely consistent” with the concepts of employee living quarters and shared accommodations (approved by voters in 2020). It seems as though the proper safeguards were in place, he said.

Mr. Dority moved to approve the modification of standards as the campsites area for exclusive use of the campground workers and the area for camp sites may be less than 2,500 square feet. Vice-chair Cough seconded then said he felt the language should be tightened and withdrew his second. Mr. Dority withdrew his motion.

Mr. Dority moved to approve a request from the applicant for a modification of standards to deviate from our required 2,500 square feet per campsite due to the fact that it is for employee housing and approve the square footage of 900 square feet per employee campsite. Mr. Eleftheriou suggested adding the standard, §125-69 C. (2). Mr. Dority amended his motion to include the standard. Vice-chair Cough seconded. The motion then carried unanimously (5-0), on a roll-call vote.

Mr. Dority asked if the conditions put forward by staff needed to be part of the approval process. Planning Director Gagnon replied that the board had already taken care of modification of standards and pointed to a proposed motion stating conditions that are essentially mirrored (and immortalized) in the written decision, she said.

Mr. Dority had trouble locating the proposed staff motion; Chair St. Germain read the proposed motion on his behalf. **Mr. Dority moved to approve the application SP-2021-02 Oceanside KOA as it meets the standards of the Bar Harbor Land Use Ordinance §125-67 and §125-69 with the following conditions of approval: capacity letter from Bar Harbor Public Works Department, Department of Health and Human Services well-change approval, one trash receptacle for each campground and that the sites be used exclusively by workers and that they shall not be used by customers per the decision dated June 2, 2021. Vice-chair Cough seconded the motion which then carried unanimously, 5-0, on a roll-call vote.**

b. Completeness Review for PUD-2021-01 — Jones Marsh Affordable Housing Development Project Location: Tax Map 212, Lot 43-1 off of State Route 3 and encompassing a total of 30 acres according to town tax records. The subject land is the Town Hill Residential and Town Hill Rural districts.

Applicant/Owner: Island Housing Trust

Application: The applicant proposes to subdivide a 30-acre property into nine lots (eight lots buildable for residential use and one lot reserved for open space). Six of the buildable lots would have single-family homes and two of the buildable lots would have two-family homes, for a total of ten dwelling units.

Secretary Brooks recused herself, as she had previously, as she is on the board of Island Housing Trust. She left the meeting by turning off her camera in Zoom. With her departure, the voting membership of the board was reduced to four members.

Mike Rogers presented the project and changes made after the Technical Review Team process.

Chair St. Germain noted this was a completeness review of a subdivision the board has seen "on and off" over the past few years. There have been several requests for modifications of standards, said Chair St. Germain. "Because we're doing a PUD we're trying to save costs and work around a significant amount of wetland area... we're trying to keep it tight and nimble and affordable," explained Mr. Rogers.

Mr. Eleftheriou asked if the applicant's team had access to the staff report on the application; Mr. Rogers said yes and pulled it up to grow through them. Regarding a proposed trail connection to a Maine Coast Heritage Trust trail, Mr. Rogers said that is not "terribly germane" to the project. There are existing gravel roads connecting to the development, he said, and they connect the planned development to the open space.

Planning Director Gagnon commented that, "with all due respect, it is germane to the project," in the sense that, if it's written in the application, Code Enforcement Officer Chamberlain will expect it to be implemented. "You're inviting people...to go onto that property," she said. If it's just an idea and isn't developed enough, said Planning Director Gagnon, it might be good to remove it. "If you keep it in there we're going to be expecting that, a. it gets done and that b. you're talking about someone else's property...we would want to make sure you have the right in title or interest to do so."

Mr. Rogers said it could be pulled off of the drawings. "I don't want to include it if it's going to be problematic for the project," he said. Mr. Dority said it was an interesting question, as many subdivisions have those kinds of trails or old roads "that people certainly use."

Mr. Eleftheriou asked about the status of the fire pond. Greg Johnston said they have permission to go in and explore capacity at the adjacent White Deer Circle subdivision fire pond and whether it would meet standards. "It has a significant amount of volume... we're looking at it," said Mr. Johnston.

There was a short discussion on boundary survey and documentation. Mr. Eleftheriou asked a question about limited title opinion. Michael Tadenev asked if staff or board had an objection

to skipping ahead to affordable housing requirements as Patrick Lyons had to leave at 4:45 PM and that is "within his direct area of expertise."

Mr. Rogers outlined some of the modifications being requested. "We were asking for modifications that allow IHT to implement the covenants that we work with and our qualification for affordability looks at the state median income, rather than the Hancock County median income. We allow up to 150 percent of median income," said Marla O'Byrne, executive director of Island Housing Trust. She outlined some of IHT's governance and policies.

Patrick Lyons discussed the town's requirements for affordable housing requirements under PUD-O. "Really only one unit of all of this would be subject to affordable housing requirements of your PUD-O," he said.

Vice-chair Cough asked if there is a provision in IHT's bylaws or HOA agreements that would revert those back to town PUD-O standards at the time they may sell in the future so the standards would still carry on in some fashion. "I'm a little cautious about approving something that isn't solid and is subject to the board's discretion," he said. "I want to make sure that if we approve something, if we give that allowance, how do we maintain the integrity of putting that together?"

Ms. O'Byrne said that once the units are sold there are covenants placed on them that run with the land. Any changes to covenants require approval of all neighbors. "That's not something we do, typically," she said, regarding changing covenants.

The trust is only seeking modification of standards for one unit, noted Mr. Lyons. "We're talking about ten affordable units and really only one here...would be subject to affordable housing requirements [under the town's Land Use Ordinance standards]."

Vice-chair Cough understood, but said: "We are looking at a bunch of modifications of standards for a particular use and a particular development and that's going to transcend, possibly, IHT's existence."

Mr. Tadenev pointed to the affordable housing covenant. "There is a sale price restriction... the price would be set in stone and in lock-step with the affordable housing formula." The only way to change it, he said, would be an amendment to the declaration, which would require the agreement of IHT and all association members.

Vice-chair Cough understood and said he was likely the only board member concerned with this and that the board could move on.

Mr. Eleftheriou asked a question about a setback modification request. Mr. Rogers said that was to have “wigggle room” to put houses on the lots. The lot sizes have been shrunk, he said.

Chair St. Germain asked staff whether, when a PUD is proposed, is it required that the lot be divided into multiple small lots? “I thought the idea of the PUD was to avoid having lots altogether and give the applicant flexibility.” Planning Director Gagnon wasn’t sure off-hand. There was a discussion on setbacks.

“We’re still missing information to connect the dots,” said Planning Director Gagnon. A good trade-off, she said, would be to ask for modifications of standards in exchange for 10 affordable units, rather than a single unit, as all will be considered affordable. “You have a better chance, from my point of view, of being approved.”

Planning Director Gagnon gave the example of conservation easement enforcement. The town would not enforce a conservation easement, she said. The trust has good intentions, said Planning Director Gagnon, but added she thought it would be prudent to consider, in the worst case scenario, that the town would have the ability to make sure this stands forever. That would take care of Vice-chair Cough’s concern and hers as well, said Planning Director Gagnon. “That’s well-stated,” said Vice-chair Cough.

“I don’t think the town wants to get into this,” said Planning Director Gagnon. This is an amazing project, she said, and the modifications being requested are worthwhile, but it needs to be packaged in such a way that the benefits to the town are clear.

Mr. Johnston asked whether, if modifications of standards were to be granted based on the specific number criteria and income percentages, could that be conditioned so that if those aspects were to change that they would have to come back before the board?

Ms. O’Byrne provided context and said IHT has commitments via its incorporation that prohibit it from simply liquidating. “We’re established... we can’t legally just decide to do that,” she said. “We have IRS requirements to meet as well as the State of Maine’s incorporation.”

Planning Director Gagnon said Mr. Johnston’s suggestion was a “good answer and a simple answer.” Planning Director Gagnon suggested spelling out clearly what the exchange is regarding modifications of standards and the number of affordable housing units. “You’ve got a lot to offer in exchange for your modifications of standards,” said Planning Director Gagnon, addressing IHT. “I think you need to capitalize on those and sell those.”

Chair St. Germain asked if the board was prepared to act on the waivers and whether the board was close to being able to call the application complete.

“I would definitely consider moving them to a public hearing even if you find it incomplete,” said Planning Director Gagnon, noting that the intent was clear.

Mr. Eleftheriou moved to grant the waivers requested by the applicant as listed in the checklist, changing 9 CC from a waiver to an exhibit, as such waivers will not unduly restrict the review process, as they are inapplicable, unnecessary, or inappropriate for a complete review. Mr. Dority seconded. The motion carried, 4-0, on a roll-call vote (Secretary Brooks was not voting, following her recusal).

Mr. Eleftheriou asked whether all of the items listed by staff were still missing. Yes, said Planning Director Gagnon, but some of them are standard items that applicants give staff once they're approved. “There's nothing there out of the ordinary,” she said.

“We would like clarification prior to the meeting on the affordability covenants section, correct?” asked Mr. Eleftheriou. The deadline is June 10, said Planning Director Gagnon, to provide any information to be on the next agenda for July 7. There will be another chance to submit information post-TRT revisions on June 27, she said.

Mr. Eleftheriou moved to find application PUD-2021-01 — Jones Marsh Affordable Housing Development complete pending receipt of explanation with regards to affordability referencing §125-69 R. (3) (c) [5], having that receipt by June 10, per the Bar Harbor Land Use Ordinance §125-66 and schedule a meeting [public hearing] on July 7, 2021 nothing also that the information missing from the application includes a capacity letter from the Bar Harbor Department of Public Works, Maine Department of Environmental Protection stormwater permit by rule, Maine Department of Environmental Protection Natural Resources Protection Act Tier 2-3 and Maine Department of Environmental Protection permit by rule permits as well as clearance letters from Maine Historic Preservation Commission, Maine Inland Fisheries and Wildlife and the Maine Natural Areas Program. Mr. Dority seconded. The motion carried, 4-0, on a roll-call vote, with Secretary Brooks not voting as she was recused.

Following this vote, Secretary Brooks returned to the meeting. With her return the board's voting membership was once again at five (5).

c.) Sketch Plan Review for SD-2021-03 – Harbor Lights Retirement Community

Project Location: 18 Hamor Lane (Tax Map 216, Lot 50, encompassing a total of 58.97± acres according to town tax records). The subject land is in the Shoreland Limited Residential, Hulls Cove Corridor and Hulls Cove Rural zoning districts.

Applicant: Harbor Lights, LLC

Owner: Christopher S. Maller Revocable Trust, Christopher S. Maller trustee

Application: To construct a retirement community, on an 18.7-acre portion (to be located wholly within the Hulls Cove Rural zoning district) of the overall parcel, to include physician offices and 50 independent-living dwellings.

Mr. Johnston presented the application and went through some of the changes. "I would consider it basically a new application," he said, referring to a previous application for the same property with a different configuration and focus. There was a fair amount of interest in being able to provide medical and assisted living in the units, including doctors' offices. Feedback from the neighborhood meeting also resulted in changes, he said. The development will not include any access to the beach, which will be retained by owners. Any development in the man-made pond and around the Hulls Cove residential corridor has been removed. No part of the development will be part of Hamor Lane, he said.

Kay Stevens-Rosa addressed the board regarding architectural style. Mr. Dority said response to concerns had made a real improvement in the plan. He asked about a schedule for the project and whether it would be in a single phase. Mr. Johnston said late fall or early winter for getting through permitting and starting construction could be possible.

Member Eleftheriou asked how many units were planned for the larger building. There are 28, said Mr. Johnston, ranging in size between 750-800 square feet and 1,500-2,000 square feet.

Ms. Stevens-Rosa said it's basically a two-story, above-ground building with a partial daylight basement likely containing medical offices. Plans call for it to be broken up into little groups of apartments, the smallest at one-bedroom units of 750 square feet. Second-floor units may have second bedrooms and bonus space areas. Outside of the larger building are two-family homes. "We're providing a good array of variety of choices of units," said Ms. Stevens-Rosa.

Chairman St. Germain opened the public comment period. Assistant Planner Fuller read the contact information aloud. **With no one asking to speak, the public comment period was closed.**

Secretary Brooks moved not to act on submission of waiver requests 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 would have to act again on the submission of waiver requests at the completeness review meeting, creating confusion, and as the board has provided guidance to the applicant on the submission of waiver requests. Mr. Dority seconded the motion which then carried unanimously (5-0) on a roll-call vote.

A neighborhood meeting is optional but a site visit is mandatory, said Planning Director Gagnon. Chair St. Germain felt the self-guided site visit was effective. Board members agreed. Mr. Eleftheriou felt that given the size and scope of the project a neighborhood meeting was advisable. Mr. Dority agreed.

Secretary Brooks moved to have staff schedule a site visit, or self-guided site visit, and to schedule a neighborhood meeting.

Mr. Johnston asked for discussion. He felt that although it is a big project the applicant had a "pretty successful neighborhood meeting" and two sketch plans, for the prior project proposals, as well as no comments during the public comment. He didn't feel a neighborhood meeting was necessary.

Vice-chair Cough asked if the motion had been seconded. No, said Assistant Planner Fuller. **Vice-chair Cough seconded.** Mr. Dority addressed Mr. Johnston's concerns and said it would be good to schedule the site visit as soon as possible so as not to affect the developer's schedule.

Secretary Brooks offered to amend her motion and said she had no problem not holding a neighborhood meeting. This could be a special case, said Planning Director Gagnon, as there have been site visits. "I'm not sure there's anything to gain" from having another site visit, said Planning Director Gagnon. Assistant Planner Fuller said he felt the ordinance language was clear and required a site visit.

Vice-chair Cough was fine with entertaining comments from the applicant but wanted to ensure proper process was being followed regards to motion and discussions. "I'm not saying we shouldn't accept comments," he said, "I just think it should be done the right way, that's all."

Mr. Johnston apologized for his interruption. Vice-chair Cough thanked him.

Secretary Brooks modified her motion have it simply state to have staff schedule a site visit (because it is required, under the ordinance) and not schedule a neighborhood meeting (because it is optional). Vice-chair Cough seconded the motion and reiterated that the site visit should be done as quickly as possible. The motion then carried unanimously, 5-0, on a roll-call vote.

VII. OTHER BUSINESS

a. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to signage

Assistant Planner Fuller updated the board. Language related to expanding the neon (vacancy/no vacancy) sign provision has been removed, he said. Staff are proposing leaving the existing provision as is and not make a change to that. Staff have changed two items, which Assistant Planner Fuller outlined, one relating to the definition of how wall-sign area is calculated and the other relating to multi-tenant signage plans.

Chair St. Germain asked for clarification on concerns about neon at the Warrant Committee. "Is that what derailed it?" he asked. Assistant Planner Fuller said it became clear to staff in that previous process earlier this year that there were strong feelings at the Warrant Committee level about neon in general. Staff didn't want to see this hit a roadblock and possibly lose a chance to get other items amended and passed, he said.

Mr. Dority moved to schedule a public hearing for the Bar Harbor LUO amendment dealing with signage. Mr. Eleftheriou seconded and asked whether adding a date was necessary. Assistant Planner Fuller said it would be helpful. Mr. Eleftheriou suggested July 7. Mr. Dority amended his motion. Mr. Eleftheriou amended his second. The motion then carried unanimously, 5-0, on a roll-call vote.

b. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to short-term rental regulations

Planning Director Gagnon brought the board up to speed on the draft order, which would create two types of vacation rentals, VR-1 and VR-2. VR-1 would have a two-night minimum rental period, with a maximum of two per property if the property is the primary residence. VR-2 would have a minimum rental period of four nights, with a maximum number of licenses to be issued not to exceed 9% of the total number of dwelling units in the town of Bar Harbor.

Any existing vacation rental as it stands today would be able to continue operating, said Planning Director Gagnon. New VR-1s would be allowed in the same 34 districts in which they are currently allowed; new VR-2s would be allowed in 18 districts, mostly those where there is already lodging or commercial activity. The way the draft is written, any and all transfer of VRs would be prohibited, said Planning Director Gagnon.

This came from the Bar Harbor Town Council, said Vice-chair Cough. All draft orders have been reviewed by the town attorney, said Planning Director Gagnon. Vice-chair Cough asked when the Town Council took action to put this before the board.

This draft order comes out of two draft orders that were discussed and presented at the end of last year, said Assistant Planner Fuller, referencing a written request from the Town Council chairman. Those did not ultimately make it to the ballot in June, he noted. The present order before the board was an outgrowth of that. This is not a brand-new discussion or item, he said.

Vice-chair Cough asked if the town council took action to put this on the board's agenda so the Planning Board would schedule a public hearing. He did not recall such an action by the council.

Planning Director Gagnon said that the intent is to have the board call for a public hearing. Under §125-9 A. (4), the council *may* send a written request to the Planning Board to consider an amendment. That is how staff read it, said Planning Director Gagnon. She read the ordinance language aloud. "It's not saying the Planning Board *may* call a public hearing, it's that the board *shall* consider the request at a public hearing," she said.

This is a continuation of the request from last year, said Assistant Planner Fuller. Vice-chair Cough felt that the document the Town Council asked to be sent six months ago is a different one from that before the board now. "This is a new send," said Vice-chair Cough.

Member Dority asked for clarification. "I thought the goal was to get this before the voters... is it a point of order?" "Yes," said Vice-chair Cough: "I'm trying to follow the process correctly."

"If this was a draft order that was something the Planning Board liked I'm not sure we would be talking about the same thing tonight," said Planning Director Gagnon. Vice-chair Cough said that if the board is not following the process he would like to know about it.

There was a discussion on whether the board was violating the process and at what point the two draft orders became one. "If anything," said Mr. Dority, "the council is violating the process."

This is not the same draft order, said Secretary Brooks. Substantial changes have been made to it. This is a pretty hot-button issue, she said, and it's important to get it right.

Planning Director Gagnon asked if board members would be willing to adopt the draft order and propose an amendment. That would be really appreciated, so there could at least be a public hearing, she said.

Chair St. Germain asked whether the board was allowed to propose an amendment on something the Council had submitted to the board. If the board contends the council had not submitted the draft to the board, in the form of a written request, said Planning Director Gagnon, she asked if board members would consider proposing an amendment.

Chair St. Germain asked if the Council could give the board a request in writing. If the board cannot propose an amendment to a Council suggestion, which, based on the opinion of Town Attorney Edmond Bearor, it cannot, said Chair St. Germain, would it be cleaner for the Council to submit a request in writing?

Under §125-9 A. (3), the board may propose an amendment that shall be considered at a public hearing, said Planning Director Gagnon. If the concern is finding a clear legal path forward, said Planning Director Gagnon, it would be "gracious" to consider calling a public hearing.

Mr. Dority reminded the group that there will be a lot of information gathered at a public hearing and that the board still has the power of making it a two-thirds vote rather than a majority vote, which carries a lot of weight (this would depend on the Planning Board's eventual recommendation). Moving something forward, said Mr. Dority, is critical.

"I don't want to delay things any longer," said Secretary Brooks.

Secretary Brooks moved to put the draft order to a public hearing on July 7, 2021. Vice-chair Cough seconded. A discussion followed.

Chair St. Germain asked for clarification as to whether the board would be proposing an amendment. No, said Secretary Brooks. Mr. Eleftheriou said that this has been under discussion for years, and at some point, the board should take some responsibility. He felt there was nothing wrong with the board's actions, but that the board has never asked the Council to submit a draft. He asked whether there were changes beyond the transferability aspect. Staff have changed "tiny, tiny things here and there," said Planning Director Gagnon, but nothing substantial beyond transferability. He asked about the timeline.

Planning Director Gagnon made a note to discuss timing with Town Manager Cornell Knight. Vice-chair Cough said he wasn't sure he agreed with Town Attorney Ed Bearor's definition of "substantive" and asked about a document with tracked changes. Planning Director Gagnon said she would get such a document to him. Chair St. Germain said the board has not really "taken a crack at this." The understanding was that the Council would take a poll question at the election in June; they then decided to use Polco and then had a workshop, after which they

gave the board the same document, he said. "I don't think this board was ever actually asked to weigh in... nevertheless, I'm very eager to vote on this."

The motion to set a public hearing on July 7 carried unanimously (5-0), on a roll-call vote.

c. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to solar photovoltaic systems

Planning Director Gagnon summarized changes to the proposed amendment. The proposed amendment indicates what districts stand-alone solar systems would be allowed in and sets additional requirements and standards for siting such systems, including fencing, screening, visual impacts and decommissioning plans. Staff removed the threshold of 20,000 square feet for solar system principal use.

In response to a question from Vice-chair Cough regarding arrays and panels, staff reworded a definition, said Planning Director Gagnon. The area is made of panels and the panel is made of cells, said Planning Director Gagnon. Staff also refined what was exempt from lot coverage. Only panels and arrays would be exempt from lot coverage, she said.

Mr. Eleftheriou moved to place this amendment on the agenda for the July 7, 2021 meeting.

Mr. Dority seconded. A discussion followed.

Vice-chair Cough said panels should count as lot coverage. "I think we're giving a pass to a potentially huge amount of lot coverage that we don't know yet what the impacts will be," he said. While smaller arrays on individual houses may have an environmental-benefit component, large arrays are mostly there to make money, he said.

Secretary Brooks felt the same way and brought up boat storage and lot coverage exemption. "Boat storage is not allowed unlimited in all of these 19+ districts," she said.

Deputy Code Enforcement Officer Mike Gurtler brought up a couple points. The solar ordinances that have been adopted in other municipalities throughout the state do not count the panel space as lot coverage, he said. Bar Harbor would be consistent with the recommendation from the American Planning Association recommendation and the Maine Audubon and be consistent with other language throughout the state, he said. The average cost for 1 megawatt is roughly \$1 million, he said. Making money is not the primary purpose behind these efforts, he said. Substations in town simply can't support a lot of these going on. "It's not like all of a sudden we've opened the floodgates," said Deputy CEO Gurtler.

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

d. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to accessory dwelling units

Planning Director Gagnon introduced the amendment and explained some of the changes made since the board last saw the draft amendment.

Vice-chair Cough asked about the order the amendments would appear on the warrant. "When you're talking about the negative it can affect potentially how people look at things down the line," he said. He felt it would be better received on the ballot and cleaner in terms of explanation.

Planning Director Gagnon suggested putting the proposed bonus dwelling unit amendment first, then the proposed amendment related to nonconformity, then the proposed amendment related to accessory dwelling units.

Mr. Dority moved to move the LUO amendment [on accessory dwelling units] to a public hearing on July 7, 2021. Secretary Brooks seconded. The motion then carried unanimously, 5-0, on a roll-call vote.

e. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to nonconformity

Planning Director Gagnon explained that staff separated this draft order from the order related to accessory dwelling units so that, if the draft order related to accessory dwelling units does not pass, the issue of nonconformity does not keep prolonging.

Vice-chair Cough moved to schedule a public hearing on the proposed LUO amendment relating to nonconformity for a public hearing on July 7, 2021. Secretary Brooks seconded, and the motion carried unanimously, 5-0, on a roll-call vote.

f. Update on, and consideration of scheduling public hearing for, proposed LUO amendment relating to bonus dwelling units

Planning Director Gagnon presented the agenda item. The amendment defines a bonus dwelling unit, she said, which is considered a second dwelling unit on a lot where there is a principal dwelling unit. It's not an accessory because it does not restrict it to be subordinate in size to a principal, explained Planning Director Gagnon, adding that it would be proposed for 13 districts where lot size and area per family are the same. The bonus dwelling unit would not be subject to area per family.

Bonus dwelling units would not be allowed to be registered as a short-term or vacation rental, said Planning Director Gagnon, and the sale of such a unit could not be separate from a single-family dwelling unit on a nonconforming lot.

Vice-chair Cough said he misspoke earlier and wanted to bring the bonus dwelling unit first in the list. There was some discussion about placement of the items. He asked whether there needed to be a "block" so PUDs cannot take advantage of this. He felt PUDs should not be able to also include a bonus dwelling unit.

Secretary Brooks asked for clarification. Vice-chair Cough gave an example and there was some discussion. Chair St. Germain felt the language prohibiting that was already in the PUD framework. Planning Director Gagnon said such an application would also have to come back to the board for modification of site plan.

Secretary Brooks asked about language around short-term rentals and vacation rentals. Both terms appear in the drafts, she said. "That's because we have six balls in the air right now," said Planning Director Gagnon, and that if certain language does not pass she cannot use it. "It's not that we're doing a bad thing but we are contributing somewhat to a problem."

"Short-term rental is an umbrella term encompassing VR-1 and VR-2. Should short-term rentals not pass, short-term rentals do not exist. Vacation rentals continue to exist," said Planning Director Gagnon. She said these are good questions and this confuses a lot of people.

Chair St. Germain hoped this would be well-supported when it comes to the ballot: "Perhaps people will utilize these provisions to create more housing that aren't going to be short-term rentals or vacation rentals."

Secretary Brooks moved to schedule a public hearing on the proposed LUO amendment relating to bonus dwelling units. Vice-chair Cough seconded and the motion then carried unanimously, 5-0, on a roll-call vote.

A public information session is scheduled for Tuesday, June 29, 2021, at 6 PM, said Planning Director Gagnon. The purpose of the session would be to explain each of the six proposed Land Use Ordinance amendments, she said, so the public can comment on their support or disagreement with the proposed amendments. The idea is to enhance participation in the public hearings on July 7, 2021.

Chair St. Germain asked where the public meeting will be held (Council Chambers in the Municipal Building, at 4 PM). Both the June 29 and July 7 hearings will be held in-person.

Planning Director Gagnon asked about the order of the agenda items. There was discussion about placement of the agenda items.

VIII. BOARD MEMBER COMMENTS AND SUGGESTIONS FOR THE NEXT AGENDA

Chair St. Germain asked for board members' thoughts on having an affordable housing ordinance akin to the solar one regarding the lot coverage exemption provision.

Chair St. Germain said that Mr. Eleftheriou notified the board that he would not be seeking re-appointment. Vice-chair Cough thanked Mr. Eleftheriou for his service. Mr. Eleftheriou said he had thoroughly enjoyed his time on the board but being a board member takes a lot of time and effort.

IX. REVIEW OF PENDING PLANNING BOARD PROJECTS

Assistant Planner Fuller asked a question about the site visit for Harbor Lights and if the intention was for it to be self-guided. Yes, said Secretary Brooks.

Secretary Brooks asked when in-person meetings start again. The Town Council voted to have all boards and committees resume in-person meetings effective June 9, said Assistant Planner Fuller, meaning the Planning Board's first in-person meeting will be Wednesday, July 7.

Planning Director Gagnon said she was not aware of any pending projects.

X. ADJOURNMENT

At 6:45 PM, Vice-chair Cough moved to adjourn. Mr. Dority seconded. The motion then carried unanimously, 5-0.

Minutes approved by the Bar Harbor Planning Board on July 7, 2021:

7/7/21 
Date Erica Brooks, Secretary, Bar Harbor Planning Board