

TOWN OF CAPE ELIZABETH  
MINUTES OF THE COMPREHENSIVE PLAN COMMITTEE

March 23, 2006

7:00p.m. Jordan Conference Room

Members present: Barbara Schenkel, Chair	Marybeth Richardson
Julia Beckett	Elaine Moloney
Jay Chatmas	Skip Murray
Mary Ann Lynch	David Griffin
Frank Strout	

Also present was Maureen O’Meara, Town Planner.

Mrs. Schenkel called the meeting to order. The minutes of February 16, 2006 were reviewed, revised and accepted.

Mrs. Schenkel proposed a policy of voting on every policy decision so the minutes will be clear. There were no objections to the proposal.

Housing

The Committee agreed to hear from the guests, in order to gain more knowledge of affordable housing, and how it has been working in Cape Elizabeth to date.

Joel FitzPatrick, a developer who has built a few affordable homes, spoke first. In response to a question from Mrs. Schenkel, as to why the developer should be forced to bear this cost, he replied that he always has to work within the rules. For example, there are rules for streets, sewer, driveways etc. so this is just one more requirement. He says it is a loss for him on several levels, and drives up the cost of the remaining lots in the subdivision. He addressed the question of equity restriction when the house would be resold by commenting that it would make no sense to allow the affordable house to be sold at market rate a few years later, since it would then be no longer an affordable house. He said “how do you pick a lottery winner?”

Mr. FitzPatrick spoke of his Autumn Tides subdivision, and said he made it five lots only, instead of six or seven so it would not require an affordable house. Also, since the homes in that subdivision will be sold for around \$900,000, he could not visualize putting a \$150,000 house in there with them.

Ms. Lynch commented that the existing plan is flawed because in ten years, only six houses have been built under the program. She referenced a New York Times article featuring an upscale subdivision built with a large building housing multi-family units mixed in. Mr. FitzPatrick agreed that would be doable.

Mr. FitzPatrick also said that there is no break on the fees or permits from the town, and he charges more for the other houses to make up for the expenses, but an affordable house is still a financial loss for him.

Ms. Lynch noted that with lots in Cape Elizabeth going for \$120,000, one can't build a house to sell for \$140,000.

Dana Tottman, executive director of Avesta, stated that density is the key to affordability. You need to build more units on less land to make it work.

Steve Parkhurst, developer of Cross Hill, spoke about the development of 97 lots in Cross Hill. He said the cost of the infrastructure for the entire subdivision was \$5,800,000, which figured out to be \$59,781 for each lot just for the infrastructure. He said the system is flawed, and that he had asked for help from the Town, and no one had answers. He said everyone expected a "flood" of applicants, but in reality, twenty six people were on his list and only twelve people qualified. He complained that it took weeks to get any answers from the Town, and he sought answers from the Maine State Housing Authority. He asked for the sewer connection fee to be dropped, and was told no, the Town would not do that. He also stated that he had had to pay double building permit fees, because the Town would not give him any leeway. He said it took from May 2003 until Dec 2003 to get the contracts signed. In his opinion, the program is very flawed, and not many people want to apply.

Randy Blake of TD Banknorth, a construction and subdivision lender spoke next and introduced Dana Tottman, Executive Director of Avesta. Avesta has developed 15,000 units of housing and owns 1,000 units. Mr. Tottman has extensive experience in the area of affordable housing, both professionally and as a member of the Brunswick Planning Board, the Brunswick Affordable Housing Committee and the Southern Maine Affordable Rental Housing Authority. That committee had a student to assist them in their study, and came up with 50 different items to propose. He favors incentives to builders, such as a density bonus if affordable housing is included in the plan. He claims that a requirement only makes the other units less affordable and a builder can always go to one of the neighboring towns, which have no such requirements. He also recommended that the Town waive all permit and other fees required to construct a new house.

In order to cross the gap to affordable housing, costs need to be reduced, and in his opinion density is the answer, and is in the Town's control. A rough rule of thumb is that the land cost needs to be reduced to \$15,000 per unit to build affordable housing. To provide affordable housing ownership programs, a lot of help is needed because the gap is so huge. Grants and land donations all combine with higher density.

The question of who gets to keep the gain when the affordable house is sold, was discussed. How to share the equity? This is a large policy debate, and it was suggested that MSHA can help on this topic. Ms. Lynch commented that the homeowner cannot accumulate wealth through home equity as does the typical homeowner. She is

concerned about creating two classes of homeowners, and of creating a situation similar to New York City's rent control, when people feel unable to move because they cannot afford the current market rates.

Mr. Blake suggested that the Committee might want to try to encourage multiple units rather than single family homes. Also, the Town might look at the Town Center Zone for more residential multi-family units, since there is not much demand for business space in Cape Elizabeth. We could try condos or rentals or a combination of both.

Ms. Lynch suggested that if mixed income housing units were to be built rather than solely low-income, it might diminish the NIMBY(not in my back yard) response.

Jack Roberts, a Cape Elizabeth resident and father of two grown children spoke next. One of his children is a police officer, and the other is a teacher. He advised his children against applying for the affordable housing because he felt it would not build any equity. His advice was to buy a house farther out from the Portland area where prices are more moderate. He advised them to commute for a few years to build some equity. He does not think the affordable housing is a good move for a first-time home buyer.

Karen Allen, a 30-year resident of Cape Elizabeth, a 20-year employee of the Town, and the owner of an affordable house in Cross Hill spoke. She has a single-family home and told of working in the yard with her neighbors. She said it is not just herself enjoying her gardens. She works hard on the exterior of her house, and her neighbors also enjoy her yard. She said she gets questions from people who like the looks of her house and ask her how to get one like it. She was the first one to come along to apply for the program, and said she went through a lot to get her questions answered. She suggested that if the existing program is continued, that more details be spelled out. On the topic of building equity, she said her house was not finished according to the plan, and was told at the last minute that she had to spend \$40,000 to finish the house. There was a brief discussion with Mr. Parkhurst on that subject before the Committee requested moving on.

Melanie McKean spoke next. She owns an affordable home in Cross Hill. She is a 17-year resident of Cape Elizabeth. She was in a "very affordable" rental for 14 years, before the building she was living in was sold. Since she is a single mother with family in Cape Elizabeth, she felt it was very important to her to be able to stay in town close to her support systems. She says she spent one and a half years fighting to get into the program. Although she is aware that her equity growth is limited, in her view it is not as bad as the alternatives. It was a compromise she was willing to make. She strongly disagreed with the premise that she would not keep up her home. She had to put extra money in to finish the house and to landscape her lot. She hasn't hired a professional landscaper, but she has done a good job on her yard. She plans to live there for a long time. She said the sacrifices to be there are willingly made and with full knowledge. She also said that she was pleasantly surprised with her home's equity growth, even in the few years she has owned the home.

Joel FitzPatrick then requested that there be greater density allowed in the business districts. He said he has a building now that has 4,000 square feet of space on the second floor. He would like to have more housing units on that floor, but is restricted to only two. So he will have to make office units there instead of apartments. He says 2,000 square feet is too large for an apartment. He also stated that current zoning requires 5 acres to build multi-units.

The Committee then closed the meeting to comments from the audience.

There was a wide-ranging discussion of how to bring more affordable housing to Cape Elizabeth. Ms. Lynch mentioned that only 6 affordable units have been built in 10 years. She referenced the 1989 report and suggested some alternatives would be (1) streamlining project review for affordable housing, (2) increasing density for developments with affordable and market rate units, (3) an overlay district for the whole town for projects with an affordable housing component, and (4) study a percentage of affordable units in new rental housing. She said there is a need to increase density to make it happen. Maybe a mixed condo-type development or an overlay district for super-density for elderly and include high-end condos in the same project.

Ms. Schenkel suggested that the Committee could recommend, not necessarily spell out ways to achieve their goals. Ms. O'Meara stated that if the committee did not make specific recommendations, the affordable housing would not get built.

Mr. Murray suggested lowering the minimum lot size for just the affordable units, not the entire development.

Ms. Schenkel mentioned housing trust funds, or transfer fees, but the consensus of opinion was not in favor of either of those suggestions. Ms. O'Meara stated that there is a density bonus in the current zoning.

Ms. Lynch then circulated a list of home sales in Cape Elizabeth for the past year. It was a list of 61 houses that sold for \$250,000 or less, in this past year, which is less than the \$274,000 moderate affordable base price determined by HUD. This shows that there are plenty of moderate affordable houses in the town. Ms. O'Meara noted that the low-income affordable house price is \$147,000.

Ms. Lynch also suggested a density overlay for sewerred areas of town for a mix of affordable and market rate housing at a higher density than is now allowed by existing zoning. She proposed that there be a minimum of 10% low income housing in such a district.

The equity provisions in the current program were discussed. Ms. Lynch proposed amending the existing program to change the equity restriction and allow equity to be earned. Discussion ensued about how many years would be best, and several suggestions were proposed. Five years, seven years and ten years were all suggested, and Mr. Blake

interjected that it should not be a random number, but should be adopted after study of the issue in greater depth, There is literature available to assist on this issue.

Mr. Chatmas noted that he was the one to ask for a second vote at the last meeting and would like to reopen the vote.

Ms. Lynch and Mr. Griffin both were opposed to restricting equity and want to revise the equity provisions of the existing program. Mr. Blake interjected that 100% of affordable housing programs have restrictions. Deed restrictions are only way to monitor. Some programs use a soft second mortgage.

Mr. Chatmas asked if that could be handled with a Class D survey. Mr. Blake explained that the deed restriction was monitored when a title search was done for the buyer. Mr. Strout stated that a real estate agent takes the property deed to a buyer to initial prior to making an offer, so when someone is buying an affordable home, they should know what they are buying into.

Mrs. Schenkel asked Mr. Blake if deed restrictions are tied to income categories. He agreed.

Mr. Blake said there are different formulas to calculate appreciation. Some are on a sliding scale where 20% of the restriction is lifted each year so that at the end of five years, the restriction is lifted.

Ms. Lynch suggested that housing could be built so that an affordable value is imbedded into the unit. She suggested a recommendation that the Town create an affordable housing district where a mix of market rate and affordable low-income units would be allowed at a density greater than the existing zoning. After discussion about establishing a minimum amount of affordable units, the committee agreed to leave it open due to the complexity of project financing.

After discussion by the committee regarding possible abuse by buyers with low incomes and high assets buying affordable units, the committee agreed to recommend a cap on assets. The committee voted to amend the existing program to add an asset limitation and provide increased appreciation gain. The committee discussed increasing appreciation after 7 years, based on the average length of home ownership of 7 years, but decided not to specify a number.

Impact fees were considered. All agreed not to adopt them.

Mr. Strout moved to eliminate #3, undersized lots, from the affordable housing section. Ms. Lynch added that it should be taken up in the Growth and Land Use Section. The committee was unanimous in agreement.

Ms. Lynch moved that the Town waive all town fees for all low income housing units. Mr. Griffin seconded and the motion passed 7-1 (Ms. Richardson had left earlier).

Ms. Lynch moved that the Town waive all town fees for all moderate priced units. After a brief discussion, she withdrew her motion.

### Schedule

The committee discussed the committee schedule. At the current rate of progress, the committee would not finish by November. They could ask for an extension from the Town Council, which would likely be granted. The Town Council is waiting for the committee, but as time elapses, pressure will build and the Town Council may not be able to wait for the committee to complete the plan before acting on some issues.

Ms. Beckett proposed that the Committee should meet extra times in order to catch up to their agenda. It was decided to meet on March 30, 2006 and May 4, 2006 in addition to the already scheduled meetings.

The meeting was adjourned at 9:55 PM.

Respectfully submitted,  
Hiromi Dolliver