

## Jean Fraser - Re: Old Barn Estates - Deed Language Lot 6

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**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 6/2/2015 3:59 PM  
**Subject:** Re: Old Barn Estates - Deed Language Lot 6  
**CC:** DiPierro, Philip; O'Donovan', 'Tim  
**Attachments:** As signed Subdivision Plan S-101 (2 of 2).pdf

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Peter

I spoke to Tim last week and advised him that this deed was missing some wording that we would like to see and that I was waiting to hear back from our attorney.

If the deed you sent has already been used for Lot 6 I think that's probably OK, but for all other deeds in the subdivision please revise the deed as follows (so it's a generic deed) and send us the revised version:

- Explicitly reference (with substantive info, not just a reference) the easements that allow access over any lot for stormwater system maintenance (this affects several lots);
- Include the book and page recording details for all easements etc that are mentioned in the deed;
- Reference (ie quote) notes 13 and 18 from the Subdivision Plat Plan 2 of 2 (S-101) as attached.

Thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 5/21/2015 3:54 PM >>>  
Hi Jean and Phil,

I have attached a deed with proposed language which we would like to use at the lot 6 closing which is scheduled for next Friday may 29<sup>th</sup>. Please Review and let us know if any revisions are required.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com

**Jean Fraser - Re: Addressing for approved subdivision - 1062 Ocean**

**From:** Michelle Sweeney  
**To:** Jean Fraser  
**Date:** 3/11/2013 8:21 AM  
**Subject:** Re: Addressing for approved subdivision - 1062 Ocean

Hi Jean,

Here are the addresses for Ice Pond Dr

- Lot 1 = #12
- Lot 2 = #18
- Lot 3 = #22
- Lot 4 = #26
- Lot 5 = #32
- Lot 6 = #42
- Lot 7 = #50
- Lot 8 = #60
- Lot 9 = #55
- Lot 10 = #45
- Lot 11 = #37
- Lot 12 = #19

TO: Jean Fraser  
5  
FROM:  
Tim O'Donovan  
© 450-7890  
recd 4pm  
5.8.13

Michelle

>>> Jean Fraser 3/5/2013 2:08 PM >>>  
Wonderful- thank you!

>>> Michelle Sweeney 3/5/2013 1:40 PM >>>  
I will have it ready within a week.

>>> Jean Fraser 3/4/2013 3:03 PM >>>  
Michelle

You may recall we met to discuss this with the Fire Dept and various other DPS staff because it raised some questions re emergency access and addressing.

The project has just been approved by Portland Planning Board and will be going to Falmouth on April 2 with a start on site soon after that. The applicant would like to confirm the correct E-911 addresses and put them on the Plat by **March 22** so that they are confirmed/recorded before he markets the lots for development of single family homes.

New addresses are only needed for the 12 new single family lots within Portland ie Lots 1-12-. see almost-final plat attached (the boundaries of the lots are not entirely clear).

(Lot #13 is already a house in Falmouth and its driveway and address will remain unchanged;  
Lot #14 is to be partially redeveloped; its in Portland and retain its 1062 Ocean Ave address;  
Lot #15 is in Falmouth and will be open space/stormwater detention owned and maintained by the

## Joseph Mazziotti

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**From:** Danielle West-Chuhta [DWCHUHTA@portlandmaine.gov]  
**Sent:** Wednesday, April 03, 2013 11:03 AM  
**To:** Joe Mazziotti  
**Cc:** 'Peter Biegel'; 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Ocean Ave. Portland

Attorney Mazziotti:

I have reviewed these documents and find that they are sufficient for the City's purposes. Could you also please verify that all lot deeds will contain language regarding the various easements (storm water, etc.).

Thanks for your time,

Danielle

>>> "Joe Mazziotti" <jrm@mazziotti.org> 3/21/2013 5:06 PM >>>  
Hello Danielle,

I am representing Tim O'Donovan, the developer of Old Barn Estates. In looking over the comments from Jean Fraser and your office I've tried to fashion documents to both clarify and simplify solutions to the various points raised.

The Homeowners Association Bylaws have been revised to include, as an attachment, the Stormwater Management Plan. I also included a specific provision giving the City and Town of Falmouth remedial rights should the association fail to fulfill its responsibilities. Please also note that the City's/Town's rights cannot be affected without their written consent. That document will be recorded in the registry and referred to in each lot deed.

I also prepared a draft of the deed from the Developer to the Homeowners Association which includes the various easements enabling the association to carry out its responsibilities for the stormwater management and tree preservation, both in the buffer areas and along Ice Pond Drive.

A separate easement deed to the Falmouth Land Trust will be created specifying the location and its maintenance responsibility for the trail connector.

I would like to delete any reference on the plan to easements. Three of them apply to lots 15 and 16 which are being deeded to the Association and unnecessary. The other easements, for the most part, are covered by the association's bylaws.

The only easement I have a question about is interim public access. Although in past subdivisions I've maintained the way as private and under the control of the developer until its dedication to the City, we can grant some form of public right. The effective date of that may not occur until the road has a base coat for liability and control issues. If you have language you might share that would be helpful.

I am available any time tomorrow to discuss this. I know that Tim hopes to be able to present a final plan to Falmouth Tuesday night and any accommodation would be appreciated.

Regards,

Joe Mazziotti

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## Joseph Mazziotti

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**From:** Joe Mazziotti [jrm@mazziotti.org]  
**Sent:** Wednesday, April 03, 2013 4:56 PM  
**To:** 'Danielle West-Chuhta'  
**Cc:** 'Peter Biegel'  
**Subject:** RE: Old Barn Estates - Ocean Ave. Portland

Danielle,

Yes they will.

Thanks,

Attorney Mazziotti

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**From:** Danielle West-Chuhta [mailto:DWCHUHTA@portlandmaine.gov]  
**Sent:** Wednesday, April 03, 2013 11:03 AM  
**To:** Joe Mazziotti  
**Cc:** 'Peter Biegel'; 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Ocean Ave. Portland

Attorney Mazziotti:

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Danielle

>>> "Joe Mazziotti" <jrm@mazziotti.org> 3/21/2013 5:06 PM >>>  
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public right. The effective date of that may not occur until the road has a base coat for liability and control issues. If you have language you might share that would be helpful.

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Regards,

Joe Mazziotti

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## Joseph Mazziotti

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**From:** Jean Fraser [JF@portlandmaine.gov]  
**Sent:** Tuesday, March 12, 2013 3:18 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'; 'Joe Mazziotti'  
**Subject:** Fwd: RE: Re Plat, deed and Homeowners Assoc Docs

Peter

I wanted to just make a comment regarding the deed.

Its OK "legally" but I think #2 should state that all owners are required to be members of the Homeowners Association, and that the Association has responsibility for the maintenance and management of the common areas and infrastructure... (describe/define so that buyers have some idea of the scale of commitment (potential cost) re this.

thank you  
Jean

>>> Jean Fraser 3/12/2013 2:33 PM >>>

Peter,

I have not been able to obtain DPS comments on this so I am sending along the comments from Corporation Counsel so you can start addressing them if you want to; they are:

- 1) The deed is ok;
- 2) The Homeowner's bylaws need to be amended to reference the S-W Maintenance Agreement and various easements in the subdivision (especially the public pedestrian easement), as well as specify that the City of Portland does not have any responsibility to maintain said easement areas;
- 3) All of the easements (numbered 1-6 on the plat need to indicate who they are being conveyed to and they also need to specify in the notes that the City of Portland does not have any responsibility to maintain said easement areas (this would also include the public pedestrian easement - it should reference who that is being conveyed to and who will be maintaining said easement area);
- 4) the S-W buffer areas should indicate how large the area is, who maintains - and should also be included in the Homeowner's Bylaws; and
- 5) Lastly - in note 2 on the plat I think that the word "until" needs to be inserted into that sentence.

I will forward other comments as soon as possible.

Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

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## Joseph Mazziotti

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**From:** Jean Fraser [JF@portlandmaine.gov]  
**Sent:** Thursday, April 04, 2013 3:48 PM  
**To:** Joe Mazziotti  
**Cc:** 'Peter Biegel'; 'Tim O'Donovan'; Danielle West-Chuhta  
**Subject:** Re: Old Barn Estates Subdivision - Portland, Maine  
**Attachments:** MDEP-BMP Manual-Appendix D-Buffer Deed Language.pdf

Attorney Mazziotti:

I understand that Danielle West-Chuhta has "signed off" regarding all of the easements that you sent on 3.26.2013. I am awaiting a "sign off" on those from the Department of Public Services.

I would like to request a draft of the generic lot deed for review and approval prior to the release of the signed plat for recording (the Portland Planning Board will sign on April 9th), as per the condition iv (below). I appreciate that it could not be executed.

Condition #iv. states:

- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.

I understand that the lot deeds would include references to all of the other easements, but please note that the reference in **iv f** is to a generic lot deed as recommended by MDEP in the case of lots with stormwater buffers (attached below and also to the approval letter). The DPS review of the lot deeds would be looking for the deeds to include something along the lines of the MDEP suggested text.

thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> "Joe Mazziotti" <[jrm@mazziotti.org](mailto:jrm@mazziotti.org)> 3/26/2013 2:52 PM >>>  
Good afternoon,

As requested by Corporation Counsel, we have noted the easements affecting this property on the Plan of Old Barn Estates, and summarized in a schedule the recording information.

I also drafted the language of the various easements and attach the following for your review:

Easement Deed from TPO Properties, LLC to the City of Portland and Town of Falmouth



Easement Deed from TPO Properties, LLC to the Falmouth Land Trust

Quitclaim Deed with Covenant from TPO Properties, LLC to the Old Barn Estates Homeowners Association

Lastly, you will find attached a Revised Homeowners Association Bylaws with the "Inspection and Maintenance Plan for Stormwater Management Facilities", incorporated into the bylaws as Schedule 1. (These will be recorded along with the mylars).

If after your review should you have any questions please let me or Peter Beigle know.

Thank you,

Regards,

Joe Mazziotti

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b. e.

**OLD BARN ESTATES  
HOMEOWNERS ASSOCIATION**

**BYLAWS**

**ARTICLE I**

Section 1. "Association" shall mean and refer to Old Barn Estates Homeowners Association, a non-stock, nonprofit corporation organized and existing under the laws of the State of Maine.

Section 2. "Old Barn Estates" shall mean and refer to Lots 1 – 12 of a subdivision of land in the City of Portland and Town of Falmouth, County of Cumberland and State of Maine and described in plans entitled, "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land Surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081 dated May 2012, last revised 3/15/13, to be recorded in the Cumberland County Registry of Deeds (hereinafter referred to as "the Plan").

Section 3. "Member" shall mean and refer to each owner (whether an individual person, corporation, partnership or other legal entity) of record of said lots 1-12, as shown on the aforesaid Plan, but shall not mean and refer to an owner of record whose only interest in such lot or parcel of land is as mortgagee under a real estate mortgage as security for the performance of an obligation, until and unless such owner shall have commenced proceedings under the laws of the State of Maine to foreclose such mortgage and shall have delivered a certificate to the office of the Secretary of the Association.

**ARTICLE II**

Location

The principal office of the Association shall be located in the City of Portland, in the County of Cumberland and the State of Maine.

### ARTICLE III

#### Membership and Voting Rights

Each owner of a lot as designated in Article I, Section 3 shall be a Member of the Association. However, each lot is allocated only one (1) vote regardless of whether the owner of the lot is one or more individuals, a corporation, partnership or other legal entity.

### ARTICLE IV

#### Purpose and Financing of Association

Section 1. Purpose: The Association shall be responsible for the following:

- a. ownership care, control and maintenance of all common areas identified on the Plan as Lots 15 and 16,
- b. the ownership, management, care and maintenance and replacement, in perpetuity, of the stormwater system and any and all of its components, as outlined in, among other things, the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto as Schedule 1, and incorporated by reference, and, shall include those components situated on Lots 2, 8, 9, 15 and 16 as depicted on the Plan.
- c. care, maintenance and necessary replacement of the trees along Ice Pond Drive.
- d. care, maintenance and necessary replacement of buffer trees situated on Lots 8, 9 and Open Space (Lot 15).
- e. repair, and maintenance, including snowplowing, of Ice Pond Drive, and the sidewalk along Ice Pond Drive, until accepted by the City of Portland.

Section 2. Financing: Each Member is obligated to pay to the Association, annual and special assessments. Assessments are personal obligations of the members and may be secured by liens against the land of each lot owner. If the assessments are not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the member personally obligated to pay the same and shall be entitled to recover interest, costs and reasonable attorney's fees.

### ARTICLE V

#### Members

Section 1. Annual Meetings: The first annual meeting of the Members shall be held within one (1) year from the date of the sale of the first lot in the Old Barn Estates Subdivision.

The Members shall at that meeting select a date and time for the second and subsequent annual meetings.

Section 2. Parliamentary Procedure: At all meetings of the Members or of the Board of Directors, Roberts' Rule of Order, as then amended, shall be followed, except in the event of conflict in which case these Bylaws shall prevail.

Section 3. Proxies: Votes may be cast in person or by proxy. Proxies must be filed with the Secretary at or before the time of each meeting. A Member or Director may designate any person who need not be an owner to act as proxy. The designation of any such proxy shall be made in writing, signed by the Member or Director and shall be revocable at any time by written notice to the Secretary by the person designating the proxy.

Section 4. Special Meetings: Special meetings of the Members may be called at any time by the President, the Board of Directors or upon the written request of at least three (3) members who are entitled to vote.

Section 5. Notice of Meetings: Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person duly authorized to call the meeting, by mailing a copy of such notice postage prepaid or by facsimile or electronic mail at least ten (10) days before such meeting to each Member entitled to vote there at, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date and hour of the meeting and in the case of a special meeting, the purpose of the meeting.

Section 6. Quorum: The presence at the meeting of Members entitled to vote or proxies equal to seven (7) votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation or these Bylaws. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice, other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

## ARTICLE VI

### Board of Directors

Section 1. Board of Directors: The affairs of the Association shall be governed by a Board of Directors consisting of three (3) Directors who need not be Members of the Association and who shall hold office until the election of their successors.

Section 2. Term of Office: At the first annual meeting, the Members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1) Director for a term of three (3) years. At each annual meeting thereafter, the Members shall elect those Directors whose terms are expiring for a term of two (2) years.

Section 3. Resignation: In the event of the death, resignation or removal of a Director, his successor shall be elected by the remaining Directors and shall serve the unexpired term of his predecessor. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

Section 4. Quorum: A majority of the Directors shall constitute a quorum for the transaction of business. Every action or decision made by a majority of the Board of Directors present at a duly held meeting in which a quorum is present shall be regarded as the act of the Board.

Section 5. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things except those which by law or by these Bylaws may not be delegated to the Board of Directors by the Members. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

a. Ownership management, maintenance and control all common areas identified on the Plan as Lots 15 and 16,

b. Maintenance of all stormwater system components according to the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto, as Schedule 1, and incorporated by reference, and shall include those components situated on Lots 2, 8, 9, 15 and 16 and depicted on the Plan.

c. The care, maintenance and necessary replacement of the trees along Ice Pond Drive.

d. The care, maintenance and necessary replacement of buffer trees situated on Lots 8, 9 and Open Space (Lot 15).

e. Adoption and amendment of reasonable rules and regulations governing the use of the common areas.

f. Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

g. Suspend the voting rights of any member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Default shall be defined as that period commencing thirty (30) days following the date on which the assessment is due.

h. To enforce covenants, conditions and restrictions stated in the Declaration of Restrictions and Covenants of the Old Barn Estates Subdivision to be recorded in the Cumberland County Registry of Deeds.

- i. Declare the office of a Director to be vacant in the event that such Director shall be absent from three (3) consecutive regular meetings of the Board of Directors.
- j. To maintain an adequate liability insurance policy to protect the various lot owners and Association from liability in an amount not less than One Million Dollars (\$1,000,000.00).
- k. Cause to be kept a complete record of all acts of the Board of Directors and to present a statement thereof to the Members at the annual meeting of Members, or at any special meeting requested in writing by five (5) of the Members who are entitled to vote.
- l. To fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment and to send written notice of such assessment to every owner thirty (30) days in advance of the date by which such assessment is due and payable.
- m. To file a lien with the Cumberland County Registry of Deeds against the land of any Member whose assessment has not been paid within forty-five (45) days of the date such assessment or special assessment is due.
- n. To bring an action at law against the owner personally obligated to pay the assessment and to collect the assessment or special assessment, costs of collection, interest and reasonable attorney's fees.
- o. Unless sooner transferred by the Declarant/Developer, upon the sale of the last lot in the subdivision by the Declarant/Developer, the Association shall assume all of the duties set forth above within the Old Barn Estates Subdivision. The Association further recognizes that the Declarant shall thereafter be under no obligation to assert any rights or have any duties or obligations assigned, transferred, or conveyed to the Association.
- p. Upon request by the Code Enforcement Officer, Plumbing Inspector, or Town Engineer, the Old Barn Estates Homeowners Association shall produce for inspection and copying at the Falmouth Town Hall, or the City of Portland as the case may be, or permit the inspection and copying at its own office of any or all of its corporate, financial, operating, inspection, and maintenance records, reports, contracts, budgets and other papers, for the purpose of determining its performance of any compliance with the requirements Stormwater Plan and Tree Maintenance and Buffering Plan.
- q. repair, and maintenance, including snowplowing, of Ice Pond Drive, and the sidewalk along Ice Pond Drive until accepted by the City of Portland.

The Code Enforcement Officer, the Plumbing Inspector, or his authorized representative, or the Town Engineer, and other duly authorized employees of the City/Town bearing proper credentials or identification, shall be permitted to enter at all reasonable times, upon all real or

personal property of the Association necessary to the verification of compliance with the Association's responsibilities.

The City/Town shall have the right, but not the obligation (since any and all maintenance shall be performed by the Association), to enter upon the property in question in order to maintain, repair and/or replace the stormwater system in the event of any failure or neglect of the Association, the cost and expense thereof to be reimbursed in full to the said City of Portland or Town of Falmouth, as the case may be, under this paragraph and such costs shall be secured by a lien on the property in question.

The provisions of Article VI Section 5. p. may not be amended or otherwise modified, without notice to and the written consents from, the City of Portland and Town of Falmouth.

Section 6. Regular Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Members of the Board of Directors, but at least one (1) such meeting shall be held during each fiscal year to elect the offices of the Association and to transact such other business as may be necessary. Notice of regular meetings of the Board of Directors shall be given to each Member of the Board of Directors, by mail, telephone, facsimile, or electronic mail, at least five (5) business days prior to the day stated for such meeting.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the President on three (3) business days notice to each Member of the Board of Directors given by telephone, facsimile, or electronic mail, or on five (5) business days notice given by ordinary first-class mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Members of the Board of Directors.

Section 8. Waiver of Notice: Any Member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and the place thereof. If all the Members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9. Informal Action by Board of Directors: Any action required to be taken at a meeting of the Board of Directors or any other action which may be taken at a meeting of the board of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members of the Board of Directors entitled to vote with respect to the subject matter thereof.

Section 10. Compensation: No Member of the Board of Directors shall receive any compensation from the Association for acting as a Director, except that Members of the

Board of Directors may be reimbursed for expenses they incur in connection with their services of Directors, as the Board may from time to time determine.

Section 11. Fiscal Year: The fiscal year for the Association shall be the calendar year.

## ARTICLE VII

### Officers

Section 1. Designation: The principal officers of the Association shall be the President, the Secretary/Clerk and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary.

Section 2. Election of Officers: The offices of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers: Upon the affirmative vote of a majority of the Members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor may be elected at any regular meeting of the Board of Directors or any special meeting of the Board of Directors called for that purpose.

Section 4. President: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and the Board of Directors. He shall have all of the general powers and duties which are incident to the office of the President of a non-profit corporation organized under the laws of the State of Maine, including, but not limited to the power to appoint committees from among the Members and, from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Secretary/Clerk (Registered Agent): The Secretary/Clerk (Registered Agent) shall keep the minutes of all meetings of the Members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary/Clerk as a non-profit corporation organized under the laws of the State of Maine.

Section 6. Treasurer: The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, in such depositories as may from time to time be designated by the Board of Directors, and he shall in general, perform all the duties incident to the Office of Treasurer of a non-profit corporation organized under the laws of the State of Maine.



Section 7. Agreements, Contracts, Checks, etc.: All agreements, contracts, checks and other instruments of the Association shall be executed by two officers of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 8. Compensation of Officers: No officer shall receive any compensation from the Association for acting as such, except that officers may be reimbursed for expenses incurred by them for their services as officers of the Association, as the Board of Directors may from time to time determine.

## ARTICLE VIII

### Records

Section 1. Records and Audits: The Board of Directors or its agent shall keep detailed records of the actions of the Board of Directors and its agents, minutes of the meeting of the Board of Directors and financial records and books of accounts for the Association.

Section 2. Statement: A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

## ARTICLE IX

### Miscellaneous

Section 1. Notices: All notices hereunder shall be sent registered or certified mail to the Board of Directors, in care of the President, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to all Members. All notices to any lot owner shall be sent by ordinary prepaid mail to the address or to such other address as may have been designated by them from time to time, in writing to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

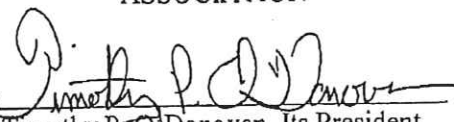
## ARTICLE X

### Amendments to Bylaws

These Bylaws may be altered, amended or added to, at any duly called meeting of Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendments; and (2) that the amendment shall be approved by at least eight (8) of the total votes of the Association. However, so long as the Association remains responsible for the operation and maintenance of the drainage systems and devices, common areas and tree buffers of Old Barn Estates, Subdivision, and Ice Pond Drive, no action shall be taken by the Members to dissolve this Association.

DATED: May 23, 2013

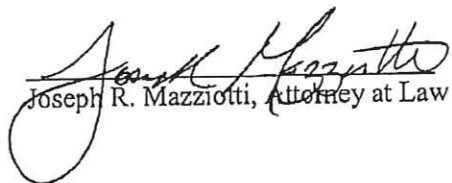
OLD BARN ESTATES HOMEOWNERS  
ASSOCIATION

BY:   
Timothy P. O'Donovan, Its President

STATE of MAINE  
CUMBERLAND, ss

May 23, 2013

Personally appeared the above named Timothy P. O'Donovan, in his said capacity and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Old Barn Estates Homeowners Association.

  
Joseph R. Mazziotti, Attorney at Law

**SCHEDULE 1**

**Inspection and Maintenance Plan  
For Stormwater Management Facilities**

**Old Barn Estates  
Ice Pond Drive  
Falmouth, Maine**

**January 2013  
Rev 1 – February 8, 2013  
Rev. 2 – February 19, 2013**

Stormwater management facilities include paved surfaces, ditches/swales, catch basins, culverts, storm drain pipe, level spreaders, buffers, and grassed underdrain soil filters. During construction activities, the maintenance of all stormwater measures will be the direct responsibility of the Developer. After transfer to the Old Barn Estates, Homeowners Association ("Homeowners Association"), the maintenance of all stormwater management facilities, the establishment of any contract services required to implement the program, and the keeping of records and maintenance log book will be the responsibility of the Homeowners Association.

The Homeowners Association shall comply with the following standards to meet the City of Portland's Post Construction Stormwater Management Plan requirements in accordance with Chapter 32 of the City Zoning Ordinance:

Any person owning, operating, or otherwise having control over a best management practice (BMP) required by a post construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

- (a) *Inspections.* The Homeowners Association or operator of a BMP shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.
- (b) *Maintenance and repair.* If the BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the Homeowners Association or operator of the BMP shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the City of Portland Department of Public Services (DPS) and the Town of Falmouth Department of Parks and Public Works (DPPW) in the annual report.

- (c) *Annual report.* The Homeowners Association or operator of a BMP or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification to DPS and DPPW in a form provided by DPS, certifying that the person has inspected the BMP(s) and that they are adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective action(s) taken.
- (d) *Filing fee.* Any persons required to file an annual certification under this section shall include with the annual certification a filing fee established by DPS to pay the administrative and technical costs of review of the annual certification.
- (e) *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater management plan, DPS and/or DPPW may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the BMPs.

At a minimum, the following maintenance activities for each stormwater management system shall be performed on a prescribed schedule.

#### Paved Surfaces

Accumulations of winter sand along paved surfaces shall be cleared at least once a year, preferably in the spring, and periodically during the year on an as-needed basis, to minimize transportation of sediment during rainfall events. Accumulations on pavement may be removed by pavement sweeping or vacuuming. Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader.

#### Ditches and Swales

Open swales and ditches shall be inspected twice per year (in spring and fall) to assure that debris and/or sediments do not reduce the effectiveness of the system. Debris and sediments shall be removed at that time. Any sign of erosion or blockage shall be immediately repaired to assure a vigorous growth of vegetation for the stability of the ditches and slopes proper function. Maintenance shall include, but not be limited to, mowing, trimming and removal vegetation in the ditches and slopes as required in order to prevent vegetation from blocking or diverting storm flows, replacement of riprap channel lining to prevent scour of the channel invert, removing vegetation and debris from the culverts.

Vegetated ditches should be mowed at least monthly during the growing season. Larger brush or trees must not be allowed to become established in the channel. Any areas

where the vegetation fails will be subject to erosion and should be reseeded and mulched immediately.

Riprap ditches and aprons where stone is displaced should be replaced and chinked to assure stability. With time, additional riprap may be added. Vegetation growing through riprap should be removed on an annual basis.

#### Catch Basins

All catch basins, and any other field inlets throughout the collection system, shall be inspected twice per year (in spring and fall) to assure that the inlet entry and grates are clear of debris and will accept the intended flows. Any debris and sediments shall be cleared.

Sediment should be removed from these structures when it accumulates within 12 inches of the lowest pipe invert. If the basin outlet is designed with a hood to trap floatable materials (i.e. Snout or Casco Bay trap), check to ensure watertight seal is working. At a minimum, remove floating debris and hydrocarbons at the time of the inspection. The removed material must be disposed of in accordance with the Maine Solid Waste Disposal Rules. Confined space entry safety procedures shall be practiced should entry into these structures be required.

#### Culverts and Storm Drainage Pipes

Culverts and piped drainage systems shall be inspected on an annual basis to remove any obstructions to flow; remove accumulated sediments and debris at the inlet, at the outlet, and within the conduit; and to repair any erosion damage at the pipe inlet and outlet. Sediment should be removed when its level exceeds 20% of the pipe diameter. This may be accomplished by hydraulic flushing or any mechanical means; however, care should be taken to contain the sediment at the pipe outlet, and not flush the sediments into the detention/infiltration pond areas as this will reduce the ponds capacity and ability to infiltrate runoff, and will hasten the time when the pond must be cleaned or rehabilitated.

#### Underdrained Soil Filters

Mowing and removal of woody growth – underdrained soil filters are designed to grow water tolerant plantings and mowing is not required in the interior of the structure. However, the external and top slopes of earthen embankments will be mowed up to three times per growing season to control over growth.

Outlet inspection and cleaning – The soil filter outlet consists of a layer of planting loam and sand with a stone and perforated pipe underdrain. Influx of sediments will be limited by sumps on all upstream catch basin structures and vegetated swales. Outlet inspections shall include flushing of the underdrain through the cleanout at the end of the pipe. Trash, sediment and debris shall be removed from the vicinity of the outlet and disposed

of at a licensed off-site facility. The basin shall be inspected bi-annually for evidence of excessive retention or rapid release of flow.

If the filter fails to drain within 72 hours, the surface of the pond shall be rototilled to promote aeration of the filter media and vegetation shall be re-established. If aeration of the surface soil fails to promote filtration of impounded water within 72 hours, then the filter media shall be replaced as necessary. The stone underdrain shall also be replaced at this time, along with the perforated pipe.

Underdrained soil filters shall not be used for snow storage area.

Vehicular equipment used to maintain or rehabilitate underdrained soil filters should work from the basin perimeter and not enter the basin area, as this will compact the soil surface and reduce the design infiltration rate.

#### Dripline Filters

Dripline filters shall be inspected semi-annually and after heavy rains. The filter shall be cleaned of debris and sediment at the surface of the filter. Stone within the reservoir shall be repaired and replaced as necessary when stones have been dislodged.

Filter material shall be replaced if it fails to drain within 72 hours after a one-inch rainfall event.

Dripline filters are part of the Stormwater management plan for the project. They shall not be paved over or altered in any way. They shall not be used for snow storage area. Gutters may not be installed on the roofline draining to the dripline filters.

#### Level Spreaders

Level spreaders shall be inspected twice per year (in spring and fall) to assure that debris and/or sediments do not reduce the effectiveness of the system. Debris and sediments shall be removed at that time. Any sign of erosion or blockage shall be immediately repaired to assure a vigorous growth of vegetation and stability of stone berms for the stability of the level spreader for proper function. Maintenance shall include, but not be limited to, mowing, trimming and removal vegetation in the level spreaders as required in order to prevent vegetation from blocking or diverting storm flows, replacement of riprap as necessary to prevent scour of the level lip, removing vegetation and debris from the level spreaders.

Riprap ditches and aprons where stone is displaced should be replaced and chinked to assure stability. With time, additional riprap may be added. Vegetation growing through riprap should be removed on an annual basis.

#### Vegetated Buffers

Buffers for this project are primarily undisturbed forested buffers. Buffers shall be marked with permanent markers. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown, or damaged trees and for pruning of tree branches below 12' provided two-thirds of the tree's canopy is maintained. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except as noted in the "Declaration of Restrictions."

Buffers shall be inspected yearly. If erosion is observed within the buffer it shall be restabilized and the upgradient distribution structure (i.e. level spreader) shall be inspected for proper functionality.

#### Disposal

Any sediment or debris removed during maintenance of the stormwater system must be disposed of in accordance with the Maine Solid Waste Disposal Rules.

#### Recordkeeping

The Homeowners Association will keep a written maintenance log that summarizes inspections, maintenance, and any corrective actions taken. The log shall include the date on which each inspection or maintenance task was performed, a description of the inspection findings or maintenance completed, and the name of the inspector or maintenance personnel performing the task. If a maintenance task requires the clean-out of any sediment or debris, the location where the sediment or debris was disposed after removal will be indicated. This log shall be made available to the Maine Department of Environmental Protection upon request.

**Sample Inspection Report:**

OLD BARN ESTATES  
 ICE POND DRIVE, FALMOUTH, MAINE  
 STORMWATER FACILITIES INSPECTION REPORT

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_ COMPANY: \_\_\_\_\_

DATE: \_\_\_\_\_

OBSERVATIONS:

<u>BMP</u>	<u>Defects</u>	<u>Location(s)</u>	<u>Repair/Action Needed</u>	<u>Date/Action taken</u>
Ditches/ Swales	Yes/no			
Roads, Sidewalks and Parking Areas	Yes/no			
Catch Basins	Yes/no			
Pipes and Culverts	Yes/no			
Riprap Aprons	Yes/no			
Grassed Underdrained Soil Filters	Yes/no			
Dripline Filters	Yes/no			
Level Spreaders	Yes/no			
Vegetated Buffers	Yes/no			

Received  
 Recorded Register of Deeds  
 May 23, 2013 11:48:04A  
 Cumberland County  
 Pamela E. Lovley



30668

76

b.e.

EASEMENT DEED

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **CITY OF PORTLAND**, a Maine municipality, corporate and politic, situated in the City of Portland, Maine, and the **TOWN OF FALMOUTH**, a body corporate and politic situated in the Town of Falmouth, Maine,

The following easements as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, recorded in the Cumberland County Registry of Deeds in **Plan Book 213 Page 200**, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/19/13, and recorded in the Cumberland County Registry of Deeds in **Plan Book 213, Page 201**, to which plans reference is hereby made for a more particular description and location of the easements herein described.

The perpetual easement and right over and across Lots 2, 8, 9, 15 and 16 as shown on said plan in order to maintain and repair all stormwater system components including but not limited to underdrain soil filters, grading, drainage and maintenance according to the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, which plan is recorded as Schedule 1 to the Old Barn Estates Homeowners Association Bylaws in the Cumberland County Registry of Deeds in Book **30668 Page 61**. The rights granted herein notwithstanding, neither the City of Portland nor the Town of Falmouth shall have any responsibility for maintenance and repair of said stormwater system components.

Also hereby conveying to the City of Portland, and Town of Falmouth a perpetual right and easement over and across Lot 16 to maintain such drainage through said lot as the Town and/or shall determine. Nether, the City of Portland, nor the Town of Falmouth, however, shall have responsibility for said maintenance.

Also hereby conveying, a temporary public right and easement to the sidewalk along Ice Pond Drive as shown on said plan until Ice Pond Drive has been dedicated and accepted as a public way by the City of Portland. The rights of the public granted by this easement shall commence upon the installation of the base coat pavement of said sidewalk. The City of Portland shall have no responsibility for said sidewalk until such time as it accepts the dedication of Ice Pond Drive.

The City of Portland, or Town of Falmouth, as the case may be, shall restore all disturbed areas to substantially their condition prior to the exercise of its rights as contemplated hereunder.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this 23rd day of May, 2013.

TPO Properties, LLC




By: Timothy P. O'Donovan  
Its: Member

\_\_\_\_\_  
Witness

STATE OF MAINE  
CUMBERLAND, ss.

May 23, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of TPO Properties, LLC.



Joseph R. Mazziotti  
Attorney at Law

Received  
Recorded Register of Deeds  
May 23, 2013 11:48:47A  
Cumberland County  
Pamela E. Lovley

9.

EASEMENT DEED

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **FALMOUTH LAND TRUST**, a Maine Nonprofit Corporation having a mailing address of P.O. Box 586, Portland, Maine 04112, its successors and assigns:

The following trail easement as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, recorded in the Cumberland County Registry of Deeds in **Plan Book 213, Page 200**, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/19/13, and recorded in the Cumberland County Registry of Deeds in **Plan Book 213, Page 201**, to which plan reference is hereby made for a more particular description and location of the easement herein described.

The perpetual easement and right over and across that portion of lot 9 as shown on said plan for use by the public for walking, running, cross country skiing, snowshoeing and mountain biking. Except for occasional and specifically authorized trail maintenance activities, no motorized vehicles of any kind, including but not limited to recreational vehicles, all-terrain vehicles, motorcycles, dirt bikes, and snowmobiles shall be permitted on the property.

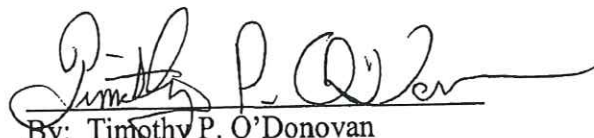
The right to install and maintain two signs not exceeding two (2) square feet at the Ice Pond Drive intersection with Ledgewood Drive and within the easement area as shown on said Plan.

Following construction of the trail easement the Grantee shall be solely responsible for its maintenance, repair and replacement including any wooden steps installed by the Grantor.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this 5<sup>th</sup> day of December, 2014.

TPO Properties, LLC

\_\_\_\_\_  
Witness

  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

December 5, 2014

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

  
\_\_\_\_\_  
Notary Public/Attorney at Law  
*Rosell C. Bachard*

Received  
Recorded Register of Deeds  
Dec 09, 2014 09:48:53A  
Cumberland County  
Pamela E. Lovley

## Joseph Mazziotti

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**From:** Tim O'Donovan [ocpminc@maine.rr.com]  
**Sent:** Friday, May 01, 2015 4:01 PM  
**To:** Joseph Mazziotti  
**Subject:** Fwd: PG Reduction for Old Barn Estates Subdivision  
**Attachments:** As signed Subdivision Plan 1 recording plan 1 of 2 (1).pdf; approved Stormwater Facility Inspection & Maint. Plan 2-19-13.pdf; C-201 Grading, Drainage and Erosion Control Plan.pdf

Hi Joe,  
If you get a minute please give me a call on my cell.  
Thanks,  
Tim  
450-7890

Begin forwarded message:

**From:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** May 1, 2015 11:19:00 AM EDT  
**To:** "Philip DiPierro" <PD@portlandmaine.gov>  
**Cc:** <ocpminc@maine.rr.com>  
**Subject:** Re: PG Reduction for Old Barn Estates Subdivision

Phil

Although the Legal Department (Danielle) approved some of the easements listed in the condition iv in 2013, not all were submitted and we have not received the final recorded versions.

This is my understanding of the status:

LIST AS FROM THE CONDITION OF APPROVAL:

- ✓ a. Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land); City approved a draft in 2013 but not seen anything since
- ✓ b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15; Draft deeds seen and approved in 2013 but nothing received since; the Homeowners Doc includes a brief ref to Stormwater Maintenance but its not using our current text- may be OK if the plan and Main/Inspection docs are referenced and attached.
- ✓ c Other easements as indicated on the Plat in Plans 5 and 6; There are 7 easements referred to on the Plat (attached) and none of these as recorded have been sent to Planning (maybe they were sent to legal???)
- d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted; Draft not submitted; Atty Mazziotti asked Danielle if we had some standard wording in April 2013

sidewalk only

e Homeowner Association Documents; City approved a draft in 2013 but not seen anything since; it needs to have the grading plan and stormwater maintenance and inspection plan (attached) included in it and referenced to address the Stormwater Agreement condition.

f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013. Recently we asked for the individual lot deeds to be revised; I have not seen and not sure if Legal signed off on these. These needed Falmouth OK as well.

I imagine Tim or his attorney have finalized these with Falmouth and got them recorded so hopefully its just a question of documentaton.

The only issues I see are re the Stormwater (where the approved Main & Inspection Plan and the Grading Plan need to be included in whatever is recorded, and re the interim public access easement as I don't think anything was ever submitted on that.

There are a few other conditions that are "on the ground" so I assume you will follow up on those.

thanks  
Jean

>>> Philip DiPierro 5/1/2015 9:44 AM >>>

Hi Tim, at your request please find attached the most recent reduction letter that was sent to the Bank. We are currently holding enough money to cover surface coat paving and landscaping, plus the 10% defect guarantee amount.

I'll check with Jean Fraser on the status of the conditions of approval.

Let me know if you have any questions. Thanks.

Phil

Philip DiPierro  
Development Review Coordinator  
City of Portland Planning Division  
389 Congress Street  
Portland, Maine 04101

Phone 207 874-8632

Fax 207 756-8258

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested. ◆◆

\_\_\_\_\_ Information from ESET NOD32 Antivirus, version of virus signature database 11563 (20150501)  
\_\_\_\_\_

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

# CITY OF PORTLAND, MAINE

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## PLANNING BOARD

Carol Morrissette, Chair  
Stuart G. O'Brien, Vice Chair  
Elizabeth Boepple  
Timothy Dean  
Sean Dundon  
Bill Hall  
David Silk

March 4<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Peter Biegel  
Land Design Solutions  
160 Longwoods Road  
Cumberland, ME 04021

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)  
Applicant: Tim O'Donovan, TPO Properties LLC  
Planner: Jean Fraser

Dear Mr O'Donovan and Mr Biegel:

On February 26<sup>th</sup>, 2013, the Planning Board considered the Level III Subdivision Review application for the Old Barn Estates 16 lot subdivision at 1062 Ocean Avenue (Ledgewood Drive). The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (O'Brien and Silk absent) to approve the application with the following waivers and conditions as presented below:

### WAIVERS

The Planning Board voted 5-0 (O'Brien and Silk absent) that:

#### 1. *Sidewalks*

1. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ice Pond Drive within the 12 lot new subdivision:
2. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ledgewood Drive on Lots #13 and #15:
3. The Planning Board finds that the sidewalk waiver criteria do not apply and therefore does not waive the requirement for a sidewalk (with associated curbing) along the frontage of the property at 1062 Ocean Avenue (Lot #14):

#### *APPLICABLE SIDEWALK WAIVER CRITERIA:*

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

2. *Curbing:*

The Planning Board finds that the following criteria do apply (namely 1, 4 and 5), and therefore waives the requirement for curbing along the south side of Ice Pond Drive within the 12 lot new subdivision:

*APPLICABLE CURBING WAIVER CRITERIA:*

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*
4. *Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*
5. *Runoff from the development site or within the street does not require curbing for stormwater management.*

3. *Streetlighting:*

The Planning Board waives the Technical Standard, Section 10.2.1, to allow a reduction in the number of street lights along the proposed new street Ice Pond Drive to one new pole and light at the "dead end" of the new street and one new pole and light in the vicinity of the fire hydrant on Ice Pond Drive.

## SUBDIVISION

The Planning Board voted 5-0 (O'Brien and Silk absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following eight (8) conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- v. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vi. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and



- vii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

- viii. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

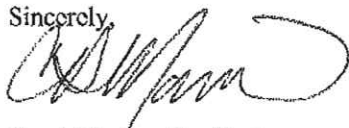
1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

10. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at 874-8728.

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Memo from David Senus of Woodard & Curran dated 2.20.2013
2. Letter of agreement with the Falmouth Land Trust dated 2.20.2013
3. Planning Board Report #13-13
4. City Code, Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schnuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
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John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File

## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E.  
**DATE:** February 20, 2013  
**RE:** Final Level III Site Plan Application Response to Comments – Old Barn Estates

Woodard & Curran has reviewed the response to comments email and associated attachments received on February 20, 2013 for the Final Level III Site Plan Application for Old Barn Estates Subdivision off of Ledgewood Drive on the Falmouth/Portland line.

### Documents Provided By Applicant

- Response to Comments email, dated February 20, 2013, prepared by Peter Biegel at Land Design Solutions, on behalf of TPO Properties, LLC.
- Engineering Plans: Sheet S-101, C-101, C-201, C-202, C-300, C-302, C-303 revised February 19, 2013, prepared by Land Design Solutions on behalf of TPO Properties, LLC.
- Appendix D – Stormwater Inspection & Maintenance Plan, Rev. 2 – February 19, 2013
- Deed restriction language (PDF)

### Comments (In reference to previous W&C review memo comments from 2/14/2013)

1. *Comment: Sheet C-101 note 15; C-201 note 9; and the plan view call-out on C-201 for the 15" culvert under the Lot 2 driveway reference CMP (corrugated metal pipe) within the future City of Portland Right-of-Way. CMP is not an approved pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2). Given the cover depths of these culverts, we recommend the Applicant consider requiring the use of reinforced concrete pipe at these locations.*

*Applicant Response: Pipe material for the culvert pipes in the City of Portland Right-of-Way has been revised to RCP (see plans C-201 and C-101).*

#### **Comment adequately addressed.**

2. *Comment: The proposed culvert at STA 2+70 along the Lot 2 Driveway was modeled as a 36" diameter culvert and shown in profile as a 36" diameter culvert; however, sheet C-201 still refers to a 30" culvert in plan view.*

*Applicant Response: Plan C-201 now refers to a 36" culvert as is shown on C-202.*

#### **Comment adequately addressed.**

3. *Comment: The Applicant notes that "maintenance easement language (for the soil filters systems) has been included with this submission"; however, we did not receive / have not reviewed easement language with the current submittal. This language will be reviewed upon receipt.*

*Applicant Response: An updated Inspection and Maintenance (Appendix D) is provided which covers right of entry, plan S-101 also labels the stormwater easement areas.*

**The Applicant's submittal includes adequate right of entry language in the Inspection and Maintenance report; however, we assume that easements will be drafted for the stormwater BMP locations (soil filters) and submitted to the City for review as a Condition of Approval.**



4. *Comment: The Applicant notes that "Deed restrictions and covenants will be created for all buffers and will be provided for review". This language has not been received/reviewed with the current submittal, and will be reviewed upon receipt.*

*Applicant Response: Plan S-101 note 17 addresses the limitations of disturbance in the stormwater buffer areas which will be linked to the deed through Note 1 on the attached Deed Restriction PDF.*

**Additional language should be incorporated into the applicable deeds following the guidance outlined in the MaineDEP BMP Technical Design Manual, Volume III, Appendix D, "Templates for Deed Restrictions & Conservation Easements". Final deed restriction language should be submitted to the City for review as a Condition of Approval.**

5. *Comment: Sheet S-101, Note 15 states that "Tree save areas and stormwater buffer areas shall be identified on the ground with capped rebar pins and signage as shown on Plan C-101"; however, C-101 does not specifically call out the rebar pins or signage.*

*Applicant Response: Tree save and stormwater buffer areas are now identified on Plan C-101 showing location of rebar pins and signage. Also see note #15.*

**Although there appear to be symbols identifying the rebar pins and signage on C-101, these symbols are not identified within the plan legend or specifically called out on the plan. A callout for the pin and sign symbol should be added to C-101 (refer to the callouts used on S-101).**

6. *Comment: Sheet C-201, Note 14 states that "Dripline filters shall be installed to capture all stormwater runoff from roofs of houses constructed on lots 7, 8, and 9. See detail on sheet C-302". These details actually reside on sheet C-303.*

*Applicant Response: Note 14 on C-201 now refers to the correct sheet for the dripline filter detail (C-303).*

**Comment adequately addressed.**

Conserve. Explore. Enjoy.



[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

February 20, 2013

Peter Biegel  
Land Design Solutions  
160 Longwoods Rd  
Cumberland, ME 04021

Tim O'Donovan  
TPO Properties  
Old Barn Estates  
Ledgewood Drive  
Falmouth, ME 04101  
VIA EMAIL

Peter and Tim,

The Falmouth Land Trust and Portland Trails are excited about the proposed connection between the Old Barn Estates and the Portland Trails Ocean Ave Dog park property via the Trust's Elms subdivision land. Thank you both for taking the time to meet with me as representative of the Trust and Jaime Parker from Portland Trails to discuss the project. This letter summarizes the various conversations to date and clearly defines responsibilities for the creation and maintenance of the proposed trail.

TPO Properties would like to create a pedestrian trail connection from the proposed Old Barn Estates subdivision located on Ledgewood Drive to the Ocean Ave Dog Park. The proposed trail location is shown in red on the attached document. Final trail placement on the adjacent Trust property will be determined in the field by representatives of the Falmouth Land Trust and Portland Trails. At the end of the paved subdivision road, TPO Properties will construct a trail or unpaved sidewalk within the development all the way to the property line (approx. 60' in length) where it will connect with the new trail on the Trust property. The entire trail will be open to the public for walking, running, cross country skiing, snowshoeing and mountain biking, however, motorized uses except for occasional and specific authorized trail maintenance activities will be prohibited.

Falmouth Land Trust working in cooperation with Portland Trails would construct the trail after TPO Properties receives final approvals, most likely in the summer of 2013. Based on the field walk the following trail improvements would be required for construction:

- Landscaping at both trail heads of the new trail
- Mowing and clearing for proposed trail
- Surface hardening (5 yards of crushed rock and 5 yards of superhumus)

P.O. Box 6172 Falmouth, Maine 04105 (207) 200-5488

Conserve. Explore. Enjoy.



[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

- Signage - wayfinding at: Ledgewood Dr., paved sidewalk end (trail head), along the trail and a kiosk at Ocean Ave Dog Park end.

The cost to create the proposed trail on the Trust property, including materials and labor, would be \$2500.00. FLT would require a 50% deposit to start work with the balance due within 30 days of completion. In addition TPO Properties would make a one-time stewardship donation to the Falmouth Land Trust of \$1500.00 upon trail completion. The stewardship fee covers reasonable maintenance of the length of the trail from the end of the road to the property line as well as the length extending to the Dog Park perimeter trail as shown in red on the attached document. All of the proposed work and associated expenses would not commence until TPO Properties received final approval for the project from the City of Portland and the Town of Falmouth. Once TPO Properties completes the trail section within the subdivision and pays the additional trail construction cost and the stewardship fee neither they, nor the homeowners association, would have any future responsibilities associated with the trail.

If the terms of this letter are agreeable please sign and return a copy to my attention. On behalf of the Land Trust we look forward to working with you on this great project.

Jed Harris  
President

Seen and Agreed

Tim O'Donovan  
TPO Properties

2/21/13

Date





# PORTLAND MAINE

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## Planning & Urban Development Department

Jeff Levine, AICP, Director

## Planning Division

Alexander Jaegerman, FAICP, Director

May 20<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)


Dear Mr O'Donovan:

On April 29, 2013 Peter Beigel advised this office that the site conditions make it impossible for you to implement the sidewalk and curbing originally approved for the frontage of Lot #14. In lieu of the sidewalk and curbing, a contribution of \$7500 has been accepted as an "Infrastructure Contribution" in line with the recommendation from Tom Errico, City's Traffic Engineering Reviwer (copy attached) as given to the Planning Board at the Hearing when the Subdivision was approved.

This arrangement is subject to the submission of an amended plat for signature and recording to update the original plats; this would need to be completed prior to the issuance of a Certificate of Occupancy for the new single family dwelling on Lot #14.

Please contact me before you amend the plat, as it may be possible to amend just a part of one plat rather than all of both plats.

Sincerely,

  
Jean Fraser,  
Planner

**Attachment:** E-mail from Tom Errico dated 2.21.2013

✓ **Copy to:** Peter Biegel, Land Design Solutions, 160 Longwoods Road, Cumberland, ME 04021

✓ **Electronic Distribution:**

Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
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John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Thomas Errico, P.E., TY Lin Associates



**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "Earley, Katherine" <KAS@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>  
**Date:** 2/21/2013 12:20 PM  
**Subject:** Old Barn Estates - Final Traffic Comments

Jean - The following represents my final comments.

\* Based upon the scope of the project, a traffic study or Traffic Movement Permit is not required.

\* The applicant shall conduct a sidewalk waiver analysis for their proposed subdivision road (a sidewalk is proposed on one side only) and for the corner property at the Ocean Avenue/Middle Road/Ledgewood Drive intersection (only the frontage that is located in Portland).

January 17, 2013 Comment: The applicant has submitted a sidewalk waiver analysis for several sections of roadways including Ice Pond Drive, the southwest side of Ledgewood Drive and a portion of Ocean Avenue. My comments are noted below:

- o I concur that a sidewalk is not required along the southwest side of Ledgewood Drive given that the road is maintained by the Town of Falmouth and that a new sidewalk was recently constructed on the northeast side of Ledgewood Drive last summer.
- o I continue to review information and will coordinate with DPS on the submitted waivers for the other sidewalk sections.

Current Status: The following notes sidewalk requirements for Ice Pond Drive and Ocean Avenue.

o Based upon a review of a curbing waiver analysis conducted by DPS for Ice Pond Drive (and that curbing is not required), I support a sidewalk waiver given that a sidewalk is being constructed on one side of the street and landscape/drainage features would be significantly impacted if a sidewalk is constructed.

o I do not support a waiver for construction of a sidewalk on Ocean Avenue abutting house lot #14. There is pedestrian activity between the sidewalk on Ledgewood Drive and the City's Dog Park and sidewalks to the west (Presumpscot Street). I would suggest that the applicant make a financial contribution towards the installation of a sidewalk in the future. Based upon a construction cost estimate from DPS, the applicant should make a \$7,500.00 contribution towards the future construction of a sidewalk on Ocean Avenue.

\* Acceptable sight distance will be provided at the proposed driveway location on Ledgewood Drive.

\* I have reviewed Bill Eaton's traffic evaluation and I find it to be acceptable.

\* The driveway to Lot 13 will be located on Ledgewood Drive. Given the sight distance evaluation conducted by the applicant, I find this condition to be acceptable.

\* The applicant shall provide an "auto-turn" analysis at the driveway entrance using both a passenger car and a single-unit truck to support the proposed radii size.

Current Status: I have reviewed the information submitted by the applicant (vehicle turning template graphic and Town of Falmouth radii standards) and find the proposed 30-foot intersection radii to be acceptable given City of Portland Technical standards, the alignment of the proposed entrance road, and the results of the "auto-turn" analysis.

\* Crosswalk warning signs complying with the MUTCD shall be installed at the new crosswalk on Ledgewood Drive.

Current Status: Outstanding

New Comments

\* The applicant is proposing a driveway for Lot 14 on Ocean Avenue. While I would prefer to have the driveway located on the minor street, or Ledgewood Drive, I find the proposed driveway location to be acceptable given the location and orientation of the existing garage/barn structure that is to remain on-site. I would note that the City does not provide radii at single-family driveways and the plans should be revised to reflect this. Lastly waivers from the City's Technical Standards are required as it relates to corner clearance and driveway spacing. I support these waivers given site conditions.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105  
207.347.4354 direct  
207.400.0719 mobile  
207.781.4753 fax  
thomas.errico@tylin.com<mailto:thomas.errico@tylin.com>  
Visit us online at www.tylin.com<http://www.tylin.com>

"One Vision, One Company"

**Infrastructure Financial Contribution Form  
Planning and Urban Development Department  
Planning Division**

**Amount \$** 7,500.00

**City Account Number:** 710-0000-236-98-00

**Project Code:** \_\_\_\_\_  
(This number can be obtained by calling Cathy Ricker, x8665)

**Project Name:** Old Barn Estates

**Application ID #:** 2012-584 (project ID)

**Project Location:** 1062 Ocean Avenue

**Project Description:** 16 Lot Subdivision

**Funds intended for:** Sidewalk and Curbing Construction (not waived by Planning Board on 2/26/13)

**Applicant's Name:** TPO Properties LLC (Tim O'Donovan)

**Applicant's Address:** 30 Ledgewood Drive, Falmouth, ME 04104

**Expiration:**

If funds are not expended or encumbered for the intended purpose by \_\_\_\_\_, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) \_\_\_\_\_

**Form of Contribution:**

Escrow Account

Cash Contribution      *ck. 7616 211274573 605 0014858 dated 5-16-13*

**Interest Disbursement:** Interest on funds to be paid to contributor only if project is not commenced.

**Terms of Draw Down of Funds:** The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

**Date of Form:** May 7, 2013

**Planner:** *Jean Fraser*

- 
- Attach the approval letter, condition of approval or other documentation of the required contribution. *other documentation attached JF.*
  - One copy sent to the Applicant.

**Electronic Distribution to:** Peggy Axelsen, Michael Bobinsky, Michael Farmer, Kathi Earley, Betsy Beety, David Margolis-Pineo, Jeff Tarling, Alex Jaegerman, Barbara Barhydt, Phil DiPierro, Deb Marquis and Planner for project.



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**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Planning Division**  
Alexander Jaegerman, FAICP, Director

May 20<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)

Dear Mr O'Donovan:

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This arrangement is subject to the submission of an amended plat for signature and recording to update the original plats; this would need to be completed prior to the issuance of a Certificate of Occupancy for the new single family dwelling on Lot #14.

Please contact me before you amend the plat, as it may be possible to amend just a part of one plat rather than all of both plats.

Sincerely,

Jean Fraser,  
Planner

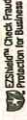
**Attachment:** E-mail from Tom Errico dated 2.21.2013

**Copy to:** Peter Biegel, Land Design Solutions, 160 Longwoods Road, Cumberland, ME 04021

**Electronic Distribution:**

Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
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Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Thomas Errico, P.E., TY Lin Associates



52-7457-2112

7616

CHECK AMOUNT  Security Features: Forgery, Alteration, Duplication, Theft

REMITTANCE ADVICE


**TIMOTHY P. O'DONOVAN**  
 REAL ESTATE ACCOUNT  
 30 LEDGEWOOD DRIVE  
 FALMOUTH, ME 04105

*Seven thousand Five hundred and 00/100* DOLLARS

PAY	TO THE ORDER OF	DESCRIPTION	CHECK NO.
<i>5/16/13</i>	<i>City of Portland</i>	<i>Sidewalk Fee - Ocean Ave. Land</i>	<i>7616</i>

CHECK AMOUNT \$ *7,500.*

*T.P. O'Donovan*

**Gorham**  
SAVINGS BANK

⑈007616⑈ ⑆211274573⑆ 605 0014858⑈

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "Earley, Katherine" <KAS@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>  
**Date:** 2/21/2013 12:20 PM  
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January 17, 2013 Comment: The applicant has submitted a sidewalk waiver analysis for several sections of roadways including Ice Pond Drive, the southwest side of Ledgewood Drive and a portion of Ocean Avenue. My comments are noted below:

- o I concur that a sidewalk is not required along the southwest side of Ledgewood Drive given that the road is maintained by the Town of Falmouth and that a new sidewalk was recently constructed on the northeast side of Ledgewood Drive last summer.
- o I continue to review information and will coordinate with DPS on the submitted waivers for the other sidewalk sections.

Current Status: The following notes sidewalk requirements for Ice Pond Drive and Ocean Avenue.

- o Based upon a review of a curbing waiver analysis conducted by DPS for Ice Pond Drive (and that curbing is not required), I support a sidewalk waiver given that a sidewalk is being constructed on one side of the street and landscape/drainage features would be significantly impacted if a sidewalk is constructed.
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\* The driveway to Lot 13 will be located on Ledgewood Drive. Given the sight distance evaluation conducted by the applicant, I find this condition to be acceptable.

\* The applicant shall provide an "auto-turn" analysis at the driveway entrance using both a passenger car and a single-unit truck to support the proposed radii size.

Current Status: I have reviewed the information submitted by the applicant (vehicle turning template graphic and Town of Falmouth radii standards) and find the proposed 30-foot intersection radii to be acceptable given City of Portland Technical standards, the alignment of the proposed entrance road, and the results of the "auto-turn" analysis.

\* Crosswalk warning signs complying with the MUTCD shall be installed at the new crosswalk on Ledgewood Drive.

Current Status: Outstanding

New Comments

\* The applicant is proposing a driveway for Lot 14 on Ocean Avenue. While I would prefer to have the driveway located on the minor street, or Ledgewood Drive, I find the proposed driveway location to be acceptable given the location and orientation of the existing garage/barn structure that is to remain on-site. I would note that the City does not provide radii at single-family driveways and the plans should be revised to reflect this. Lastly waivers from the City's Technical Standards are required as it relates to corner clearance and driveway spacing. I support these waivers given site conditions.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105  
207.347.4354 direct  
207.400.0719 mobile  
207.781.4753 fax  
thomas.errico@tylin.com<mailto:thomas.errico@tylin.com>  
Visit us online at [www.tylin.com](http://www.tylin.com)<http://www.tylin.com>

"One Vision, One Company"

**Jean Fraser - Old Barn Estates - Ocean Avenue Curb & Sidewalk**

---

**From:** "Peter Biegel" <pbiegel@landdesignsolutions.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 4/29/2013 8:07 PM  
**Subject:** Old Barn Estates - Ocean Avenue Curb & Sidewalk  
**CC:** "Tim O'Donovan" <ocpminc@maine.rr.com>  
**Attachments:** Lot 14 Existing Drainage System Sketch.pdf

---

Hi Jean,

We spent the afternoon out on lot 14 with the engineer and site contractor trying to figure out a way to construct the curb and sidewalk across the front of lot 14 with the current elevations of the existing drainage system. There are 2 catch basins which are located at the end of Ledgewood drive which outlet via a very shallow pipe into a ditch in front (Ocean Avenue) of our lot. The pipe invert at the catch basin is also very shallow, making it very difficult to come up with a decent design solution for construction over this very shallow drain line. Please see the attached existing drainage system sketch.

We would like to request that we be allowed to make the \$7,500 sidewalk and curbing contribution as originally recommended in lieu of constructing the curb and sidewalk as proposed. Please let me know what we need to do to follow up on this request.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com

*This has been  
agreed by  
Planning Dept,  
see letter 5-20-13*

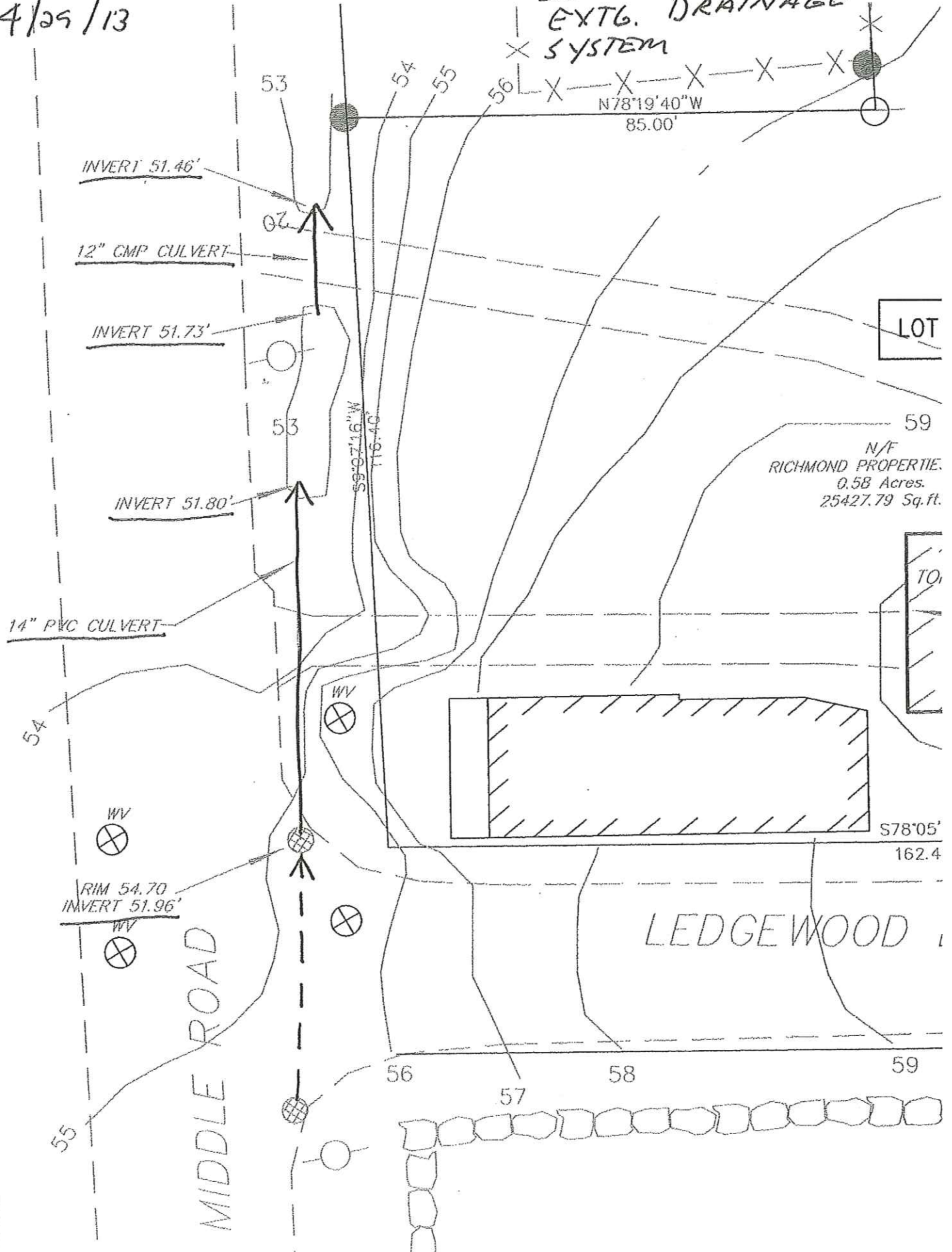


OLD BARN ESTATES

4/29/13

Lot 14

EXTG. DRAINAGE SYSTEM



**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>  
**CC:** Peter Biegel <pbiegel@landdesignsolutions.com>, 'Tim O'Donovan' <ocpminc@maine.rr.com>  
**Date:** 5/16/2013 11:25 AM  
**Subject:** RE: Release of plats for recording - Old Barn Estates

Jean,

We are OK with condition 3b. I actually sent an email to Tim O'Donovan this morning indicating that there may have been some confusion around the terms of condition 3a. I reviewed the draft letter of credit language this morning and noticed that the Town of Falmouth was not listed as a beneficiary on the LOC. The intent was that if only one LOC was being issued that it should articulate and break down the extent of site improvements that are located within the Town of Falmouth and that the Town have the right to draw on the LOC for those specific improvements. We will require that the LOC be amended to address that issue prior to authorizing release of the mylars.

Thank you,  
Ethan

From: Jean Fraser [mailto:JF@portlandmaine.gov]  
Sent: Thursday, May 16, 2013 11:11 AM  
To: Ethan Croce  
Cc: Peter Biegel; 'Tim O'Donovan'  
Subject: Release of plats for recording - Old Barn Estates

Ethan

The applicant has requested that I release the signed plats tomorrow and I don't believe I have received confirmation from you that Falmouth condition 3b has been addressed. Could you please let me know whether it is OK for me to release the signed plats for recording?

The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition 3a has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations, public rights/trail etc.

If your attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us<mailto:ecroce@town.falmouth.me.us>> 4/9/2013 12:53 PM >>>  
Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
ecroce@town.falmouth.me.us<mailto:ecroce@town.falmouth.me.us>

**Jean Fraser - RE: URGENT RE: Release of plats for recording - Old Barn Estates**

---

**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>  
**Date:** 5/21/2013 2:54 PM  
**Subject:** RE: URGENT RE: Release of plats for recording - Old Barn Estates  
**CC:** 'Tim O'Donovan' <ocpminc@maine.rr.com>, Philip DiPierro <PD@portlandmaine.gov>

---

Jean,

Tim O'Donovan just dropped off the letter of credit, so Falmouth is OK with releasing the mylars.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, May 21, 2013 12:16 PM  
**To:** Ethan Croce  
**Cc:** 'Tim O'Donovan'; Philip DiPierro  
**Subject:** RE: URGENT RE: Release of plats for recording - Old Barn Estates

Thank you- I am on stand by.

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 5/21/2013 11:48 AM >>>  
Jean,

I am waiting for Tim to deliver the performance guarantee. I think he is planning on doing that today. I will shoot you off an email as soon as I receive/review it.

Thank you,  
Ethan

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, May 21, 2013 11:45 AM  
**To:** Ethan Croce  
**Cc:** 'Tim O'Donovan'; Philip DiPierro  
**Subject:** URGENT RE: Release of plats for recording - Old Barn Estates

Ethan

Tim is supposed to be collecting the signed plats from me at noon today- could you please confirm that Falmouth are OK for them to be released.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 5/20/2013 9:59 AM >>>  
Jean,

Thank you for the information and for your thoughts. I understand that Tim is going to simply post a second guarantee to Falmouth in order to expedite matters.

Regards,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Monday, May 20, 2013 9:53 AM  
**To:** Ethan Croce  
**Cc:** 'Tim O'Donovan'; Philip DiPierro  
**Subject:** RE: Release of plats for recording - Old Barn Estates

Ethan

Once the street is completed the owner would then begin the process of City acceptance, which would include inspection to ensure it met City standards and then approval through DPS and the City Council.

I agree there could be a time lag (which is why there is the public access easement for the street during that period).

If the City has a PG for that stretch in Falmouth I assume that it would be treated the same as the rest of the street in the event of any of the possibilities you mention; if the street was not accepted then it would remain a private street but I can see Falmouth might have issues re drainage onto Ledgewood.

We can have our respective attorneys discuss this but my impression is that Tim O'Donovan wants to move quickly.

I am in the office now so please telephone if there is anything that needs urgent attention at our end.

thank you  
Jean

Jean Fraser, Planner  
City of Portland  
874 8728

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 5/17/2013 5:13 PM >>>  
Jean,

Can you tell me when the street officially becomes accepted by the City of Portland/when the fee interest is conveyed to Portland? I recall that the reason the Town Attorney wanted the street in Falmouth to be covered by the PG was to cover the Town in the event that the developer abandoned the project or in the event that Portland, for whatever reason (however unlikely), declined to accept the street. The assumption was that the Portland Planning Board could not bind the City Council to accept the street and so there was, technically speaking, a remote chance that the City might not accept the street.

Ethan

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Friday, May 17, 2013 2:05 PM  
**To:** Ethan Croce  
**Cc:** 'Tim O'Donovan'; Philip DiPierro  
**Subject:** RE: Release of plats for recording - Old Barn Estates

Ethan

We did not understand that you wanted to be beneficiaries.

Our Corporation Counsel advises that we can not have Falmouth referenced on the City's Letter of Credit as that could result in legal and other confusion, and Corporation Counsel has also confirmed that any infrastructure that will be Portland's responsibility in the future must be included/covered in the Portland LOC amount. There is a Portland Planning Board condition of approval that states:

- i. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and

So I believe Tim O'Donovan will need a separate LOC with Falmouth and a separate one for Portland. The one for Portland will need to include the entirety of the new road (including the section that is within Falmouth boundaries) so potentially Tim will need to "double" bond for that stretch unless it could be omitted from Falmouth's LOC (I am not clear why you need a PG for that section of the new road).

I would like to release the signed mylars on Monday afternoon as Tim is ready to start on Tuesday- so I am sure Tim will be in touch with you to arrange the separate LOC. If the costs of the road could be excluded from that it would help Tim, but those costs do need to be included in the Portland PG. Please send me confirmation that your condition 3.a has been met as soon as you are able.

Phil and I will not be in the office on Monday (5.20.13) until around 9:30am as we have an 8am site meeting.

thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 5/16/2013 11:25 AM >>>  
Jean,

We are OK with condition 3b. I actually sent an email to Tim O'Donovan this morning indicating that there may have been some confusion around the terms of condition 3a. I reviewed the draft letter of credit language this morning and noticed that the Town of Falmouth was not listed as a beneficiary on the LOC. The intent was that if only one LOC was being issued that it should articulate and break down the extent of site improvements that are located within the Town of Falmouth and that the Town have the right to draw on the LOC for those specific improvements. We will require that the LOC be amended to address that issue prior to authorizing release of the mylars.

Thank you,  
Ethan

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Thursday, May 16, 2013 11:11 AM  
**To:** Ethan Croce  
**Cc:** Peter Biegel; 'Tim O'Donovan'  
**Subject:** Release of plats for recording - Old Barn Estates

Ethan

The applicant has requested that I release the signed plats tomorrow and I don't believe I have received confirmation from you that Falmouth condition **3b** has been addressed. Could you please let me know whether it is OK for me to release the signed plats for recording?

The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition **3a** has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very

specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations , public rights/trail etc.

If you attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 4/9/2013 12:53 PM >>>  
Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

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## Jean Fraser - Release of plats for recording - Old Barn Estates

---

**From:** Jean Fraser  
**To:** Croce, Ethan  
**Date:** 5/16/2013 11:11 AM  
**Subject:** Release of plats for recording - Old Barn Estates  
**CC:** 'Tim O'Donovan'; Peter Biegel  
**Attachments:** Draft Deed Lot 2\_2.pdf

---

Ethan

The applicant has requested that I release the signed plats tomorrow and I don't believe I have received confirmation from you that Falmouth condition **3b** has been addressed. Could you please let me know whether it is OK for me to release the signed plats for recording?

The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition **3a** has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations, public rights/trail etc.

If your attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 4/9/2013 12:53 PM >>>  
[Jean,](#)

[As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note](#)



that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

**WARRANTY DEED**  
(Maine Statutory Short Form)

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** with warranty covenants to:  
\_\_\_\_\_, whose mailing address is  
\_\_\_\_\_.

The following real estate situated in the City of Portland, County of Cumberland, State of Maine, described as follows:

Lot 2 as shown on a plan entitled "Old Barn Estates Ocean Ave. & Ledgewood Drive, Portland & Falmouth, Maine" made for TPO Properties, LLC, 30 Ledgewood Drive, Falmouth, Maine by Cullenberg Land Surveying, 892 Old Danville Road, Auburn, Maine 04210, dated February 8, 2013 and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_ to which plan reference is hereby made for a more particular description of the lot herein described.

SUBJECT, HOWEVER, to the following:

1. All general notes, easements, facts and other matters shown on the final subdivision plan of "Old Barn Estates Ocean Ave. & Ledgewood Drive, Portland & Falmouth, Maine" (hereinafter "Old Barn Estates"), recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_.
2. The Declaration of Restrictions and Covenants, Old Barn Estates recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Pages \_\_\_\_\_, which are incorporated by reference as if fully set forth herein.
3. Grantee(s) for themselves, their heirs, successors and assigns, by acceptance of this Deed shall become members of the Old Barn Estates Homeowners Association.
4. The "Tree Save" areas depicted on Lots 2, 3, 4, 5, 6, 7, 8 and 16, shall not be disturbed, with the exception of the removal of invasive species, tree hazards and the fill slopes associated with the construction of subsurface waste water disposal system leach fields (see C-101 for re-vegetation of fill slopes). Tree Save area shall be identified on each lot prior to the commencement of construction.
5. The "No Disturb Storm Water Buffer" areas as depicted on Lots 3, 4, 5, 6, 9, 10, 11, 12, 13, and 16 of Old Barn Estates, shall not be disturbed with the exception of the removal of invasive species, tree hazards and the fill slopes associated with the construction of the subsurface waste water disposal systems and for re-vegetation of said fill slopes as shown on Plan C-101. Storm water buffer areas shall be identified on each lot prior to the commencement of construction.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this \_\_\_\_\_ day of March, 2013.

TPO Properties, LLC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

March \_\_\_\_\_, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

\_\_\_\_\_  
Notary Public/Attorney at Law

## Jean Fraser - RE: Old Barn Estates - Final Approval

---

**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>  
**Date:** 4/9/2013 12:53 PM  
**Subject:** RE: Old Barn Estates - Final Approval  
**CC:** 'Tim O'Donovan' <ocpminc@maine.rr.com>, 'Peter Biegel' <pbiegel@landdesi...>  
**Attachments:** COA\_TPOPropertiesLLC\_OldBarnEstates\_FinalSubApproval\_04.02.13.pdf

---

Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

*O = See on attached Falmouth conditions*

---

**From:** Peter Biegel [mailto:pbiegel@landdesignsolutions.com]  
**Sent:** Wednesday, April 03, 2013 2:39 PM  
**To:** 'Jean Fraser'  
**Cc:** 'Tim O'Donovan'; Ethan Croce  
**Subject:** RE: Old Barn Estates - Final Approval

Hi Jean,

Ethan indicated that Falmouth is comfortable with one performance guarantee, which I believe Portland would hold as long as it articulates which improvements would be related to the Town of Falmouth.

Thanks,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717

email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 2:29 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Final Approval

Peter

Std Condition #1 is supposed to say what I have said in this e-mail.

Not sure why the wording not right and I will take it up with Barbara.

Thanks for pointing this out.

Guess we need to figure out who actually holds the PG.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 2:20 PM >>>  
Hi Jean,

Not that it matters, but the wording in my message came from the standard conditions of approval item #7, is that not accurate or did I over look something?

Thanks,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 2:07 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Final Approval

Peter,

Portland also requires it prior to the release of the mylar for recording.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 2:00 PM >>>  
Hi Jean,

Falmouth requires a performance guarantee be in place prior to the release of the mylar where the information from Portland says it must be in place prior to release of a building permit, street opening or certificate of occupancy not prior to the release of the mylar.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 1:41 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Final Approval

Peter

I will get back to you by the end of the day- I just want to do a final check on all this.

Portland requires a performance guarantee for all the work - what is the ref to Falmouth?

Thanks  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 9:42 AM >>>  
Hi Jean,

The project was approved by the Falmouth Planning Board at last night's meeting. Tim will be collecting the signed mylars and bring them to you to hold until 4/9 when the Portland Planning Board signs and we have complied with all release criteria.

The list I have of issues needing to be addressed prior to the release of the mylars are:

1. Payment by TPO Properties of \$1,500 to the Falmouth Land Trust.
2. Provide the City of Portland with construction details for the pedestrian walkway.
3. Record the various easements.
4. Performance guarantee (Falmouth req.)

Do you have anything else which I have not listed here?

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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# Town of Falmouth, Maine



**Falmouth Planning Board  
Conditions of Approval  
TPO Properties, LLC – Final Subdivision Approval  
Old Barn Estates Subdivision  
14 lots (2 existing house lots and 12 new house lots)  
Ice Pond Drive  
April 2, 2013**

1. The development is to be constructed in accordance with the plans, maps, diagrams, specifications, textual submissions, and testimony presented by the applicant and approved by the Board.
2. The Planning Board approves a waiver from the Appendix 5(E)2 requirement for a full traffic study. In granting the waiver, the Board considered the opinion of Town's traffic engineer peer reviewer who stated that no safety problems were identified in the vicinity of the project and that the low levels of traffic generated by the project would not be expected to create any traffic operational problems.
3. Prior to release of the recording mylar and prior to commencing construction/site disturbance:
  - a. The developer shall submit a performance guarantee, in a form and an amount acceptable to the Town, to cover the cost of all site improvements located within the Town of Falmouth.
  - b. All homeowners and legal documents shall be reviewed and approved by the Town Attorney.
4. Prior to commencing site disturbance and issuance of building permits:
  - a. The applicant shall pay the required subdivision inspection fee.
  - b. Erosion & sedimentation control measures shall be installed to the satisfaction of the Town.
  - c. The boundaries of buffer areas shall be marked on site with snow fencing or equivalent measures and approved by the Town.
  - d. A street name sign for Ice Pond Drive shall be installed.
  - e. All easements referenced in Condition 3.b above shall be recorded at the Registry of Deeds.
5. Prior to issuance of certificates of occupancy, the applicant shall provide documentation from a professional land surveyor that all required monumentation has been located on the ground and installed consistent with the requirements of the Subdivision Ordinance.
6. The applicant shall coordinate the installation of the proposed improvements within the Ledgewood Drive right-of-way with the Department of Parks and Public Works prior to installation of said improvements.

*This met on 4.30.13 J. 5-21-13*

*Met 5.16.13 e-mail from E. Crace*



# CITY OF PORTLAND, MAINE

## PLANNING BOARD

Plat set has  
been reviewed +  
approved by legal, DPS +  
Planning

Carol Morrisette, Chair  
Stuart G. O'Brien, Vice Chair  
Elizabeth Boepple  
Timothy Dean  
Sean Dundon  
Bill Hall  
David Silk

March 4<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Peter Biegel  
Land Design Solutions  
160 Longwoods Road  
Cumberland, ME 04021

07. 4-9-13

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)  
Applicant: Tim O'Donovan, TPO Properties LLC  
Planner: Jean Fraser

O = conditions to  
be met before  
release of plat  
(as of  
4-10-13)

Dear Mr O'Donovan and Mr Biegel:

On February 26<sup>th</sup>, 2013, the Planning Board considered the Level III Subdivision Review application for the Old Barn Estates 16 lot subdivision at 1062 Ocean Avenue (Ledgewood Drive). The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (O'Brien and Silk absent) to approve the application with the following waivers and conditions as presented below:

### WAIVERS

The Planning Board voted 5-0 (O'Brien and Silk absent) that:

1. *Sidewalks*
  1. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ice Pond Drive within the 12 lot new subdivision:
  2. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ledgewood Drive on Lots #13 and #15:
  3. The Planning Board finds that the sidewalk waiver criteria do not apply and therefore does not waive the requirement for a sidewalk (with associated curbing) along the frontage of the property at 1062 Ocean Avenue (Lot #14):

#### APPLICABLE SIDEWALK WAIVER CRITERIA:

3. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
6. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

2. *Curbing:*

The Planning Board finds that the following criteria do apply (namely 1, 4 and 5), and therefore waives the requirement for curbing along the south side of Ice Pond Drive within the 12 lot new subdivision:

*APPLICABLE CURBING WAIVER CRITERIA:*

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*
4. *Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*
5. *Runoff from the development site or within the street does not require curbing for stormwater management.*

3. *Streetlighting:*

The Planning Board waives the Technical Standard, Section 10.2.1, to allow a reduction in the number of street lights along the proposed new street Ice Pond Drive to one new pole and light at the "dead end" of the new street and one new pole and light in the vicinity of the fire hydrant on Ice Pond Drive.

### SUBDIVISION

The Planning Board voted 5-0 (O'Brien and Silk absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following eight (8) conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- v. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vi. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and

*OK all  
legal  
needed prior  
SP*

- vii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

- viii. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

met  
4.24.13  
if email to  
PB.

### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

met  
5.21.13  
or plat -  
has been  
clamped to  
applicant  
Falmouth  
want  
anyway

10. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at 874-8728.

Sincerely,

Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Memo from David Senus of Woodard & Curran dated 2.20.2013
2. Letter of agreement with the Falmouth Land Trust dated 2.20.2013
3. Planning Board Report #13-13
4. City Code, Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File

**COMMITMENT & INTEGRITY**  
**DRIVE RESULTS**

41 Hutchins Drive  
Portland, Maine 04102  
www.woodardcurran.com

T 800.426.4262  
T 207.774.2112  
F 207.774.6635

## MEMORANDUM



**TO: Jean Fraser, Planner**  
**FROM: David Senus, P.E.**  
**DATE: February 20, 2013**  
**RE: Final Level III Site Plan Application Response to Comments – Old Barn Estates**

Woodard & Curran has reviewed the response to comments email and associated attachments received on February 20, 2013 for the Final Level III Site Plan Application for Old Barn Estates Subdivision off of Ledgewood Drive on the Falmouth/Portland line.

### Documents Provided By Applicant

- Response to Comments email, dated February 20, 2013, prepared by Peter Biegel at Land Design Solutions, on behalf of TPO Properties, LLC.
- Engineering Plans: Sheet S-101, C-101, C-201, C-202, C-300, C-302, C-303 revised February 19, 2013, prepared by Land Design Solutions on behalf of TPO Properties, LLC.
- Appendix D – Stormwater Inspection & Maintenance Plan, Rev. 2 – February 19, 2013
- Deed restriction language (PDF)

### Comments (In reference to previous W&C review memo comments from 2/14/2013)

1. *Comment: Sheet C-101 note 15; C-201 note 9; and the plan view call-out on C-201 for the 15" culvert under the Lot 2 driveway reference CMP (corrugated metal pipe) within the future City of Portland Right-of-Way. CMP is not an approved pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2). Given the cover depths of these culverts, we recommend the Applicant consider requiring the use of reinforced concrete pipe at these locations.*

*Applicant Response: Pipe material for the culvert pipes in the City of Portland Right-of-Way has been revised to RCP (see plans C-201 and C-101).*

**Comment adequately addressed.**

2. *Comment: The proposed culvert at STA 2+70 along the Lot 2 Driveway was modeled as a 36" diameter culvert and shown in profile as a 36" diameter culvert; however, sheet C-201 still refers to a 30" culvert in plan view.*

*Applicant Response: Plan C-201 now refers to a 36" culvert as is shown on C-202.*

**Comment adequately addressed.**

3. *Comment: The Applicant notes that "maintenance easement language (for the soil filters systems) has been included with this submission"; however, we did not receive / have not reviewed easement language with the current submittal. This language will be reviewed upon receipt.*

*Applicant Response: An updated Inspection and Maintenance (Appendix D) is provided which covers right of entry, plan S-101 also labels the stormwater easement areas.*

**The Applicant's submittal includes adequate right of entry language in the Inspection and Maintenance report; however, we assume that easements will be drafted for the stormwater BMP locations (soil filters) and submitted to the City for review as a Condition of Approval.**



4. *Comment: The Applicant notes that "Deed restrictions and covenants will be created for all buffers and will be provided for review". This language has not been received/reviewed with the current submittal, and will be reviewed upon receipt.*

*Applicant Response: Plan S-101 note 17 addresses the limitations of disturbance in the stormwater buffer areas which will be linked to the deed through Note 1 on the attached Deed Restriction PDF.*

**Additional language should be incorporated into the applicable deeds following the guidance outlined in the MaineDEP BMP Technical Design Manual, Volume III, Appendix D, "Templates for Deed Restrictions & Conservation Easements". Final deed restriction language should be submitted to the City for review as a Condition of Approval.**

5. *Comment: Sheet S-101, Note 15 states that "Tree save areas and stormwater buffer areas shall be identified on the ground with capped rebar pins and signage as shown on Plan C-101"; however, C-101 does not specifically call out the rebar pins or signage.*

*Applicant Response: Tree save and stormwater buffer areas are now identified on Plan C-101 showing location of rebar pins and signage. Also see note #15.*

**Although there appear to be symbols identifying the rebar pins and signage on C-101, these symbols are not identified within the plan legend or specifically called out on the plan. A callout for the pin and sign symbol should be added to C-101 (refer to the callouts used on S-101).**

6. *Comment: Sheet C-201, Note 14 states that "Dripline filters shall be installed to capture all stormwater runoff from roofs of houses constructed on lots 7, 8, and 9. See detail on sheet C-302". These details actually reside on sheet C-303.*

*Applicant Response: Note 14 on C-201 now refers to the correct sheet for the dripline filter detail (C-303).*

**Comment adequately addressed.**



February 20, 2013

Peter Biegel  
Land Design Solutions  
160 Longwoods Rd  
Cumberland, ME 04021

Tim O'Donovan  
TPO Properties  
Old Barn Estates  
Ledgewood Drive  
Falmouth, ME 04101  
VIA EMAIL

Peter and Tim,

The Falmouth Land Trust and Portland Trails are excited about the proposed connection between the Old Barn Estates and the Portland Trails Ocean Ave Dog park property via the Trust's Elms subdivision land. Thank you both for taking the time to meet with me as representative of the Trust and Jaime Parker from Portland Trails to discuss the project. This letter summarizes the various conversations to date and clearly defines responsibilities for the creation and maintenance of the proposed trail.

TPO Properties would like to create a pedestrian trail connection from the proposed Old Barn Estates subdivision located on Ledgewood Drive to the Ocean Ave Dog Park. The proposed trail location is shown in red on the attached document. Final trail placement on the adjacent Trust property will be determined in the field by representatives of the Falmouth Land Trust and Portland Trails. At the end of the paved subdivision road, TPO Properties will construct a trail or unpaved sidewalk within the development all the way to the property line (approx. 60' in length) where it will connect with the new trail on the Trust property. The entire trail will be open to the public for walking, running, cross country skiing, snowshoeing and mountain hiking, however, motorized uses except for occasional and specific authorized trail maintenance activities will be prohibited.

Falmouth Land Trust working in cooperation with Portland Trails would construct the trail after TPO Properties receives final approvals, most likely in the summer of 2013. Based on the field walk the following trail improvements would be required for construction:

- Landscaping at both trail heads of the new trail
- Mowing and clearing for proposed trail
- Surface hardening (5 yards of crushed rock and 5 yards of superhumus)

P.O. Box 6172 Falmouth, Maine 04105 (207) 300-5488

Coastal Region Enjoy



[www.fltrd.com](http://www.fltrd.com)

- Signage - wayfinding at: Ledgewood Dr., paved sidewalk end (trail head), along the trail and a kiosk at Ocean Ave Dog Park end.

The cost to create the proposed trail on the Trust property, including materials and labor, would be \$2500.00. FLT would require a 50% deposit to start work with the balance due within 30 days of completion. In addition TPO Properties would make a one-time stewardship donation to the Falmouth Land Trust of \$1500.00 upon trail completion. The stewardship fee covers reasonable maintenance of the length of the trail from the end of the road to the property line as well as the length extending to the Dog Park perimeter trail as shown in red on the attached document. All of the proposed work and associated expenses would not commence until TPO Properties received final approval for the project from the City of Portland and the Town of Falmouth. Once TPO Properties completes the trail section within the subdivision and pays the additional trail construction cost and the stewardship fee neither they, nor the homeowners association, would have any future responsibilities associated with the trail.

If the terms of this letter are agreeable please sign and return a copy to my attention. On behalf of the Land Trust we look forward to working with you on this great project.

Jed Harris  
President

Signed and Agreed

Tim O'Donovan  
TPO Properties

2/21/13

Date

P.O. Box 6172 Falmouth, Maine 04105 (207) 200-5488



## Jean Fraser - RE: Release of plats for recording - Old Barn Estates

---

**From:** Jean Fraser  
**To:** Croce, Ethan  
**Date:** 5/17/2013 2:05 PM  
**Subject:** RE: Release of plats for recording - Old Barn Estates  
**CC:** DiPierro, Philip; O'Donovan', 'Tim'

---

Ethan

We did not understand that you wanted to be beneficiaries.

Our Corporation Counsel advises that we can not have Falmouth referenced on the City's Letter of Credit as that could result in legal and other confusion, and Corporation Counsel has also confirmed that any infrastructure that will be Portland's responsibility in the future must be included/covered in the Portland LOC amount. There is a Portland Planning Board condition of approval that states:

- i. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and

So I believe Tim O'Donovan will need a separate LOC with Falmouth and a separate one for Portland. The one for Portland will need to include the entirety of the new road (including the section that is within Falmouth boundaries) so potentially Tim will need to "double" bond for that stretch unless it could be omitted from Falmouth's LOC (I am not clear why you need a PG for that section of the new road).

I would like to release the signed mylars on Monday afternoon as Tim is ready to start on Tuesday- so I am sure Tim will be in touch with you to arrange the separate LOC. If the costs of the road could be excluded from that it would help Tim, but those costs do need to be included in the Portland PG. Please send me confirmation that your condition 3.a has been met as soon as you are able.

Phil and I will not be in the office on Monday (5.20.13) until around 9:30am as we have an 8am site meeting.

thank you  
Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> Ethan Croce <ecroce@town.falmouth.me.us> 5/16/2013 11:25 AM >>>  
[Jean,](#)

[We are OK with condition 3b. I actually sent an email to Tim O'Donovan this morning indicating that there may have been some confusion around the terms of condition 3a. I reviewed the draft letter of credit language this morning and noticed that the Town of Falmouth was not listed as a beneficiary on the LOC. The intent was that if only one LOC was being issued that it should articulate and break down the extent of site improvements](#)

that are located within the Town of Falmouth and that the Town have the right to draw on the LOC for those specific improvements. We will require that the LOC be amended to address that issue prior to authorizing release of the mylars.

Thank you,  
Ethan

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Thursday, May 16, 2013 11:11 AM  
**To:** Ethan Croce  
**Cc:** Peter Biegel; 'Tim O'Donovan'  
**Subject:** Release of plats for recording - Old Barn Estates

Ethan

The applicant has requested that I release the signed plats tomorrow and I don't believe I have received confirmation from you that Falmouth condition **3b** has been addressed. Could you please let me know whether it is OK for me to release the signed plats for recording?

The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition **3a** has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations, public rights/trail etc.

If your attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 4/9/2013 12:53 PM >>>  
Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth

has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

## Jean Fraser - Fwd: RE: Release of plats for recording - Old Barn Estates

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Philip DiPierro  
**Date:** 5/17/2013 10:55 AM  
**Subject:** Fwd: RE: Release of plats for recording - Old Barn Estates  
**CC:** Jean Fraser

---

I agree with your concerns Phil and I do not think that Falmouth should be on our PG - we need to make it clear to them that this is for the infrastructure that will be Portland's responsibility.

Thanks,

Danielle

>>> Philip DiPierro 5/16/2013 2:41 PM >>>

Hi Danielle, the Town of Falmouth is asking to be included as a beneficiary of the performance guarantee (using our standard language) for this project. Is that something we should do? Please see e-mail thread below.

It's my understanding that Portland will be completing all the inspections for the road, we will be accepting the entire road upon completion, and we will be responsible for maintenance. Should both Portland and Falmouth have the ability to place a "call" on the PG at the same time, if necessary? I'm just concerned that the possibility may exist where construction may meet Portland's standards and pass inspections, but, for some reason, may not meet Falmouth's standards. The chances of this happening are probably pretty remote, but the possibility does exist. If Portland is going to be responsible for the road, why would Falmouth even care? How should we handle this.

Falmouth has stated that they don't want the mylar released for recording until they approve the PG.

I have attached Falmouth's conditions of approval for your review, and our standard language for posting the PG.

The applicant is anxious to get started and already has the PG executed. We just found out about Falmouth's concerns today. Let me know how you want to handle this. Thanks.

Phil

>>> Jean Fraser 5/16/2013 12:08 PM >>>

Ethan

Thank you; I had thought the earlier correspondence had covered this.

I will await your confirmation in respect of the condition 3a.

thank you  
Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 5/16/2013 11:25 AM >>>

Jean,

We are OK with condition 3b. I actually sent an email to Tim O'Donovan this morning indicating that there may have been some confusion around the terms of condition 3a. I reviewed the draft letter of credit language this morning and noticed that the Town of Falmouth was not listed as a beneficiary on the LOC. The intent was that if only one LOC was being issued that it should articulate and break down the extent of site improvements that are located within the Town of Falmouth and that the Town have the right to draw on the LOC for those specific improvements. We will require that the LOC be amended to address that issue prior to authorizing release of the mylars.

Thank you,  
Ethan

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Thursday, May 16, 2013 11:11 AM  
**To:** Ethan Croce  
**Cc:** Peter Biegel; 'Tim O'Donovan'  
**Subject:** Release of plats for recording - Old Barn Estates

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The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition **3a** has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations , public rights/trail etc.

If you attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 4/9/2013 12:53 PM >>>  
Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



# PORTLAND MAINE

*Strengthening a Remarkable City, Building a Community for Life • www.portlandmaine.gov*

## Planning & Urban Development Department

Jeff Levine, AICP, Director

## Planning Division

Alexander Jaegerman, FAICP, Director

May 20<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)


Dear Mr O'Donovan:

On April 29, 2013 Peter Beigel advised this office that the site conditions make it impossible for you to implement the sidewalk and curbing originally approved for the frontage of Lot #14. In lieu of the sidewalk and curbing, a contribution of \$7500 has been accepted as an "Infrastructure Contribution" in line with the recommendation from Tom Errico, City's Traffic Engineering Reviwer (copy attached) as given to the Planning Board at the Hearing when the Subdivision was approved.

This arrangement is subject to the submission of an amended plat for signature and recording to update the original plats; this would need to be completed prior to the issuance of a Certificate of Occupancy for the new single family dwelling on Lot #14.

Please contact me before you amend the plat, as it may be possible to amend just a part of one plat rather than all of both plats.

Sincerely,

  
Jean Fraser,  
Planner

**Attachment:** E-mail from Tom Errico dated 2.21.2013

**Copy to:** Peter Biegel, Land Design Solutions, 160 Longwoods Road, Cumberland, ME 04021

### Electronic Distribution:

Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services

Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Thomas Errico, P.E., TY Lin Associates

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "Earley, Katherine" <KAS@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>  
**Date:** 2/21/2013 12:20 PM  
**Subject:** Old Barn Estates - Final Traffic Comments

Jean - The following represents my final comments.

\* Based upon the scope of the project, a traffic study or Traffic Movement Permit is not required.

\* The applicant shall conduct a sidewalk waiver analysis for their proposed subdivision road (a sidewalk is proposed on one side only) and for the corner property at the Ocean Avenue/Middle Road/Ledgewood Drive intersection (only the frontage that is located in Portland).

January 17, 2013 Comment: The applicant has submitted a sidewalk waiver analysis for several sections of roadways including Ice Pond Drive, the southwest side of Ledgewood Drive and a portion of Ocean Avenue. My comments are noted below:

- o I concur that a sidewalk is not required along the southwest side of Ledgewood Drive given that the road is maintained by the Town of Falmouth and that a new sidewalk was recently constructed on the northeast side of Ledgewood Drive last summer.
- o I continue to review information and will coordinate with DPS on the submitted waivers for the other sidewalk sections.

Current Status: The following notes sidewalk requirements for Ice Pond Drive and Ocean Avenue.

- o Based upon a review of a curbing waiver analysis conducted by DPS for Ice Pond Drive (and that curbing is not required), I support a sidewalk waiver given that a sidewalk is being constructed on one side of the street and landscape/drainage features would be significantly impacted if a sidewalk is constructed.
- o I do not support a waiver for construction of a sidewalk on Ocean Avenue abutting house lot #14. There is pedestrian activity between the sidewalk on Ledgewood Drive and the City's Dog Park and sidewalks to the west (Presumpscot Street). I would suggest that the applicant make a financial contribution towards the installation of a sidewalk in the future. Based upon a construction cost estimate from DPS, the applicant should make a \$7,500.00 contribution towards the future construction of a sidewalk on Ocean Avenue.

\* Acceptable sight distance will be provided at the proposed driveway location on Ledgewood Drive.

\* I have reviewed Bill Eaton's traffic evaluation and I find it to be acceptable.



\* The driveway to Lot 13 will be located on Ledgewood Drive. Given the sight distance evaluation conducted by the applicant, I find this condition to be acceptable.

\* The applicant shall provide an "auto-turn" analysis at the driveway entrance using both a passenger car and a single-unit truck to support the proposed radii size.

Current Status: I have reviewed the information submitted by the applicant (vehicle turning template graphic and Town of Falmouth radii standards) and find the proposed 30-foot intersection radii to be acceptable given City of Portland Technical standards, the alignment of the proposed entrance road, and the results of the "auto-turn" analysis.

\* Crosswalk warning signs complying with the MUTCD shall be installed at the new crosswalk on Ledgewood Drive.

Current Status: Outstanding

New Comments

\* The applicant is proposing a driveway for Lot 14 on Ocean Avenue. While I would prefer to have the driveway located on the minor street, or Ledgewood Drive, I find the proposed driveway location to be acceptable given the location and orientation of the existing garage/barn structure that is to remain on-site. I would note that the City does not provide radii at single-family driveways and the plans should be revised to reflect this. Lastly waivers from the City's Technical Standards are required as it relates to corner clearance and driveway spacing. I support these waivers given site conditions.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105  
207.347.4354 direct  
207.400.0719 mobile  
207.781.4753 fax  
thomas.errico@tylin.com<mailto:thomas.errico@tylin.com>  
Visit us online at www.tylin.com<http://www.tylin.com>

"One Vision, One Company"

## Jean Fraser - URGENT Fwd: RE: Release of plats for recording - Old Barn Estates

---

**From:** Jean Fraser  
**To:** DiPierro, Philip  
**Date:** 5/16/2013 11:28 AM  
**Subject:** URGENT Fwd: RE: Release of plats for recording - Old Barn Estates

---

Phil

I guess the cost estimate was OK in that it broke down the amounts, but the Letter of Credit also needed to be clear re this. Can you please expedite - I assume Tim will arrange for the amendment.

thanks  
Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 5/16/2013 11:25 AM >>>  
Jean,

We are OK with condition 3b. I actually sent an email to Tim O'Donovan this morning indicating that there may have been some confusion around the terms of condition 3a. I reviewed the draft letter of credit language this morning and noticed that the Town of Falmouth was not listed as a beneficiary on the LOC. The intent was that if only one LOC was being issued that it should articulate and break down the extent of site improvements that are located within the Town of Falmouth and that the Town have the right to draw on the LOC for those specific improvements. We will require that the LOC be amended to address that issue prior to authorizing release of the mylars.

Thank you,  
Ethan

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Thursday, May 16, 2013 11:11 AM  
**To:** Ethan Croce  
**Cc:** Peter Biegel; 'Tim O'Donovan'  
**Subject:** Release of plats for recording - Old Barn Estates

Ethan

The applicant has requested that I release the signed plats tomorrow and I don't believe I have received confirmation from you that Falmouth condition **3b** has been addressed. Could you please let me know whether it is OK for me to release the signed plats for recording?

The generic draft lot deed is attached; these would be finalized when there is a buyer and individual single family permits are applied for.

I note that Falmouth condition **3a** has been met as we were copied into the 4.30.13 e-mail from Harold Mason.

thank you  
Jean

>>> Jean Fraser 4/9/2013 3:42 PM >>>  
Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations , public rights/trail etc.

If you attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 4/9/2013 12:53 PM >>>  
Jean,

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Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
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(207) 781-5253 x-5328  
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11/01/2012

DEPARTMENT OF ENVIRONMENTAL PROTECTION  
**PERMIT BY RULE NOTIFICATION FORM**  
 (For use with DEP Regulation, Chapter 305)

- Pl. file

PLEASE TYPE OR PRINT IN BLACK INK ONLY

Name of Applicant (owner): TPO Properties, LLC (contact: Tim O'Donovan)		Name of Agent: Land Design Solutions (Contact: Peter Biegel)	
Applicant Mailing Address: 30 Ledgewood Drive		Agent Phone # (include area code): (207) 939-1717	
Town/City: Falmouth		PROJECT Information Name of Town/City: Portland	
State and Zip code: Maine, 04105		Name of Wetland or Waterbody: Unnamed	
Daytime Phone # (include area code): (207) 450-7890		Map #: 415/414	Lot #: 1/4 & 2/3
Detailed Directions to Site: Ledgewood Drive, Falmouth, Maine - Latitude 43 42'9.66"N, Longitude 70 15'54.94"W			
Description of Project: Permanent Stream crossing with a residential driveway. Construction to take place between July 15th and October 1st.		UTM Northing: (if known)	UTM Easting: (if known)
Part of a larger project? (check one) →	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	After the Fact? (check one) →	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Check one → This project <input type="checkbox"/> does (or) <input checked="" type="checkbox"/> does not involve work below mean low water (average low water).			

PERMIT BY RULE (PBR) SECTIONS: (Check at least one)

I am filing notice of my intent to carry out work which meets the requirements for Permit By Rule (PBR) under DEP Rules, Chapter 305. I and my agents, if any, **have read** and will comply with all of the standards in the Sections checked below.

- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Sec. (2) Act. Adj. to Protected Natural Res. | <input checked="" type="checkbox"/> Sec. (10) Stream Crossing                     | <input type="checkbox"/> Sec. (17) Transfers/Permit Extension   |
| <input type="checkbox"/> Sec. (3) Intake Pipes                        | <input type="checkbox"/> Sec. (11) State Transportation Facil.                    | <input type="checkbox"/> Sec. (18) Maintenance Dredging   |
| <input type="checkbox"/> Sec. (4) Replacement of Structures           | <input type="checkbox"/> Sec. (12) Restoration of Natural Areas                   | <input type="checkbox"/> Sec. (19) Activities in/on/over significant vernal pool habitat  |
| <input type="checkbox"/> Sec. (5) REPEALED                            | <input type="checkbox"/> Sec. (13) F&W Creation/Enhance/Water Quality Improvement | <input type="checkbox"/> Sec. (20) Activities in existing dev. areas located in/on/over high or moderate value inland waterfowl & wading bird habitat or shorebird nesting, feeding & staging areas |
| <input type="checkbox"/> Sec. (6) Movement of Rocks or Vegetation     | <input type="checkbox"/> Sec. (14) REPEALED                                       |   |
| <input type="checkbox"/> Sec. (7) Outfall Pipes                       | <input type="checkbox"/> Sec. (15) Public Boat Ramps                              |   |
| <input type="checkbox"/> Sec. (8) Shoreline stabilization             | <input type="checkbox"/> Sec. (16) Coastal Sand Dune Projects                     |   |
| <input type="checkbox"/> Sec. (9) Utility Crossing                    |   |   |

I have attached the following required submittals. NOTIFICATION FORMS CANNOT BE ACCEPTED WITHOUT THE NECESSARY ATTACHMENTS:

- Attach** a check for \$70 made payable to: "Treasurer, State of Maine".
- Attach** a U.S.G.S. topo map or Maine Atlas & Gazetteer map with the project site clearly marked.
- Attach Proof of Legal Name.** If applicant is **not** an individual or municipality, provide a copy of Secretary of State's registration information (available at <http://icrs.informe.org/nei-sos-icrs/ICRS?MainPage=x>)
- Attach photos of the proposed site where activity will take place as outlined in PBR Sections checked above.**
- Attach** all other required submissions as outlined in the PBR Sections checked above.

I authorize staff of the Departments of Environmental Protection, Inland Fisheries & Wildlife, and Marine Resources to access the project site for the purpose of determining compliance with the rules. I also understand that **this permit is not valid until approved by the Department or 14 days after receipt by the Department, whichever is less.**

By signing this Notification Form, I represent that the project meets all applicability requirements and standards in the rule and that the applicant has sufficient title, right, or interest in the property where the activity takes place.

Signature of Agent or Applicant: <i>Peter B. Biegel (AGENT)</i>	Date: 2/4/13
---	--------------

**Keep a copy as a record of permit.** Send the form with attachments via certified mail or hand deliver to the Maine Dept. of Environmental Protection at the appropriate regional office listed below. The DEP will send a copy to the Town Office as evidence of the DEP's receipt of notification. No further authorization by DEP will be issued after receipt of notice. Permits are valid for two years. Work carried out in violation of any standard is subject to enforcement action.

- |  |   |   |   |
|--|---|---|---|
| AUGUSTA DEP<br>17 STATE HOUSE STATION<br>AUGUSTA, ME 04333-0017<br>(207)287-3901 | PORTLAND DEP<br>312 CANCO ROAD<br>PORTLAND, ME 04103<br>(207)822-6300 | BANGOR DEP<br>106 HOGAN ROAD<br>BANGOR, ME 04401<br>(207)941-4570 | PRESQUE ISLE DEP<br>1235 CENTRAL DRIVE<br>PRESQUE ISLE, ME 04769<br>(207)764-0477 |
|--|---|---|---|

OFFICE USE ONLY	Ck.# 1174	Date 2/5/13	Staff <i>JMD</i>	Staff	After Photos
PBR # 55579	FP \$70.00		Acc. Date 2/5/13	Def. Date	

JW

Infrastructure Financial Contribution Form  
Planning and Urban Development Department  
Planning Division



Amount \$ 7,500.00

City Account Number: 710-0000-236-98-00

Project Code: 1N1307

(This number can be obtained by calling Cathy Ricker, x8665)

Project Name: Old Barn Estates

Application ID #: 2012-584 (project ID)

Project Location: 1062 Ocean Avenue

Project Description: 16 Lot Subdivision

Funds intended for: Sidewalk and Curbing Construction (not waived by Planning Board on 2/26/13)

Applicant's Name: TPO Properties LLC (Tim O'Donovan)

Applicant's Address: 30 Ledgewood Drive, Falmouth, ME 04104

Expiration:

If funds are not expended or encumbered for the intended purpose by \_\_\_\_\_, funds, or any balance of remaining funds, shall be returned to contributor within six months of said date.

Funds shall be permanently retained by the City.

Other (describe in detail) \_\_\_\_\_

Form of Contribution:

Escrow Account

Cash Contribution *ck. 7616 211274573 605 0014858 dated 5-16-13*

Interest Disbursement: Interest on funds to be paid to contributor only if project is not commenced.

Terms of Draw Down of Funds: The City shall periodically draw down the funds via a payment requisition from Public Works, which form shall specify use of City Account # shown above.

Date of Form: May 7, 2013

Planner: *Jean Fraser*

- Attach the approval letter, condition of approval or other documentation of the required contribution. *other documentation attached JF.*
- One copy sent to the Applicant.

Electronic Distribution to: Peggy Axelsen, Michael Bobinsky, Michael Farmer, Kathi Earley, Betsy Beety, David Margolis-Pineo, Jeff Tarling, Alex Jaegerman, Barbara Barhydt, Phil DiPierro, Deb Marquis and Planner for project.



# PORTLAND MAINE

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**Planning & Urban Development Department**  
Jeff Levine, AICP, Director

**Planning Division**  
Alexander Jaegerman, FAICP, Director

May 20<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 LedgeWood Drive  
Falmouth, ME 04104

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)

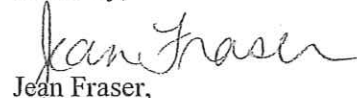
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Planner

**Attachment:** E-mail from Tom Errico dated 2.21.2013

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**Electronic Distribution:**

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Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Thomas Errico, P.E., TY Lin Associates

**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Jeff Tarling <JST@portlandmaine.gov>, "Earley, Katherine" <KAS@portlandmaine.gov>, Jeremiah Bartlett <JBartlett@portlandmaine.gov>  
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Current Status: Outstanding

New Comments

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If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
[T.Y. Lin International]T.Y. Lin International  
12 Northbrook Drive  
Falmouth, ME 04105  
207.347.4354 direct  
207.400.0719 mobile  
207.781.4753 fax  
thomas.errico@tylin.com<mailto:thomas.errico@tylin.com>  
Visit us online at www.tylin.com<http://www.tylin.com>

"One Vision, One Company"



## Jean Fraser - Old Barn Estates - Ocean Avenue Curb & Sidewalk

---

**From:** "Peter Biegel" <pbiegel@landdesignsolutions.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 4/29/2013 8:07 PM  
**Subject:** Old Barn Estates - Ocean Avenue Curb & Sidewalk  
**CC:** "Tim O'Donovan" <ocpminc@maine.rr.com>  
**Attachments:** Lot 14 Existing Drainage System Sketch.pdf

---

Hi Jean,

We spent the afternoon out on lot 14 with the engineer and site contractor trying to figure out a way to construct the curb and sidewalk across the front of lot 14 with the current elevations of the existing drainage system. There are 2 catch basins which are located at the end of Ledgewood drive which outlet via a very shallow pipe into a ditch in front (Ocean Avenue) of our lot. The pipe invert at the catch basin is also very shallow, making it very difficult to come up with a decent design solution for construction over this very shallow drain line. Please see the attached existing drainage system sketch.

We would like to request that we be allowed to make the \$7,500 sidewalk and curbing contribution as originally recommended in lieu of constructing the curb and sidewalk as proposed. Please let me know what we need to do to follow up on this request.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com

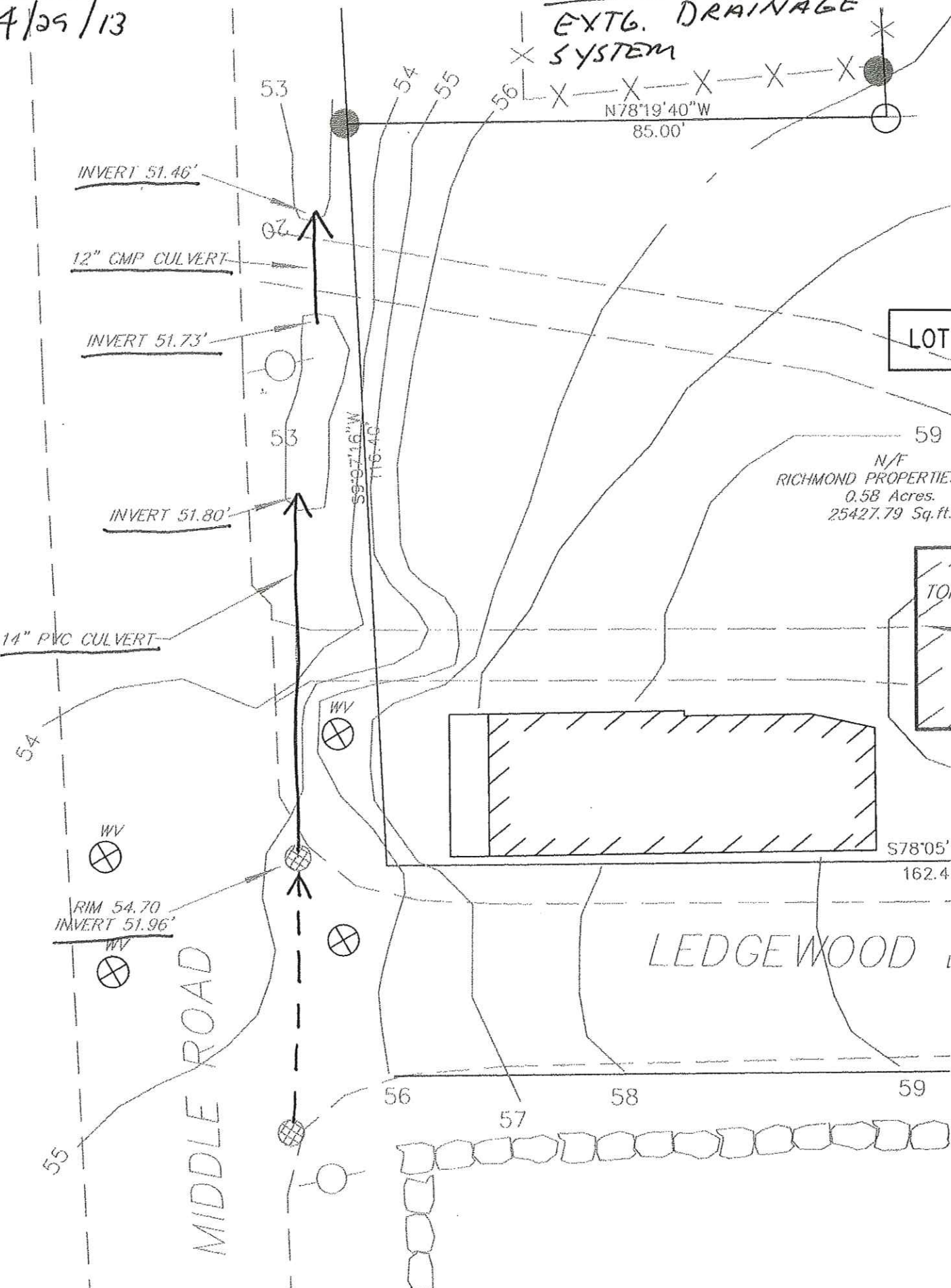
*This has been  
agreed by  
Planning Div,  
see letter 5-20-13*

OLD BARN ESTATES

Lot 14

4/25/13

EXTG. DRAINAGE SYSTEM



**TIMOTHY P. O'DONOVAN**  
REAL ESTATE ACCOUNT  
30 LEDGEWOOD DRIVE  
FALMOUTH, ME 04105

REMITTANCE ADVICE


52-7457-2112

7616



PAY *Seven Hudson Drive*

TO THE ORDER OF

DESCRIPTION

CHECK NO.

DOLLARS

CHECK AMOUNT



DATE *5/14/13*

*City of Portland*

*Sidewalk Fee - Ocean Ave. Land*

*7616*

\$ *7,500.*

**Gorham**  
SAVINGS BANK

*T.P. O'Donovan*

⑈007616⑈ ⑆211274573⑆ 605 0014858⑈

## Jean Fraser - RE: Old Barn Estates - Plan Sets & Trail Details

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 4/17/2013 2:41 PM  
**Subject:** RE: Old Barn Estates - Plan Sets & Trail Details  
**CC:** O'Donovan', 'Tim'

---

Peter

We discussed these proposals at the Development Review meeting this morning.

We would like the surface material between the ROW and the top of the steps to be 3/8" stone dust to better avoid erosion and stand up to bike use.

We also are concerned that this number of steps is not very usable or welcoming to a cyclist (and the plan confirms this is a pedestrian and bicycle walkway) and would like to see something that allows a cyclist to more easily negotiate the grade change (ie a sloped walkway, or a series of shallower steps, or steps as proposed with a switch-back ramp). This would also benefit someone walking with a child stroller. Also, what is at the sides of the timber steps?

Regarding the sign, I am not familiar with the signs the FLT have elsewhere but I would have thought it should say "public trail" (not walkway) and that there should also be a smaller notice stating that "motorized vehicles of any kind are not allowed" since we know there is a ATV problem in this area.

Could you also please mark (& refer to) the boundary of the easement on the plan.

thank you  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 4/17/2013 7:53 AM >>>  
Hi Jean,

That sounds good.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect

Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Tuesday, April 16, 2013 4:52 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Plan Sets & Trail Details

Peter

I hope to get a sign off at our Development Review meeting tomorrow morning.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/16/2013 4:06 PM >>>  
Hi Jean,

Any word on the approval of the trail details?

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Friday, April 12, 2013 9:50 AM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Plan Sets & Trail Details

Peter

We need to review and approve the trail details so just send a pdf of that before printing all the plan sets- I don't want to pre-empt my colleagues review role.

Thanks  
Jean

PS Re the \$2500, I wrote another e-mail on Wed saying that could wait until later.

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/12/2013 9:17 AM >>>

Hi Jean,

We have completed the trail details and am in the process of copying the plans. I should have the 7 plan sets including trail details to you around noon today.

Thank you,  
Peter

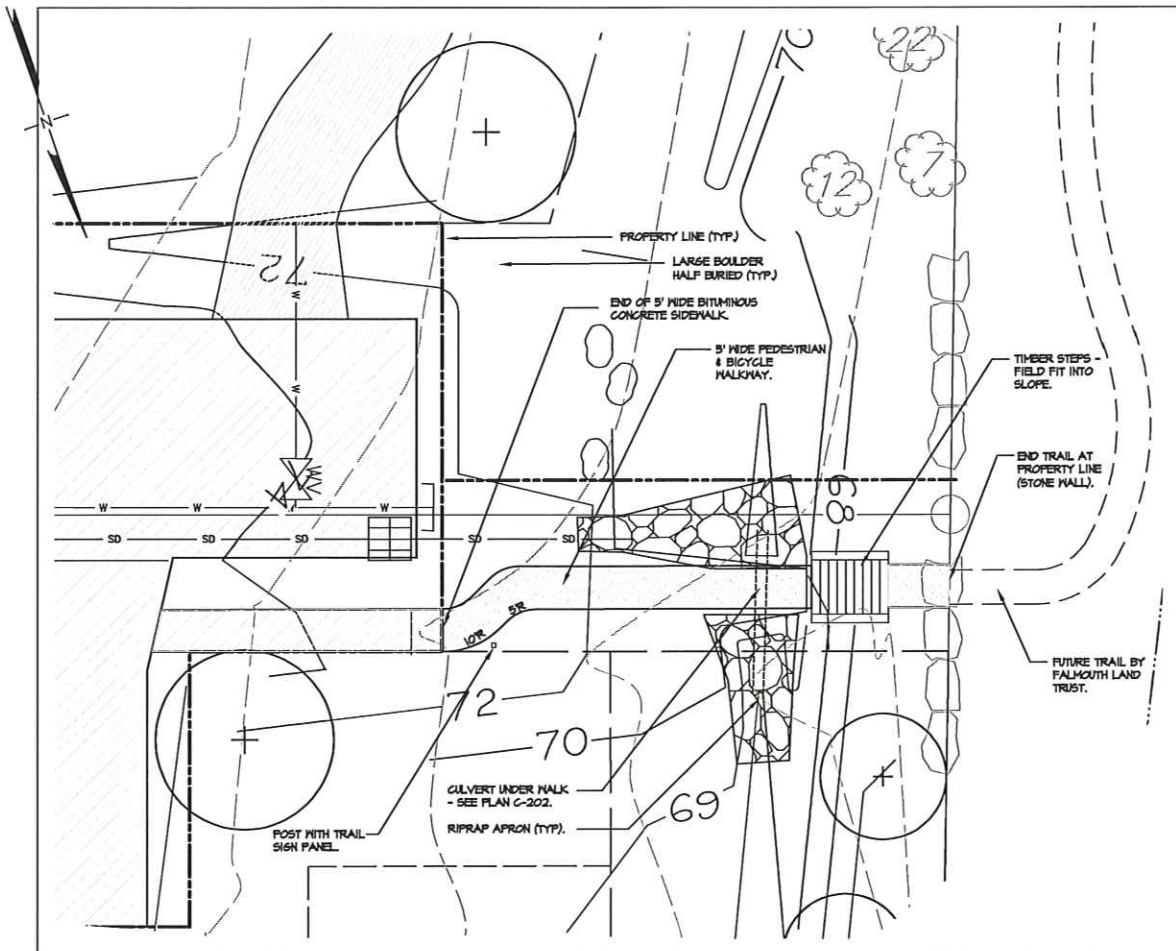
Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717

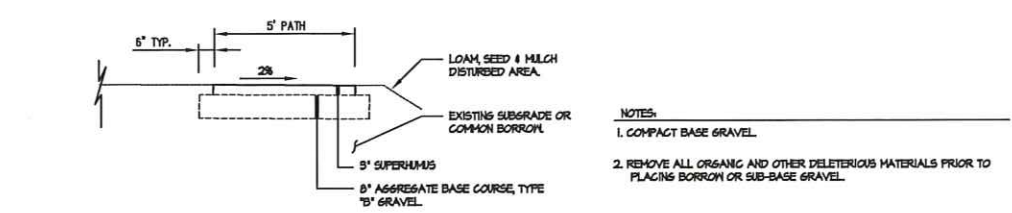
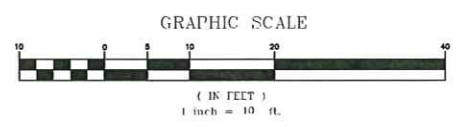
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

for signoff 4-17-13  
few revs,

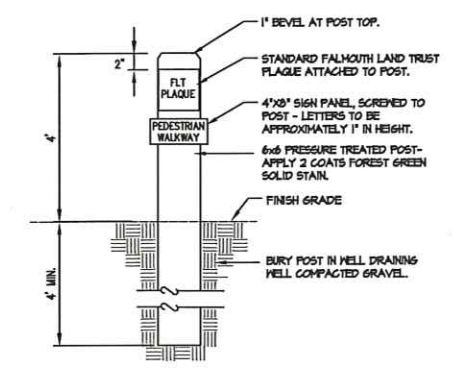


PEDESTRIAN WALKWAY ENLARGEMENT

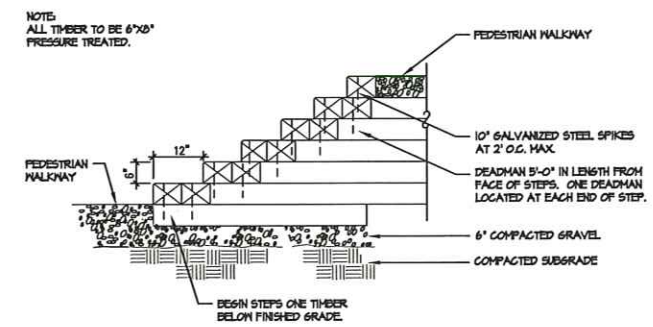


- NOTES:  
1. COMPACT BASE GRAVEL.  
2. REMOVE ALL ORGANIC AND OTHER DELETERIOUS MATERIALS PRIOR TO PLACING BORROW OR SUB-BASE GRAVEL.

1 PEDESTRIAN WALKWAY



2 SIGNAGE  
SCALE: N.T.S.



3 TIMBER STEPS (FIELD FIT AS REQUIRED)  
SCALE: -

3/8 stone dust  
chg level  
cyclable

Drawing Name: C:\D:\Drawings\Drawings\Main\1704.dwg / Date: 4/11/13 / 8:29 AM

REV.	DATE	STATUS	BY	CHKD.	APPD.	REV.	DATE	STATUS	BY	CHKD.	APPD.
A	4/11/13	ISSUED PER CITY OF PORTLAND CONDITION OF APPROVAL	DEPT.	PBB	PBB						



**LAND DESIGN SOLUTIONS**  
LAND PLANNING, SITE PLANNING & LANDSCAPE ARCHITECTURE  
P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081 1st(201) 434-1717  
CLIENT: **TPO PROPERTIES, LLC**  
30 LEDGEWOOD DRIVE, FALMOUTH, MAINE 04104

DESIGN: PBB  
DRAWN: DEPT.  
CHKD: PBB  
DATE: MAY 2012  
SCALE: AS NOTED

**OLD BARN ESTATES**  
1062 OCEAN AVENUE, PORTLAND, MAINE  
**PEDESTRIAN WALKWAY SKETCH**  
PROJ. NO. -  
DWG. NO. SKC-1  
REV. A

## Jean Fraser - Re: Addressing for approved subdivision - 1062 Ocean

---

**From:** Michelle Sweeney  
**To:** Jean Fraser  
**Date:** 3/11/2013 8:21 AM  
**Subject:** Re: Addressing for approved subdivision - 1062 Ocean

---

Hi Jean,

Here are the addresses for Ice Pond Dr.

Lot 1 = #12  
Lot 2 = #18  
Lot 3 = #22  
Lot 4 = #26  
Lot 5 = #32  
Lot 6 = #42  
Lot 7 = #50  
Lot 8 = #60  
Lot 9 = #55  
Lot 10 = #45  
Lot 11 = #37  
Lot 12 = #19

*for new lots  
info given to  
developer as March  
w/ paper copy  
in May 2013*

Michelle

>>> Jean Fraser 3/5/2013 2:08 PM >>>  
Wonderful- thank you!

>>> Michelle Sweeney 3/5/2013 1:40 PM >>>  
I will have it ready within a week.

>>> Jean Fraser 3/4/2013 3:03 PM >>>  
Michelle

You may recall we met to discuss this with the Fire Dept and various other DPS staff because it raised some questions re emergency access and addressing.

The project has just been approved by Portland Planning Board and will be going to Falmouth on April 2 with a start on site soon after that. The applicant would like to confirm the correct E-911 addresses and put them on the Plat by **March 22** so that they are confirmed/recorded before he markets the lots for development of single family homes.

New addresses are only needed for the 12 new single family lots within Portland ie Lots 1-12- see almost-final plat attached (the boundaries of the lots are not entirely clear).

(Lot #13 is already a house in Falmouth and its driveway and address will remain unchanged;  
Lot #14 is to be partially redeveloped; its in Portland and retain its 1062 Ocean Ave address;  
Lot #15 is in Falmouth and will be open space/stormwater detention owned and maintained by the



Signed Plat is in vault  
in cabinet for signed

Plats -

Not to be released for  
reording as several behind +  
Falmouth conditions not  
yet completed with

# Town of Falmouth, Maine

**Falmouth Planning Board  
Conditions of Approval  
TPO Properties, LLC – Final Subdivision Approval  
Old Barn Estates Subdivision  
14 lots (2 existing house lots and 12 new house lots)  
Ice Pond Drive  
April 2, 2013**

1. The development is to be constructed in accordance with the plans, maps, diagrams, specifications, textual submissions, and testimony presented by the applicant and approved by the Board.
2. The Planning Board approves a waiver from the Appendix 5(E)2 requirement for a full traffic study. In granting the waiver, the Board considered the opinion of Town's traffic engineer peer reviewer who stated that no safety problems were identified in the vicinity of the project and that the low levels of traffic generated by the project would not be expected to create any traffic operational problems.
3. Prior to release of the recording mylar and prior to commencing construction/site disturbance:
  - a. The developer shall submit a performance guarantee, in a form and an amount acceptable to the Town, to cover the cost of all site improvements located within the Town of Falmouth.
  - b. All homeowners and legal documents shall be reviewed and approved by the Town Attorney.
4. Prior to commencing site disturbance and issuance of building permits:
  - a. The applicant shall pay the required subdivision inspection fee.
  - b. Erosion & sedimentation control measures shall be installed to the satisfaction of the Town.
  - c. The boundaries of buffer areas shall be marked on site with snow fencing or equivalent measures and approved by the Town.
  - d. A street name sign for Ice Pond Drive shall be installed.
  - e. All easements referenced in Condition 3.b above shall be recorded at the Registry of Deeds.
5. Prior to issuance of certificates of occupancy, the applicant shall provide documentation from a professional land surveyor that all required monumentation has been located on the ground and installed consistent with the requirements of the Subdivision Ordinance.
6. The applicant shall coordinate the installation of the proposed improvements within the Ledgewood Drive right-of-way with the Department of Parks and Public Works prior to installation of said improvements.

## Jean Fraser - Fwd: RE: Old Barn Estates - Plan Sets & Trail Details

---

**From:** Jean Fraser  
**To:** Errico, Thomas; Margolis-Pineo, David; Tarling, Jeff  
**Date:** 4/12/2013 11:10 AM  
**Subject:** Fwd: RE: Old Barn Estates - Plan Sets & Trail Details  
**CC:** DSenus@woodardcurran.com; DiPierro, Philip; Schmuckal, Marge  
**Attachments:** SKC-1 Pedestrian Walkway Sketch.pdf; approved Easement Falmouth Land Trust.doc

---

Hi

This has been submitted pursuant to the following subdivision approval condition (relevant section in *italics*):

- v. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, *and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.*

This trail is subject to the easement (already approved by Danielle) that I have attached and would be maintained by the Falmouth Land Trust.

Please send confirmation of sign off re the trail details (or comments, as appropriate) urgently (so they can send in the 7 sets of final plans and I can release the plat).

Thank you  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 4/12/2013 10:00 AM >>>  
Hi Jean,

SKC-1 is attached for your review.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com



EASEMENT DEED

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **FALMOUTH LAND TRUST**, a Maine Nonprofit Corporation having a mailing address of P.O. Box 586, Portland, Maine 04112, its successors and assigns:

The following trail easement as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/19/13, and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_ (the "Plan"), to which plan reference is hereby made for a more particular description and location of the easement herein described.

The perpetual easement and right over and across that portion of lot 9 as shown on said plan for use by the public for walking, running, cross country skiing, snowshoeing and mountain biking. Except for occasional and specifically authorized trail maintenance activities, no motorized vehicles of any kind, including but not limited to recreational vehicles, all-terrain vehicles, motorcycles, dirt bikes, and snowmobiles shall be permitted on the property.

The right to install and maintain two signs not exceeding \_\_\_\_\_square feet at the Ice Pond Drive intersection with Ledgewood Drive and within the easement area as shown on said Plan.

Following construction of the trail easement the Grantee shall be solely responsible for its maintenance, repair and replacement including any wooden steps installed by the Grantor.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this \_\_\_\_\_ day of March, 2013.

TPO Properties, LLC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

March \_\_\_\_\_, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

\_\_\_\_\_  
Notary Public/Attorney at Law

## Jean Fraser - Fwd: Re: FW: Receipt for Old Barn Estates project-Stewardship Donation

---

**From:** Jean Fraser  
**To:** Peter Biegel  
**Date:** 4/10/2013 4:29 PM  
**Subject:** Fwd: Re: FW: Receipt for Old Barn Estates project-Stewardship Donation  
**CC:** 'Tim O'Donovan'

---

Peter

I have just heard that we can wait until the release of the performance guarantee to confirm whether or not this \$2500 has been paid or get confirmation that the trail work has been completed- on Friday (since I am out of the office tomorrow) I will put that in a letter and copy to Phil so it can be followed up in the future. So its just the trail details that are needed.

Thanks  
Jean

>>> Jean Fraser 4/10/2013 3:39 PM >>>  
Peter

Thank you for this.

As I mentioned to Tim on Monday when he delivered the plats, the condition anticipates that there would also be a receipt for the \$2500 for the trail work. I understand that the FLT don't want it paid now- could you get a letter or e-mail from the Falmouth land Trust saying that and explaining why?

The condition states:

*That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.*

We are exploring with our Legal Department a way of securing that payment if its delayed to after the plat is released- I am sure there's a mechanism but first we need to better understand why the \$2500 cannot be paid now.

Also I understand that you are preparing a plan with details of the trail- given that next week is a school vacation week, it would be good to get that to us asap (having said that, I am out of the office tomorrow but in on Friday).

Thank you  
Jean

## Jean Fraser - RE: Signing of plats

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 4/10/2013 3:46 PM  
**Subject:** RE: Signing of plats  
**CC:** O'Donovan', 'Tim  
**Attachments:** C-101 Lot Development and Landscape Plan.pdf

---

Peter

(finally) I have obtained a sign off in respect of the hydrants and street lights as shown on the attached plan.

We noticed that the fire hydrant might impact the wiring/conduits for the light, so Chris Pirone (Fire Dept) said that the hydrant could be moved a little bit towards Ledgewood Drive if necessary to avoid that conflict.

Could you please get 3 (of the required 7) copies of the final plan set (paper, at scale) to me asap once you include the trail details (or send all 7) so I can give Phil one so he can review the cost estimate for the performance guarantee and I can give one to Inspections so that they can review the Building Permit (Site alterations only with standard fee) in due course.

thank you  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 3/26/2013 11:17 AM >>>  
[Hi Jean,](#)

[I have attached PDF's of the revised plans we discussed on the phone this morning.](#)

- [Subdivision Recording Plan 1 recording plan 1 of 2 – easement and survey note revisions.](#)
  
- [S-101 Subdivision Plan recording plan 2 of 2 – various note additions and revisions. Legend change with Feno markers for stormwater buffers, tree saves and wetland setbacks.](#)
  
- [C-101 Lot Development and Landscape Plan – shows additional light, additional fire hydrant and pedestrian crosswalk signs relocated.](#)

Thank you,  
Peter



Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [mailto:[JF@portlandmaine.gov](mailto:JF@portlandmaine.gov)]  
**Sent:** Friday, March 22, 2013 2:52 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Signing of plats

Peter

I just want to ensure that you are aware that the signed plats would not be released for recording (and the building permit could not be issued) until all of the conditions are met (including revisions to plans and the 7-8 paper scaled copies of approved plan sets), including the reviews and approvals as mentioned in the conditions.

So if you want to start on this project soon after the Falmouth approval, maybe this extra time could be used to address any outstanding conditions. If I get plans/docs on tuesday, I can usually run them by reviewers at the regular Wed AM development review meetings.

thank you  
Jean

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## Jean Fraser - Re: FW: Receipt for Old Barn Estates project-Stewardship Donation

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 4/10/2013 3:39 PM  
**Subject:** Re: FW: Receipt for Old Barn Estates project-Stewardship Donation  
**CC:** O'Donovan', 'Tim'

---

Peter

Thank you for this.

As I mentioned to Tim on Monday when he delivered the plats, the condition anticipates that there would also be a receipt for the \$2500 for the trail work. I understand that the FLT don't want it paid now- could you get a letter or e-mail from the Falmouth land Trust saying that and explaining why?

The condition states:

*That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.*

We are exploring with our Legal Department a way of securing that payment if its delayed to after the plat is released- I am sure there's a mechanism but first we need to better understand why the \$2500 cannot be paid now.

Also I understand that you are preparing a plan with details of the trail- given that next week is a school vacation week, it would be good to get that to us asap (having said that, I am out of the office tomorrow but in on Friday).

Thank you  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 4/9/2013 1:42 PM >>>  
[Hi Jean,](#)

[Please see the email below from the Falmouth Land Trust confirming receipt of the \\$1,500 stewardship fee. I am assuming this will suffice as evidence that TPO Properties has made payment per the City of Portland Conditions of Approval.](#)

[Thank you,](#)  
[Peter](#)

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
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P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** analiese larson [<mailto:info@falmouthlandtrust.org>]  
**Sent:** Tuesday, April 09, 2013 1:20 PM  
**To:** 'Peter Biegel'; 'Jed Harris'  
**Cc:** 'Tim O'Donovan'  
**Subject:** Receipt for Old Barn Estates project-Stewardship Donation

Good Afternoon Peter,

The Falmouth Land Trust is in receipt of your \$1500.00 stewardship donation for the Old Barn Estates project.

Please do not hesitate to contact us if you need further information.

Best,

Analiese Larson  
Executive Director  
Falmouth Land Trust  
PO Box 6172  
Falmouth ME 04105  
[info@falmouthlandtrust.org](mailto:info@falmouthlandtrust.org)

Re: \$1500.00 stewardship donation, check number 7583, dated April 5, 2013

## Jean Fraser - RE: Old Barn Estates Performance Guarantee - Cost Estimate

---

**From:** Harold Mason <hmason@town.falmouth.me.us>  
**To:** 'Peter Biegel' <pbiegel@landdesignsolutions.com>, 'Jean Fraser' <JF@port...>  
**Date:** 4/30/2013 1:14 PM  
**Subject:** RE: Old Barn Estates Performance Guarantee - Cost Estimate  
**CC:** 'Tim O'Donovan' <ocpminc@maine.rr.com>

---

Peter, I am fine with this cost estimate.

---

**From:** Peter Biegel [mailto:pbiegel@landdesignsolutions.com]  
**Sent:** Monday, April 29, 2013 7:43 PM  
**To:** 'Jean Fraser'; Ethan Croce; Harold Mason  
**Cc:** 'Tim O'Donovan'  
**Subject:** Old Barn Estates Performance Guarantee - Cost Estimate

Hi Jean, Ethan and Jamie,

I have attached a cost estimate prepared by Chase Excavating for the Old Barn Estates Project. Tim has already delivered a copy to Phil DiPierro.

The cost for the components located in Falmouth has been broken out on page 3 (last page).

Please let me know if you have any questions or need additional information.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

## Jean Fraser - Old Barn Estates - Ocean Avenue Curb & Sidewalk

---

**From:** "Peter Biegel" <pbiegel@landdesignsolutions.com>  
**To:** "Jean Fraser" <JF@portlandmaine.gov>  
**Date:** 4/29/2013 8:07 PM  
**Subject:** Old Barn Estates - Ocean Avenue Curb & Sidewalk  
**CC:** "Tim O'Donovan" <ocpminc@maine.rr.com>  
**Attachments:** Lot 14 Existing Drainage System Sketch.pdf

---

Hi Jean,

We spent the afternoon out on lot 14 with the engineer and site contractor trying to figure out a way to construct the curb and sidewalk across the front of lot 14 with the current elevations of the existing drainage system. There are 2 catch basins which are located at the end of Ledgewood drive which outlet via a very shallow pipe into a ditch in front (Ocean Avenue) of our lot. The pipe invert at the catch basin is also very shallow, making it very difficult to come up with a decent design solution for construction over this very shallow drain line. Please see the attached existing drainage system sketch.

We would like to request that we be allowed to make the \$7,500 sidewalk and curbing contribution as originally recommended in lieu of constructing the curb and sidewalk as proposed. Please let me know what we need to do to follow up on this request.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
 Maine Licensed Landscape Architect  
 Land Design Solutions  
 P.O. Box 316  
 160 Longwoods Road  
 Cumberland, ME 04021

tel: (207) 939-1717  
 email: pbiegel@landdesignsolutions.com

TE OK in principle  
 DM-P to ck & audit  
 & confirm OK

DM-P called me on  
 5/2 & confirmed  
 \$7500 OK - was  
 what TE had  
 advised.

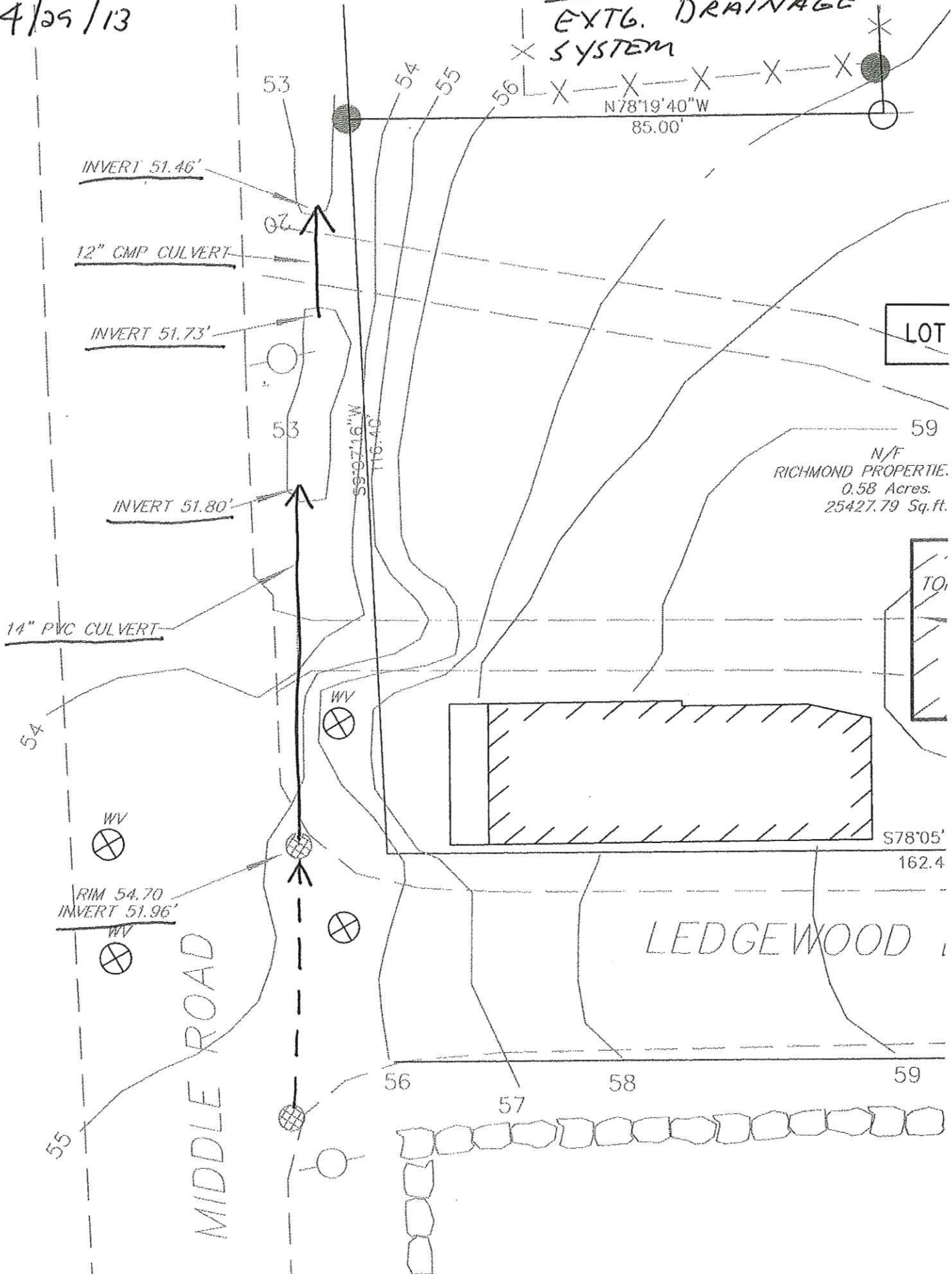
5-3-13 - sent DW-C email  
 re how to have Plat  
 address this,

OLD BARN ESTATES

LOT 14

4/29/13

EXTG. DRAINAGE SYSTEM



LOT

TO

59  
N/F  
RICHMOND PROPERTIES  
0.58 Acres  
25427.79 Sq. ft.

LEDGEWOOD

INVERT 51.46'

12" CMP CULVERT

INVERT 51.73'

INVERT 51.80'

14" PVC CULVERT

RIM 54.70  
INVERT 51.96'

MIDDLE ROAD

N78°19'40"W  
85.00'

S89°07'16"W  
116.40'

S78°05'  
162.4

## Jean Fraser - Re: Urgent issue re 1062 Ocean (Old Barn Estates Subdiv on Falmouth boundary)

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 5/3/2013 4:17 PM  
**Subject:** Re: Urgent issue re 1062 Ocean (Old Barn Estates Subdiv on Falmouth boundary)  
**CC:** Barbara Barhydt; Philip DiPierro

---

I think this is a policy/departmental question(s) (and an applicant question) more than a legal question(s), but I will weigh in:

As you stated you need to determine whether (under section 14-496(c)) the alterations proposed "affect" the street. So, if the sidewalk and curbs on the lot in question affect the street then I think that it has to go to the Planning Board. If not, then it can be approved by the Planning Authority.

With regard to the recording question, I think the applicant should decide how it wants to proceed - it could record the signed plat and then move forward with the revisions (and the revised plat would then refer to the original plat) or just file a request for the amendments and then record the amended plat at the registry.

Thanks,

Danielle

>>> Jean Fraser 5/3/2013 12:01 PM >>>  
 Danielle

Please advise on how best to deal with this:

Plats (2 sheets) re this project have been signed by the PB but not recorded (will be recorded soon- just waiting for Performance Guarantee to be finalized and posted as applicant wants to start on site in June). They need to record the plats within 2-3 weeks to ensure the waivers are recorded within 90 days of approval (2.26.13 was the Portland PB approval date).

Sheet 2 of the Plat (S-101) contains 2 notes re construction of the curbing and sidewalk for lot #14 (see first attachment- other sheet does not mention it and is included so you can see both sheets of the signed plat):

- (Arrow pointing to frontage of Lot #14) "*Construct curb and sidewalk both sides of driveway. See note #19.*"
- Note #19 states: "*All single family homes constructed on Lots 1 through 12 and Lot 14 require single-family site plan/building permit review by the City of Portland only, prior to any work starting on site. The installation of the sidewalks and curbs shown on Lot #14 shall be implemented as part of the overall subdivision infrastructure at the same time as Ice Pond Drive is constructed, and prior to its installation the sidewalk and curbing construction details for Lot #14 shall be submitted and approved by the Portland DPS.*"

Recently the applicant has sent a detailed explanation (following a site visit intended to allow plans to be drawn) of why the site conditions (pipes and drainage too near the surface) make it impossible for them to construct the curbs and sidewalk along Lot #14 frontage. They have offered to make a \$7500 infrastructure contribution instead (as staff had suggested during the review because staff thought it might be better to have the sidewalk

## Jean Fraser - Urgent issue re 1062 Ocean (Old Barn Estates Subdiv on Falmouth boundary)

---

**From:** Jean Fraser  
**To:** West-Chuhta, Danielle  
**Date:** 5/3/2013 12:01 PM  
**Subject:** Urgent issue re 1062 Ocean (Old Barn Estates Subdiv on Falmouth boundary)  
**CC:** Barhydt, Barbara; DiPierro, Philip  
**Attachments:** S-101 Subdivision Plan recording plan 2 of 2.pdf; Subdivision Plan 1 recording plan 1 of 2.pdf

---

Danielle

Please advise on how best to deal with this:

Plats (2 sheets) re this project have been signed by the PB but not recorded (will be recorded soon- just waiting for Performance Guarantee to be finalized and posted as applicant wants to start on site in June). They need to record the plats within 2-3 weeks to ensure the waivers are recorded within 90 days of approval (2.26.13 was the Portland PB approval date).

Sheet 2 of the Plat (S-101) contains 2 notes re construction of the curbing and sidewalk for lot #14 (see first attachment- other sheet does not mention it and is included so you can see both sheets of the signed plat):

- (Arrow pointing to frontage of Lot #14) "*Construct curb and sidewalk both sides of driveway. See note #19.*"
- Note #19 states: "*All single family homes constructed on Lots 1 through 12 and Lot 14 require single-family site plan/building permit review by the City of Portland only, prior to any work starting on site. The installation of the sidewalks and curbs shown on Lot #14 shall be implemented as part of the overall subdivision infrastructure at the same time as Ice Pond Drive is constructed, and prior to its installation the sidewalk and curbing construction details for Lot #14 shall be submitted and approved by the Portland DPS.*"

Recently the applicant has sent a detailed explanation (following a site visit intended to allow plans to be drawn) of why the site conditions (pipes and drainage too near the surface) make it impossible for them to construct the curbs and sidewalk along Lot #14 frontage. They have offered to make a \$7500 infrastructure contribution instead (as staff had suggested during the review because staff thought it might be better to have the sidewalk on the other side of Ocean).

DPS are OK with the \$7500 contribution in lieu of construction of the curb and sidewalk along Lot #14 - and we have the mechanism in place to accept it as an infrastructure contribution.

So the questions are:

1. To allow the substitution of the \$7500 payment, does the plat need to be revised in view of the notes on S-101 (reword note and part of note #19 to confirm \$7500 contributed in lieu of curb and sidewalk)?
2. If so, should S-101 (now already signed by the Planning Board) be recorded as is along with the first sheet; and then should we arrange for a revised S-101 to be signed by our Director Jeff Levine? (Ordinance section 14-496 (c) guides re amendments to plats and I am not sure if no 2 of that section would be an issue requiring it to go



back to the PB).

3. If you think it needs to go back to the Board, which would be best:

- Record the already signed plats which have matching signatures, then take only revised S-101 back to the Board; or
- Not record either of the sheets of the signed plat and take both back (one as revised) to the Board so have matching signatures?

4. If one or both plats (S-101 being revised) have to go back to the Board, could I just take them for signing, or would the revision to S-101 need another PB Report and vote- or maybe a PB Communication??

Barbara may want to weigh in on this before you make a final determination.

thank you

Jean

Please consider the environment before printing.



## Jean Fraser - Fwd: RE: Old Barn Estates - Plan Sets & Trail Details

---

**From:** Jean Fraser  
**To:** DSenus@woodardcurran.com; DiPierro, Philip; Errico, Thomas; Margolis-...  
**Date:** 4/19/2013 2:48 PM  
**Subject:** Fwd: RE: Old Barn Estates - Plan Sets & Trail Details  
**Attachments:** SKC-1 Pedestrian Walkway Sketch rev B.pdf

---

Hi

We discussed this on Wed this week and I forwarded your comments (and sent you copies)- key issues were the surface material and that they be more cycle-friendly.

Please see the revised proposals attached (steps now with 6" riser and 2' tread).

Need sign off or comments please.

Thanks  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/19/2013 12:19 PM >>>  
[Hi Jean,](#)

[I have attached a revised plan for your review. I have responded to your comments below in red. Please let me know if you have additional comments or require additional information.](#)

Thank you,  
Peter

[Peter Biegel, ASLA, LEED AP](#)  
[Maine Licensed Landscape Architect](#)  
[Land Design Solutions](#)  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 17, 2013 2:42 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Plan Sets & Trail Details

Peter

We discussed these proposals at the Development Review meeting this morning.

We would like the surface material between the ROW and the top of the steps to be 3/8" stone dust to better avoid erosion and stand up to bike use. **We have revised the public trail surface to 3/8" stone dust per your direction.**

We also are concerned that this number of steps is not very usable or welcoming to a cyclist (and the plan confirms this is a pedestrian and bicycle walkway) and would like to see something that allows a cyclist to more easily negotiate the grade change (ie a sloped walkway, or a series of shallower steps, or steps as proposed with a switch-back ramp). This would also benefit someone walking with a child stroller. Also, what is at the sides of the timber steps? **We have revised the timber steps to different style which has allows for a 2' wide tread (8" timber & 16" crushed stone).**

Regarding the sign, I am not familiar with the signs the FLT have elsewhere but I would have thought it should say "public trail" (not walkway) and that there should also be a smaller notice stating that "motorized vehicles of any kind are not allowed" since we know there is a ATV problem in this area. **We have revised the sign to read "Public Trail" and have added a "No Motorized Vehicles" sign.**

Could you also please mark (& refer to) the boundary of the easement on the plan. **We have labeled the easement on the plan.**

thank you  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/17/2013 7:53 AM >>>  
Hi Jean,

That sounds good.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
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160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Tuesday, April 16, 2013 4:52 PM

**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Plan Sets & Trail Details

Peter

I hope to get a sign off at our Development Review meeting tomorrow morning.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/16/2013 4:06 PM >>>  
Hi Jean,

Any word on the approval of the trail details?

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
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Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Friday, April 12, 2013 9:50 AM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Plan Sets & Trail Details

Peter

We need to review and approve the trail details so just send a pdf of that before printing all the plan sets- I don't want to pre-empt my colleagues review role.

Thanks  
Jean

PS Re the \$2500, I wrote another e-mail on Wed saying that could wait until later.

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/12/2013 9:17 AM >>>  
Hi Jean,

We have completed the trail details and am in the process of copying the plans. I should have the 7 plan sets including trail details to you around noon today.

Thank you,

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

# Land Design Solutions

Land Planning, Site Planning and Landscape Architecture

April 25, 2013

Ms. Jean Fraser  
Portland Planning Department  
Planning Division  
389 Congress Street  
Portland, ME 04101

**RE: Old Barn Estates - Proposed Residential Subdivision  
1062 Ocean Avenue & Ledgewood Drive  
Final Plan Sets & Pedestrian Walkway Details**

Dear Jean,

We have prepared the following 8 sets of plans as required by the City of Portland. Please note we have added SKC-1 Pedestrian Walkway Sketch which shows an enlargement of the pedestrian walkway and associated details.

**Plan Set**

Cover Sheet  
Subdivision Plat Plan (recording plan 1 of 2) rev. 4  
S-101 Subdivision Plan (recording plan 2 of 2) rev. H  
C-101 Lot Development and Landscape Plan rev. F  
C-201 Grading, Drainage and Erosion Control Plan rev. E  
C-202 Profile Plan rev. E  
C-300 Erosion and Sedimentation Control Notes and Details rev. E  
C-301 Site Details rev. D  
C-302 Site Details rev. E  
C-303 Site Details rev. E  
C-304 Site Details rev. C  
SKC-1 Pedestrian Walkway Sketch rev. B

Sincerely,



Peter B. Biegel, RLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions



## Jean Fraser - Re: Old Barn Estates

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**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 4/10/2013 3:00 PM  
**Subject:** Re: Old Barn Estates  
**CC:** Barbara Barhydt

---

In my opinion the condition has been met as a result of the terms of the letter and the seen and agreed to line on the letter - and the subdivision plat could be released. You may want to hold back on the release of the performance guarantee until the improvements have been completed or the fees have been paid to the FLT.

Thanks,

Danielle

>>> Jean Fraser 4/10/2013 2:33 PM >>>  
Danielle

Re Barbara's voice mail of today, the condition reads:

*That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.*

And the Agreement with Falmouth Land Trust is attached.

Jean

## Jean Fraser - Question re compliance- Receipt for Old Barn Estates project- Stewardship Donation

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**From:** Jean Fraser  
**To:** Barhydt, Barbara  
**Date:** 4/9/2013 3:25 PM  
**Subject:** Question re compliance- Receipt for Old Barn Estates project-Stewardship Donation  
**Attachments:** Signed FLT Proposal 022013.pdf

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Barbara

(Note: the 2 sets of plats (already signed by Falmouth) will be in room 209 by your place and I would appreciate it if you could get the Board to sign these at tonight's meeting)

The financial piece of the agreement with Falmouth Land Trust re trails (see letter attached) was \$2500 for the cost of creating the trail and \$1500 as a one-off stewardship contribution.

When I saw Tim O'Donovan yesterday he was saying that the Falmouth Land Trust do not want him to pay for the work until nearer the time they are going to start the work- I think its because Portland Trails will be doing that work and this somehow confuses the funding. Tim said he hoped that seeing evidence of the stewardship money being paid was enough (reiterated by Peter below).

I'm not sure that just paying the \$1500 meets the requirements of the PB condition of approval, which reads:

- v. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both **prior to the release of the signed Subdivision Plat.**

I know the trail detail plans are being prepared for review and approval but the question is whether and how to secure the \$2500- could we take it as an infrastructure contribution and then turn it over to the Falmouth Land Trust/Portland Trails when they need it? other ideas?

Do you want to run this by Danielle?

Thanks  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 4/9/2013 1:42 PM >>>  
[Hi Jean,](#)

[Please see the email below from the Falmouth Land Trust confirming receipt of the \\$1,500 stewardship fee. I am assuming this will suffice as evidence that TPO Properties has made payment per the City of Portland Conditions of Approval.](#)

NO ?

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** analiese laron [mailto:[info@falmouthlandtrust.org](mailto:info@falmouthlandtrust.org)]  
**Sent:** Tuesday, April 09, 2013 1:20 PM  
**To:** 'Peter Biegel'; 'Jed Harris'  
**Cc:** 'Tim O'Donovan'  
**Subject:** Receipt for Old Barn Estates project-Stewardship Donation

Good Afternoon Peter,

The Falmouth Land Trust is in receipt of your \$1500.00 stewardship donation for the Old Barn Estates project.

Please do not hesitate to contact us if you need further information.

Best,

Analiese Larson  
Executive Director  
Falmouth Land Trust  
PO Box 6172  
Falmouth ME 04105  
[info@falmouthlandtrust.org](mailto:info@falmouthlandtrust.org)

Re: \$1500.00 stewardship donation, check number 7583, dated April 5, 2013

Conserve. Explore. Enjoy.



[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

February 20, 2013

Peter Biegel  
Land Design Solutions  
160 Longwoods Rd  
Cumberland, ME 04021

Tim O'Donovan  
TPO Properties  
Old Barn Estates  
Ledgewood Drive  
Falmouth, ME 04101  
VIA EMAIL

Peter and Tim,

The Falmouth Land Trust and Portland Trails are excited about the proposed connection between the Old Barn Estates and the Portland Trails Ocean Ave Dog park property via the Trust's Elms subdivision land. Thank you both for taking the time to meet with me as representative of the Trust and Jaime Parker from Portland Trails to discuss the project. This letter summarizes the various conversations to date and clearly defines responsibilities for the creation and maintenance of the proposed trail.

TPO Properties would like to create a pedestrian trail connection from the proposed Old Barn Estates subdivision located on Ledgewood Drive to the Ocean Ave Dog Park. The proposed trail location is shown in red on the attached document. Final trail placement on the adjacent Trust property will be determined in the field by representatives of the Falmouth Land Trust and Portland Trails. At the end of the paved subdivision road, TPO Properties will construct a trail or unpaved sidewalk within the development all the way to the property line (approx. 60' in length) where it will connect with the new trail on the Trust property. The entire trail will be open to the public for walking, running, cross country skiing, snowshoeing and mountain biking, however, motorized uses except for occasional and specific authorized trail maintenance activities will be prohibited.

Falmouth Land Trust working in cooperation with Portland Trails would construct the trail after TPO Properties receives final approvals, most likely in the summer of 2013. Based on the field walk the following trail improvements would be required for construction:

- Landscaping at both trail heads of the new trail
- Mowing and clearing for proposed trail
- Surface hardening (5 yards of crushed rock and 5 yards of superhumus)

Conserve. Explore. Enjoy.



[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

- Signage - wayfinding at: Ledgewood Dr., paved sidewalk end (trail head), along the trail and a kiosk at Ocean Ave Dog Park end.

The cost to create the proposed trail on the Trust property, including materials and labor, would be \$2500.00. FLT would require a 50% deposit to start work with the balance due within 30 days of completion. In addition TPO Properties would make a one-time stewardship donation to the Falmouth Land Trust of \$1500.00 upon trail completion. The stewardship fee covers reasonable maintenance of the length of the trail from the end of the road to the property line as well as the length extending to the Dog Park perimeter trail as shown in red on the attached document. All of the proposed work and associated expenses would not commence until TPO Properties received final approval for the project from the City of Portland and the Town of Falmouth. Once TPO Properties completes the trail section within the subdivision and pays the additional trail construction cost and the stewardship fee neither they, nor the homeowners association, would have any future responsibilities associated with the trail.

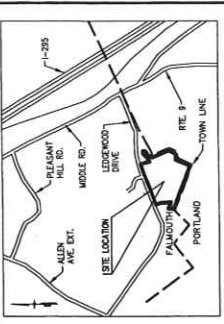
If the terms of this letter are agreeable please sign and return a copy to my attention. On behalf of the Land Trust we look forward to working with you on this great project.

Jed Harris  
President

Seen and Agreed

Tim O'Donovan  
TPO Properties

2/21/13  
Date



**LOCATION MAP**  
N.13

**PLAT PLAN NOTES:**

- THE APPLICANT IS THE LESSEES OF THE PROPERTY DESCRIBED AS THE PALMWOOD RESIDENTIAL SUBDIVISION, 50 LODGEWOOD DRIVE, FAIRBANKS, ALASKA, BY DEED IN BOOK 4400, PAGE 88 OF THE CHIEF AND CLERK'S OFFICE RECORDS.
- THE PROPERTY IS SHOWN AS LOTS 1-15 ON THE TOWN OF FAIRBANKS MAP R-14 AND IS LOCATED IN THE RESIDENTIAL "A" ZONE. THE TOWN OF FAIRBANKS HAS A ZONING AND SUBDIVISIONS DEPARTMENT DATED OCTOBER 14, 2004, BY TITUS ASSOCIATES, FAIRBANKS, ALASKA.
- RECORDS MAINTAINED BY A. N. COLLE ENGINEERING, INC. SHOWN 2004. VERTICAL CURVES MAY BE 2007 PER THE 2004 HANDBOOK.
- THE APPLICANT HAS INVESTIGATION PERFORMED BY A. N. COLLE ENGINEERING, INC. DATED 2006.
- THE APPLICANT HAS INVESTIGATION PERFORMED BY A. N. COLLE ENGINEERING, INC. DATED 2006.
- THE APPLICANT HAS INVESTIGATION PERFORMED BY A. N. COLLE ENGINEERING, INC. DATED 2006.

**OPEN SPACE AND EASEMENTS:**

- OPEN SPACE "A" - 10% AS SHOWN ON THE PLAN, HELD BY THE PALMWOOD CONSERVATION TRUST. RESERVING AN EASEMENT TO THE LESSEES OF THE LIMITED RESIDENTIAL HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION. THE TRAIL ON THIS SPACE A MAY BE FILLED BY THE FIELD FOR RESIDENTIAL AND RETICLE PACKAGE ONLY.
- OPEN SPACE "B" - 10% AS SHOWN ON THE PLAN, HELD BY THE PALMWOOD CONSERVATION TRUST. THE PARCEL IS INTENTIONALLY LEFT AS OPEN SPACE ON THE PLAN, RESERVING AN EASEMENT TO THE LESSEES OF THE LIMITED RESIDENTIAL HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION. THE TRAIL ON THIS SPACE B MAY BE FILLED BY THE FIELD FOR RESIDENTIAL AND RETICLE PACKAGE ONLY.
- OPEN SPACE "C" - 10% AS SHOWN ON THE PLAN, HELD BY THE PALMWOOD CONSERVATION TRUST. THE PARCEL IS INTENTIONALLY LEFT AS OPEN SPACE ON THE PLAN, RESERVING AN EASEMENT TO THE LESSEES OF THE LIMITED RESIDENTIAL HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION. THE TRAIL ON THIS SPACE C MAY BE FILLED BY THE FIELD FOR RESIDENTIAL AND RETICLE PACKAGE ONLY.
- OPEN SPACE "D" - 10% AS SHOWN ON THE PLAN, HELD BY THE PALMWOOD CONSERVATION TRUST. THE PARCEL IS INTENTIONALLY LEFT AS OPEN SPACE ON THE PLAN, RESERVING AN EASEMENT TO THE LESSEES OF THE LIMITED RESIDENTIAL HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION. THE TRAIL ON THIS SPACE D MAY BE FILLED BY THE FIELD FOR RESIDENTIAL AND RETICLE PACKAGE ONLY.

**LEGEND:**

EXISTING PROPOSED

PROPERTY LINE  
 BUILDING SETBACK  
 RIGHT-OF-WAY LINE  
 EASEMENT LINE  
 STREET CENTER  
 TOWN LINE

MONUMENT (IRON)  
 MONUMENT (STONE)  
 MONUMENT (CONCRETE)

5" W. REAR TO BE SET  
 6" W. FRONT TO BE SET  
 8" W. FRONT TO BE SET

STONEWALL  
 BUILDING  
 PAVEMENT  
 EDGE OF GRAVEL  
 DRAIN GULCH  
 WATERLINE  
 WETLANDS  
 WETLAND BUFFER  
 C.D. OR TREAD OF STREAM OR BROOK  
 STREAM SETBACK  
 100 YR. FLOOD  
 TRENCH

**DESIGN: PRB**  
**DATE: FEB. 2007**  
**SCALE: 1" = 80'**

**PROJECT: THE LESSEES' RESIDENTIAL SUBDIVISION**  
 50 LODGEWOOD DRIVE, FAIRBANKS, ALASKA, 04108

**DESIGNER: WTE**  
**CLIENT: PRB**

**SYTD Design CONSULTANTS**  
 CIVIL, MECHANICAL & ELECTRICAL ENGINEERS  
 387 NAVY COVE BLVD., GULF BREEZE, FL. 32561  
 (904) 241-1100  
 www.sytdesign.com

**STATE OF MAINE**  
 CHIEF CLERK OF COURTS  
 RECEIVED AT \_\_\_\_\_ HOURS \_\_\_\_\_ MIN \_\_\_\_\_ PM  
 AND RECORDED IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 ATTEST  
 SECRETARY

**PLANNING BOARD APPROVAL:** \_\_\_\_\_ DATE: \_\_\_\_\_  
**MEMBERS:** \_\_\_\_\_

REV.	DATE	BY	CHKD/APPD	STATUS
E	4/29/06	PRB	PRB	PRELIMINARY APPROVAL
D	10/07/07	PRB	PRB	SUBMITTED TO TOWN OF FAIRBANKS FOR FINAL SUBDIVISION APPROVAL
C	1/7/07	WTE	PRB	SUBMITTED TO TOWN OF FAIRBANKS FOR FINAL SUBDIVISION APPROVAL
B	6/25/07	WTE	PRB	REVISED FOR TOWN COMMENTS
A	5/29/07	WTE	PRB	SUBMITTED TO TOWN OF FAIRBANKS FOR PRELIMINARY APPROVAL

**ZONING SUMMARY:**

PARCEL SIZE = 24.8 ACRES (0.711831)  
 ZONE: RESIDENTIAL "A" DISTRICT (R-14)  
 USE: SINGLE FAMILY PERMITTED  
 DIMENSIONAL STANDARDS:

MINIMUM LOT FRONTAGE: 100 FT.  
 MINIMUM LOT WIDTH: 50 FT.  
 MINIMUM FRONT YARD SETBACK: 20 FT.  
 MINIMUM SIDE YARD SETBACK: 5 FT.  
 MINIMUM REAR YARD SETBACK: 5 FT.  
 MAXIMUM GROUND COVER: 50% FOR 300' RCP

**NET RESIDENTIAL DENSITY CALCULATIONS:**

TOTAL ACRES = 24.8  
 - WETLANDS & STREAM: 10.26 ACRES (0.21 ACRES)  
 - 100-YEAR FLOOD: 8.75 ACRES (0.28 ACRES)  
 - EXCESS OF 20% SLOPE: 10.31 ACRES (0.34 ACRES)  
 - ROADS (10%): 20.24 ACRES (0.84 ACRES)  
 - EASEMENTS: 41.24 ACRES (1.71 ACRES)  
 TOTAL: 114.24 ACRES (4.64 ACRES)

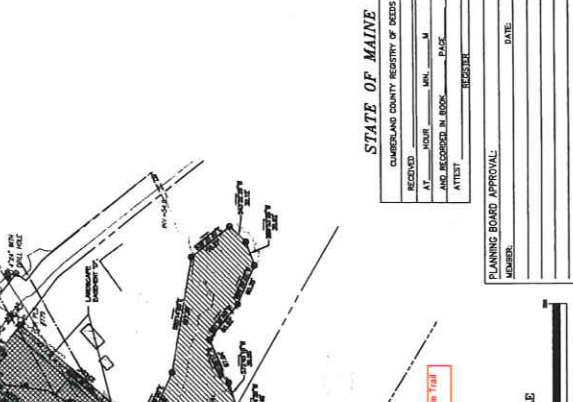
**24.8 ACRES = 104 ACRES (10.71 ACRES) + 36 LOTS ALLOWED**

**31.8 ACRES = 124 ACRES (12.71 ACRES) + 48 LOTS ALLOWED**

**OPEN SPACE PROVIDED (TOTAL) = 11.0 ACRES**

**EASEMENTS:**

- STORMWATER EASEMENT
- STORMWATER EASEMENT TO TOWN OF FAIRBANKS FOR STORMWATER CONVEYANCE
- EASEMENT "A" - MAINTENANCE AND DRAINAGE EASEMENT TO HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION FOR THE LIFE OF THE TRAIL ON THIS SPACE A.
- EASEMENT "B" - MAINTENANCE AND DRAINAGE EASEMENT TO HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION FOR THE LIFE OF THE TRAIL ON THIS SPACE B.
- EASEMENT "C" - MAINTENANCE AND DRAINAGE EASEMENT TO HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION FOR THE LIFE OF THE TRAIL ON THIS SPACE C.
- EASEMENT "D" - MAINTENANCE AND DRAINAGE EASEMENT TO HOUSING ASSOCIATION AND MAINTAINANCE OF PLANTING AND TREES. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOUSING ASSOCIATION FOR THE LIFE OF THE TRAIL ON THIS SPACE D.



LINE TABLE	LINE NUMBER	START POINT	END POINT	LENGTH	BEARING	AREA
L1	1	525.000, 0.000	525.000, 10.000	10.000	N 0.00° E	50.000
L1	2	525.000, 10.000	525.000, 20.000	10.000	N 0.00° E	50.000
L1	3	525.000, 20.000	525.000, 30.000	10.000	N 0.00° E	50.000
L1	4	525.000, 30.000	525.000, 40.000	10.000	N 0.00° E	50.000
L1	5	525.000, 40.000	525.000, 50.000	10.000	N 0.00° E	50.000
L1	6	525.000, 50.000	525.000, 60.000	10.000	N 0.00° E	50.000
L1	7	525.000, 60.000	525.000, 70.000	10.000	N 0.00° E	50.000
L1	8	525.000, 70.000	525.000, 80.000	10.000	N 0.00° E	50.000
L1	9	525.000, 80.000	525.000, 90.000	10.000	N 0.00° E	50.000
L1	10	525.000, 90.000	525.000, 100.000	10.000	N 0.00° E	50.000
L1	11	525.000, 100.000	525.000, 110.000	10.000	N 0.00° E	50.000
L1	12	525.000, 110.000	525.000, 120.000	10.000	N 0.00° E	50.000
L1	13	525.000, 120.000	525.000, 130.000	10.000	N 0.00° E	50.000
L1	14	525.000, 130.000	525.000, 140.000	10.000	N 0.00° E	50.000
L1	15	525.000, 140.000	525.000, 150.000	10.000	N 0.00° E	50.000

OPEN SPACE LINE TABLE	LINE NUMBER	START POINT	END POINT	LENGTH	BEARING	AREA
OS1	1	525.000, 0.000	525.000, 10.000	10.000	N 0.00° E	50.000
OS1	2	525.000, 10.000	525.000, 20.000	10.000	N 0.00° E	50.000
OS1	3	525.000, 20.000	525.000, 30.000	10.000	N 0.00° E	50.000
OS1	4	525.000, 30.000	525.000, 40.000	10.000	N 0.00° E	50.000
OS1	5	525.000, 40.000	525.000, 50.000	10.000	N 0.00° E	50.000
OS1	6	525.000, 50.000	525.000, 60.000	10.000	N 0.00° E	50.000
OS1	7	525.000, 60.000	525.000, 70.000	10.000	N 0.00° E	50.000
OS1	8	525.000, 70.000	525.000, 80.000	10.000	N 0.00° E	50.000
OS1	9	525.000, 80.000	525.000, 90.000	10.000	N 0.00° E	50.000
OS1	10	525.000, 90.000	525.000, 100.000	10.000	N 0.00° E	50.000
OS1	11	525.000, 100.000	525.000, 110.000	10.000	N 0.00° E	50.000
OS1	12	525.000, 110.000	525.000, 120.000	10.000	N 0.00° E	50.000
OS1	13	525.000, 120.000	525.000, 130.000	10.000	N 0.00° E	50.000
OS1	14	525.000, 130.000	525.000, 140.000	10.000	N 0.00° E	50.000
OS1	15	525.000, 140.000	525.000, 150.000	10.000	N 0.00° E	50.000

LINE TABLE	LINE NUMBER	START POINT	END POINT	LENGTH	BEARING	AREA
L1	16	525.000, 150.000	525.000, 160.000	10.000	N 0.00° E	50.000
L1	17	525.000, 160.000	525.000, 170.000	10.000	N 0.00° E	50.000
L1	18	525.000, 170.000	525.000, 180.000	10.000	N 0.00° E	50.000
L1	19	525.000, 180.000	525.000, 190.000	10.000	N 0.00° E	50.000
L1	20	525.000, 190.000	525.000, 200.000	10.000	N 0.00° E	50.000
L1	21	525.000, 200.000	525.000, 210.000	10.000	N 0.00° E	50.000
L1	22	525.000, 210.000	525.000, 220.000	10.000	N 0.00° E	50.000
L1	23	525.000, 220.000	525.000, 230.000	10.000	N 0.00° E	50.000
L1	24	525.000, 230.000	525.000, 240.000	10.000	N 0.00° E	50.000
L1	25	525.000, 240.000	525.000, 250.000	10.000	N 0.00° E	50.000
L1	26	525.000, 250.000	525.000, 260.000	10.000	N 0.00° E	50.000
L1	27	525.000, 260.000	525.000, 270.000	10.000	N 0.00° E	50.000
L1	28	525.000, 270.000	525.000, 280.000	10.000	N 0.00° E	50.000
L1	29	525.000, 280.000	525.000, 290.000	10.000	N 0.00° E	50.000
L1	30	525.000, 290.000	525.000, 300.000	10.000	N 0.00° E	50.000
L1	31	525.000, 300.000	525.000, 310.000	10.000	N 0.00° E	50.000
L1	32	525.000, 310.000	525.000, 320.000	10.000	N 0.00° E	50.000
L1	33	525.000, 320.000	525.000, 330.000	10.000	N 0.00° E	50.000
L1	34	525.000, 330.000	525.000, 340.000	10.000	N 0.00° E	50.000
L1	35	525.000, 340.000	525.000, 350.000	10.000	N 0.00° E	50.000
L1	36	525.000, 350.000	525.000, 360.000	10.000	N 0.00° E	50.000
L1	37	525.000, 360.000	525.000, 370.000	10.000	N 0.00° E	50.000
L1	38	525.000, 370.000	525.000, 380.000	10.000	N 0.00° E	50.000
L1	39	525.000, 380.000	525.000, 390.000	10.000	N 0.00° E	50.000
L1	40	525.000, 390.000	525.000, 400.000	10.000	N 0.00° E	50.000
L1	41	525.000, 400.000	525.000, 410.000	10.000	N 0.00° E	50.000
L1	42	525.000, 410.000	525.000, 420.000	10.000	N 0.00° E	50.000
L1	43	525.000, 420.000	525.000, 430.000	10.000	N 0.00° E	50.000
L1	44	525.000, 430.000	525.000, 440.000	10.000	N 0.00° E	50.000
L1	45	525.000, 440.000	525.000, 450.000	10.000	N 0.00° E	50.000
L1	46	525.000, 450.000	525.000, 460.000	10.000	N 0.00° E	50.000
L1	47	525.000, 460.000	525.000, 470.000	10.000	N 0.00° E	50.000
L1	48	525.000, 470.000	525.000, 480.000	10.000	N 0.00° E	50.000
L1	49	525.000, 480.000	525.000, 490.000	10.000	N 0.00° E	50.000
L1	50	525.000, 490.000	525.000, 500.000	10.000	N 0.00° E	50.000
L1	51	525.000, 500.000	525.000, 510.000	10.000	N 0.00° E	50.000
L1	52	525.000, 510.000	525.000, 520.000	10.000	N 0.00° E	50.000
L1	53	525.000, 520.000	525.000, 530.000	10.000	N 0.00° E	50.000
L1	54	525.000, 530.000	525.000, 540.000	10.000	N 0.00° E	50.000

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 AND RECORDED IN BOOK \_\_\_\_\_ PAGE \_\_\_\_\_  
 ATTEST  
 SECRETARY

**PLANNING BOARD APPROVAL:** \_\_\_\_\_ DATE: \_\_\_\_\_  
**MEMBERS:** \_\_\_\_\_

## Jean Fraser - second reply RE: Old Barn Estates - Final Approval

---

**From:** Jean Fraser  
**To:** Croce, Ethan  
**Date:** 4/9/2013 3:42 PM  
**Subject:** second reply RE: Old Barn Estates - Final Approval  
**CC:** Biegel', 'Peter; O'Donovan', 'Tim

---

Ethan

I note that on 3.21.2013 the attorney for the applicant (Joe Mazziotti) sent you all of the homeowners and legal documents (except the individual lot deeds) that are referred to in your condition 3b. My attorney confirmed on 4.3.2013 that these are all sufficient for the City's purposes.

Could you send these to the Falmouth attorney for review and approval as a step towards addressing your condition 3b? Please note that we have not yet seen the generic individual lot deed that needs to be very specific regarding the stormwater buffers, treesaves, wetlands, homeowners association and obligations , public rights/trail etc.

If you attorney would like any amendments to the wording of the legal docs/homeowners docs, please copy me into the exchange so that I can consult my attorney on any changes.

Thank you  
Jean

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 4/9/2013 12:53 PM >>>  
Jean,

As you may be aware, yesterday, Tim O'Donovan picked up the recording mylars for the Old Barn Estates Subdivision. I have attached the Falmouth Planning Board's conditions of approval for the project. Please note that the mylars should not be released for recording at the Registry until such time as the Town of Falmouth has verified that Conditions 3.a and 3.b have been addressed.

Thank you,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

---

**From:** Peter Biegel [<mailto:pbiegel@landdesignsolutions.com>]  
**Sent:** Wednesday, April 03, 2013 2:39 PM

**To:** 'Jean Fraser'  
**Cc:** 'Tim O'Donovan'; Ethan Croce  
**Subject:** RE: Old Barn Estates - Final Approval

Hi Jean,

Ethan indicated that Falmouth is comfortable with one performance guarantee, which I believe Portland would hold as long as it articulates which improvements would be related to the Town of Falmouth.

Thanks,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 2:29 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Final Approval

Peter

Std Condition #1 is supposed to say what I have said in this e-mail.

Not sure why the wording not right and I will take it up with Barbara.

Thanks for pointing this out.

Guess we need to figure out who actually holds the PG.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 2:20 PM >>>  
Hi Jean,

Not that it matters, but the wording in my message came from the standard conditions of approval item #7, is that not accurate or did I over look something?

Thanks,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect



Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 2:07 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Old Barn Estates - Final Approval

Peter,

Portland also requires it prior to the release of the mylar for recording.

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 2:00 PM >>>  
Hi Jean,

Falmouth requires a performance guarantee be in place prior to the release of the mylar where the information from Portland says it must be in place prior to release of a building permit, street opening or certificate of occupancy not prior to the release of the mylar.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, April 03, 2013 1:41 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** Re: Old Barn Estates - Final Approval

Peter

I will get back to you by the end of the day- I just want to do a final check on all this.

Portland requires a performance guarantee for all the work - what is the ref to Falmouth?

Thanks  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 4/3/2013 9:42 AM >>>

Hi Jean,

The project was approved by the Falmouth Planning Board at last night's meeting. Tim will be collecting the signed mylars and bring them to you to hold until 4/9 when the Portland Planning Board signs and we have complied with all release criteria.

The list I have of issues needing to be addressed prior to the release of the mylars are:

1. Payment by TPO Properties of \$1,500 to the Falmouth Land Trust.
2. Provide the City of Portland with construction details for the pedestrian walkway.
3. Record the various easements.
4. Performance guarantee (Falmouth req.)

Do you have anything else which I have not listed here?

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

## Jean Fraser - Question re compliance- Receipt for Old Barn Estates project- Stewardship Donation

---

**From:** Jean Fraser  
**To:** Barhydt, Barbara  
**Date:** 4/9/2013 3:25 PM  
**Subject:** Question re compliance- Receipt for Old Barn Estates project-Stewardship Donation  
**Attachments:** Signed FLT Proposal 022013.pdf

---

Barbara

(Note: the 2 sets of plats (already signed by Falmouth) will be in room 209 by your place and I would appreciate it if you could get the Board to sign these at tonight's meeting)

The financial piece of the agreement with Falmouth Land Trust re trails (see letter attached) was \$2500 for the cost of creating the trail and \$1500 as a one-off stewardship contribution.

When I saw Tim O'Donovan yesterday he was saying that the Falmouth Land Trust do not want him to pay for the work until nearer the time they are going to start the work- I think its because Portland Trails will be doing that work and this somehow confuses the funding. Tim said he hoped that seeing evidence of the stewardship money being paid was enough (reiterated by Peter below).

I'm not sure that just paying the \$1500 meets the requirements of the PB condition of approval, which reads:

- v. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

I know the trail detail plans are being prepared for review and approval but the question is whether and how to secure the \$2500- could we take it as an infrastructure contribution and then turn it over to the Falmouth Land Trust/Portland Trails when they need it? other ideas?

Do you want to run this by Danielle?

Thanks  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 4/9/2013 1:42 PM >>>  
[Hi Jean,](#)

[Please see the email below from the Falmouth Land Trust confirming receipt of the \\$1,500 stewardship fee. I am assuming this will suffice as evidence that TPO Properties has made payment per the City of Portland Conditions of Approval.](#)

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** analiese laron [mailto:[info@falmouthlandtrust.org](mailto:info@falmouthlandtrust.org)]  
**Sent:** Tuesday, April 09, 2013 1:20 PM  
**To:** 'Peter Biegel'; 'Jed Harris'  
**Cc:** 'Tim O'Donovan'  
**Subject:** Receipt for Old Barn Estates project-Stewardship Donation

Good Afternoon Peter,

The Falmouth Land Trust is in receipt of your \$1500.00 stewardship donation for the Old Barn Estates project.

Please do not hesitate to contact us if you need further information.

Best,

Analiese Larson  
Executive Director  
Falmouth Land Trust  
PO Box 6172  
Falmouth ME 04105  
[info@falmouthlandtrust.org](mailto:info@falmouthlandtrust.org)

Re: \$1500.00 stewardship donation, check number 7583, dated April 5, 2013

## Jean Fraser - Fwd: Re: Old Barn Estates Subdivision - Portland, Maine

---

**From:** Jean Fraser  
**To:** Margolis-Pineo, David; West-Chuhta, Danielle  
**Date:** 4/4/2013 3:59 PM  
**Subject:** Fwd: Re: Old Barn Estates Subdivision - Portland, Maine  
**CC:** DSenus@woodardcurran.com  
**Attachments:** MDEP-BMP Manual-Appendix D-Buffer Deed Language.pdf

---

FYI and to bear in mind when the lot deeds come in. Just one last piece and then I think its almost off the desk.

David- also are you OK with the location of the new street light (required by Planning Board) on the plan C101 that I sent a few days ago?

>>> Jean Fraser 4/4/2013 3:48 PM >>>  
Attorney Mazziotti:

I understand that Danielle West-Chuhta has "signed off" regarding all of the easements that you sent on 3.26.2013. I am awaiting a "sign off" on those from the Department of Public Services.

I would like to request a draft of the generic lot deed for review and approval prior to the release of the signed plat for recording (the Portland Planning Board will sign on April 9th), as per the condition iv (below). I appreciate that it could not be executed.

Condition #iv. states:

- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.

I understand that the lot deeds would include references to all of the other easements, but please note that the reference in **iv f** is to a generic lot deed as recommended by MDEP in the case of lots with stormwater buffers (attached below and also to the approval letter). The DPS review of the lot deeds would be looking for the deeds to include something along the lines of the MDEP suggested text.

thank you  
Jean

Jean Fraser, Planner  
City of Portland  
874 8728

>>> "Joe Mazziotti" <jrm@mazziotti.org> 3/26/2013 2:52 PM >>>  
Good afternoon,

As requested by Corporation Counsel, we have noted the easements affecting this property on the Plan of Old Barn Estates, and summarized in a schedule the recording information.

I also drafted the language of the various easements and attach the following for your review:

Easement Deed from TPO Properties, LLC to the City of Portland and Town of Falmouth

Easement Deed from TPO Properties, LLC to the Falmouth Land Trust

Quitclaim Deed with Covenant from TPO Properties, LLC to the Old Barn Estates Homeowners Association

Lastly, you will find attached a Revised Homeowners Association Bylaws with the "Inspection and Maintenance Plan for Stormwater Management Facilities", incorporated into the bylaws as Schedule 1. (These will be recorded along with the mylars).

If after your review should you have any questions please let me or Peter Beigle know.

Thank you,

Regards,

Joe Mazziotti

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We ask that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

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\_\_\_\_\_

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

Status of compliance with  
Conditions as of 4.3.2013  
JF.

**CITY OF PORTLAND, MAINE**  
**PLANNING BOARD**

Carol Morrissette, Chair  
Stuart G. O'Brien, Vice Chair  
Elizabeth Bocpple  
Timothy Dean  
Sean Dundon  
Bill Hall  
David Silk

March 4<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Peter Biegel  
Land Design Solutions  
160 Longwoods Road  
Cumberland, ME 04021

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)  
Applicant: Tim O'Donovan, TPO Properties LLC  
Planner: Jean Fraser

Dear Mr O'Donovan and Mr Biegel:

On February 26<sup>th</sup>, 2013, the Planning Board considered the Level III Subdivision Review application for the Old Barn Estates 16 lot subdivision at 1062 Ocean Avenue (Ledgewood Drive). The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (O'Brien and Silk absent) to approve the application with the following waivers and conditions as presented below:

**WAIVERS**

The Planning Board voted 5-0 (O'Brien and Silk absent) that:

1. *Sidewalks*

1. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Icc Pond Drive within the 12 lot new subdivision:
2. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ledgewood Drive on Lots #13 and #15:
3. The Planning Board finds that the sidewalk waiver criteria do not apply and therefore does not waive the requirement for a sidewalk (with associated curbing) along the frontage of the property at 1062 Ocean Avenue (Lot #14):

**APPLICABLE SIDEWALK WAIVER CRITERIA:**

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

2. *Curbing:*

The Planning Board finds that the following criteria do apply (namely 1, 4 and 5), and therefore waives the requirement for curbing along the south side of Ice Pond Drive within the 12 lot new subdivision:

*APPLICABLE CURBING WAIVER CRITERIA:*

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*
4. *Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*
5. *Runoff from the development site or within the street does not require curbing for stormwater management.*

3. *Streetlighting:*

The Planning Board waives the Technical Standard, Section 10.2.1, to allow a reduction in the number of street lights along the proposed new street Ice Pond Drive to one new pole and light at the "dead end" of the new street and one new pole and light in the vicinity of the fire hydrant on Ice Pond Drive.

**SUBDIVISION**

The Planning Board voted 5-0 (O'Brien and Silk absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following eight (8) conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- v. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vi. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and

✓ 3-29-13 JF.

tax? outstanding

not before release of plat

OK 4-3-13

DPS \_\_\_\_\_ ?

sent 3/7/13 to DPSS legal

not now

✓ 4.1.13 JF.



- vii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

*agreement  
inc. in  
H. A. Docs.*

- viii. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

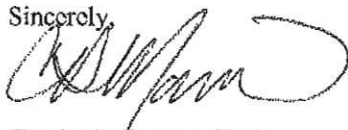
1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

10. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Joan Fraser at 874-8728.

Sincerely,



Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Memo from David Senus of Woodard & Curran dated 2.20.2013
2. Letter of agreement with the Falmouth Land Trust dated 2.20.2013
3. Planning Board Report #13-13
4. City Code, Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Joan Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Barley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File

## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E.  
**DATE:** February 20, 2013  
**RE:** Final Level III Site Plan Application Response to Comments – Old Barn Estates

Woodard & Curran has reviewed the response to comments email and associated attachments received on February 20, 2013 for the Final Level III Site Plan Application for Old Barn Estates Subdivision off of Ledgewood Drive on the Falmouth/Portland line.

### Documents Provided By Applicant

- Response to Comments email, dated February 20, 2013, prepared by Peter Biegel at Land Design Solutions, on behalf of TPO Properties, LLC.
- Engineering Plans: Sheet S-101, C-101, C-201, C-202, C-300, C-302, C-303 revised February 19, 2013, prepared by Land Design Solutions on behalf of TPO Properties, LLC.
- Appendix D – Stormwater Inspection & Maintenance Plan, Rev. 2 – February 19, 2013
- Deed restriction language (PDF)

### Comments (In reference to previous W&C review memo comments from 2/14/2013)

1. *Comment: Sheet C-101 note 15; C-201 note 9; and the plan view call-out on C-201 for the 15" culvert under the Lot 2 driveway reference CMP (corrugated metal pipe) within the future City of Portland Right-of-Way. CMP is not an approved pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2). Given the cover depths of these culverts, we recommend the Applicant consider requiring the use of reinforced concrete pipe at these locations.*

*Applicant Response: Pipe material for the culvert pipes in the City of Portland Right-of-Way has been revised to RCP (see plans C-201 and C-101).*

#### **Comment adequately addressed.**

2. *Comment: The proposed culvert at STA 2+70 along the Lot 2 Driveway was modeled as a 36" diameter culvert and shown in profile as a 36" diameter culvert; however, sheet C-201 still refers to a 30" culvert in plan view.*

*Applicant Response: Plan C-201 now refers to a 36" culvert as is shown on C-202.*

#### **Comment adequately addressed.**

3. *Comment: The Applicant notes that "maintenance easement language (for the soil filters systems) has been included with this submission"; however, we did not receive / have not reviewed easement language with the current submittal. This language will be reviewed upon receipt.*

*Applicant Response: An updated Inspection and Maintenance (Appendix D) is provided which covers right of entry, plan S-101 also labels the stormwater easement areas.*

**The Applicant's submittal includes adequate right of entry language in the Inspection and Maintenance report; however, we assume that easements will be drafted for the stormwater BMP locations (soil filters) and submitted to the City for review as a Condition of Approval.**



4. *Comment: The Applicant notes that "Deed restrictions and covenants will be created for all buffers and will be provided for review". This language has not been received/reviewed with the current submittal, and will be reviewed upon receipt.*

*Applicant Response: Plan S-101 note 17 addresses the limitations of disturbance in the stormwater buffer areas which will be linked to the deed through Note 1 on the attached Deed Restriction PDF.*

**Additional language should be incorporated into the applicable deeds following the guidance outlined in the MaineDEP BMP Technical Design Manual, Volume III, Appendix D, "Templates for Deed Restrictions & Conservation Easements". Final deed restriction language should be submitted to the City for review as a Condition of Approval.**

5. *Comment: Sheet S-101, Note 15 states that "Tree save areas and stormwater buffer areas shall be identified on the ground with capped rebar pins and signage as shown on Plan C-101"; however, C-101 does not specifically call out the rebar pins or signage.*

*Applicant Response: Tree save and stormwater buffer areas are now identified on Plan C-101 showing location of rebar pins and signage. Also see note #15.*

**Although there appear to be symbols identifying the rebar pins and signage on C-101, these symbols are not identified within the plan legend or specifically called out on the plan. A callout for the pin and sign symbol should be added to C-101 (refer to the callouts used on S-101).**

6. *Comment: Sheet C-201, Note 14 states that "Dripline filters shall be installed to capture all stormwater runoff from roofs of houses constructed on lots 7, 8, and 9. See detail on sheet C-302". These details actually reside on sheet C-303.*

*Applicant Response: Note 14 on C-201 now refers to the correct sheet for the dripline filter detail (C-303).*

**Comment adequately addressed.**

Conserve. Explore. Enjoy.



[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

February 20, 2013

Peter Biegel  
Land Design Solutions  
160 Longwoods Rd  
Cumberland, ME 04021

Tim O'Donovan  
TPO Properties  
Old Barn Estates  
Ledgewood Drive  
Falmouth, ME 04101  
VIA EMAIL

Peter and Tim,

The Falmouth Land Trust and Portland Trails are excited about the proposed connection between the Old Barn Estates and the Portland Trails Ocean Ave Dog park property via the Trust's Elms subdivision land. Thank you both for taking the time to meet with me as representative of the Trust and Jaime Parker from Portland Trails to discuss the project. This letter summarizes the various conversations to date and clearly defines responsibilities for the creation and maintenance of the proposed trail.

TPO Properties would like to create a pedestrian trail connection from the proposed Old Barn Estates subdivision located on Ledgewood Drive to the Ocean Ave Dog Park. The proposed trail location is shown in red on the attached document. Final trail placement on the adjacent Trust property will be determined in the field by representatives of the Falmouth Land Trust and Portland Trails. At the end of the paved subdivision road, TPO Properties will construct a trail or unpaved sidewalk within the development all the way to the property line (approx. 60' in length) where it will connect with the new trail on the Trust property. The entire trail will be open to the public for walking, running, cross country skiing, snowshoeing and mountain biking, however, motorized uses except for occasional and specific authorized trail maintenance activities will be prohibited.

Falmouth Land Trust working in cooperation with Portland Trails would construct the trail after TPO Properties receives final approvals, most likely in the summer of 2013. Based on the field walk the following trail improvements would be required for construction:

- Landscaping at both trail heads of the new trail
- Mowing and clearing for proposed trail
- Surface hardening (5 yards of crushed rock and 5 yards of superhumus)

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[www.falmouthlandtrust.org](http://www.falmouthlandtrust.org)

- Signage - wayfinding at: Ledgewood Dr., paved sidewalk end (trail head), along the trail and a kiosk at Ocean Ave Dog Park end.

The cost to create the proposed trail on the Trust property, including materials and labor, would be \$2500.00. FLT would require a 50% deposit to start work with the balance due within 30 days of completion. In addition TPO Properties would make a one-time stewardship donation to the Falmouth Land Trust of \$1500.00 upon trail completion. The stewardship fee covers reasonable maintenance of the length of the trail from the end of the road to the property line as well as the length extending to the Dog Park perimeter trail as shown in red on the attached document. All of the proposed work and associated expenses would not commence until TPO Properties received final approval for the project from the City of Portland and the Town of Falmouth. Once TPO Properties completes the trail section within the subdivision and pays the additional trail construction cost and the stewardship fee neither they, nor the homeowners association, would have any future responsibilities associated with the trail.

If the terms of this letter are agreeable please sign and return a copy to my attention. On behalf of the Land Trust we look forward to working with you on this great project.

Jed Harris  
President

Seen and Agreed

Tim O'Donovan  
TPO Properties

2/21/13

Date



# Town of Falmouth, Maine

**Falmouth Planning Board  
Conditions of Approval  
TPO Properties, LLC – Final Subdivision Approval  
Old Barn Estates Subdivision  
14 lots (2 existing house lots and 12 new house lots)  
Ice Pond Drive  
April 2, 2013**

1. The development is to be constructed in accordance with the plans, maps, diagrams, specifications, textual submissions, and testimony presented by the applicant and approved by the Board.
2. The Planning Board approves a waiver from the Appendix 5(E)2 requirement for a full traffic study. In granting the waiver, the Board considered the opinion of Town's traffic engineer peer reviewer who stated that no safety problems were identified in the vicinity of the project and that the low levels of traffic generated by the project would not be expected to create any traffic operational problems.
3. Prior to release of the recording mylar and prior to commencing construction/site disturbance:
  - a. The developer shall submit a performance guarantee, in a form and an amount acceptable to the Town, to cover the cost of all site improvements located within the Town of Falmouth.
  - b. All homeowners and legal documents shall be reviewed and approved by the Town Attorney.
4. Prior to commencing site disturbance and issuance of building permits:
  - a. The applicant shall pay the required subdivision inspection fee.
  - b. Erosion & sedimentation control measures shall be installed to the satisfaction of the Town.
  - c. The boundaries of buffer areas shall be marked on site with snow fencing or equivalent measures and approved by the Town.
  - d. A street name sign for Ice Pond Drive shall be installed.
  - e. All easements referenced in Condition 3.b above shall be recorded at the Registry of Deeds.
5. Prior to issuance of certificates of occupancy, the applicant shall provide documentation from a professional land surveyor that all required monumentation has been located on the ground and installed consistent with the requirements of the Subdivision Ordinance.
6. The applicant shall coordinate the installation of the proposed improvements within the Ledgewood Drive right-of-way with the Department of Parks and Public Works prior to installation of said improvements.



Jean Fraser - Fwd: Old Barn Estates Subdivision - Portland, Maine

From: Jean Fraser
To: Margolis-Pineo, David; West-Chuhta, Danielle
Date: 3/26/2013 3:32 PM
Subject: Fwd: Old Barn Estates Subdivision - Portland, Maine
Attachments: Easement Falmouth Land Trust.doc; OLD BARN ESTATES HOMEOWNERS ASSOC BYLAWS 3-26-13.doc; Stormwater Facility Inspection & Maint. Plan 2-19-13.pdf; Draft Deed Lot Homeowners Assoc..doc; Easement Deed to Portland and Falmouth..doc

Hello all:

The docs attached have been sent to address Condition SubDiv iv of the approval letter which reads:

Danielle signed off on these 4-3-13.

iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:

3-29-2013 - DW-C sent note to Attorney Mazziotti saying shed renew next week.

- a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
c Other easements as indicated on the Plat in Plans 5 and 6;
d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
e Homeowner Association Documents;
f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.

Please review as soon as you have a moment; by the end of the week would be helpful (so that we can let Falmouth know of any issues prior to their Planning Board hearing on April 2) but not essential.

I was not planning to put all these in e-plan.

thanks
Jean

>>> "Joe Mazziotti" jrm@mazziotti.org > 3/26/2013 2:52 PM >>

Good afternoon,

As requested by Corporation Counsel, we have noted the easements affecting this property on the Plan of Old Barn Estates, and summarized in a schedule the recording information.

I also drafted the language of the various easements and attach the following for your review:

Easement Deed from TPO Properties, LLC to the City of Portland and Town of Falmouth

Easement Deed from TPO Properties, LLC to the Falmouth Land Trust

Quitclaim Deed with Covenant from TPO Properties, LLC to the Old Barn Estates Homeowners Association

Lastly, you will find attached a Revised Homeowners Association Bylaws with the "Inspection and Maintenance Plan for Stormwater Management Facilities", incorporated into the bylaws as Schedule 1. (These will be recorded along with the mylars).

If after your review should you have any questions please let me or Peter Beigle know.

Thank you,

Regards,

Joe Mazziotti

Confidentiality Notice: This message is intended only for the person to whom addressed in the text above and may contain privileged or confidential information. If you are not that person, any use of this message is prohibited. We ask that you notify us by reply to this message, and then delete all copies of this message including any contained in your reply. Thank you.

IRS Notice: Unless specifically indicated otherwise, any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (a) avoiding tax-related penalties under the Internal Revenue Code, or (b) promoting, marketing, or recommending to another party any transaction or matter addressed herein.

\_\_\_\_\_ Information from ESET NOD32 Antivirus, version of virus signature database 8164 (20130326) \_\_\_\_\_

The message was checked by ESET NOD32 Antivirus.

<http://www.eset.com>

EASEMENT DEED

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **FALMOUTH LAND TRUST**, a Maine Nonprofit Corporation having a mailing address of P.O. Box 586, Portland, Maine 04112, its successors and assigns:

The following trail easement as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/19/13, and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_ (the "Plan"), to which plan reference is hereby made for a more particular description and location of the easement herein described.

The perpetual easement and right over and across that portion of lot 9 as shown on said plan for use by the public for walking, running, cross country skiing, snowshoeing and mountain biking. Except for occasional and specifically authorized trail maintenance activities, no motorized vehicles of any kind, including but not limited to recreational vehicles, all-terrain vehicles, motorcycles, dirt bikes, and snowmobiles shall be permitted on the property.

The right to install and maintain two signs not exceeding \_\_\_\_\_ square feet at the Ice Pond Drive intersection with Ledgewood Drive and within the easement area as shown on said Plan.

Following construction of the trail easement the Grantee shall be solely responsible for its maintenance, repair and replacement including any wooden steps installed by the Grantor.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this \_\_\_\_\_ day of March, 2013.

TPO Properties, LLC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

March \_\_\_\_\_, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

---

Notary Public/Attorney at Law

**D R A F T**  
**Revised**

**2/14/13**

**3/5/13**

**3/21/13**

**3/26/13**

**OLD BARN ESTATES**

**HOMEOWNERS ASSOCIATION**

**BYLAWS**

**ARTICLE I**

Section 1. “Association” shall mean and refer to Old Barn Estates Homeowners Association, a non-stock, nonprofit corporation organized and existing under the laws of the State of Maine.

Section 2. “Old Barn Estates” shall mean and refer to Lots 1 – 12 of a subdivision of land in the City of Portland and Town of Falmouth, County of Cumberland and State of Maine and described in plans entitled, “Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine”, , made for TPO Properties, LLC by Cullenberg Land Surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled “Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2” prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081 dated May 2012, last revised 3/15/13, to be recorded in the Cumberland County Registry of Deeds (hereinafter referred to as “the Plan”).

Section 3. “Member” shall mean and refer to each owner (whether an individual person, corporation, partnership or other legal entity) of record of said lots 1-12, as shown on the aforesaid Plan, but shall not mean and refer to an owner of record whose only interest in such lot or parcel of land is as mortgagee under a real estate mortgage as security for the performance of an obligation, until and unless such owner shall have commenced proceedings under the laws of the State of Maine to foreclose such mortgage and shall have delivered a certificate to the office of the Secretary of the Association.

**ARTICLE II**

**Location**

The principal office of the Association shall be located in the City of Portland, in the County of Cumberland and the State of Maine.

### ARTICLE III

#### Membership and Voting Rights

Each owner of a lot as designated in Article I, Section 3 shall be a Member of the Association. However, each lot is allocated only one (1) vote regardless of whether the owner of the lot is one or more individuals, a corporation, partnership or other legal entity.

### ARTICLE IV

#### Purpose and Financing of Association

Section 1.     Purpose: The Association shall be responsible for the following:

- a.     ownership care, control and maintenance of all common areas identified on the Plan as Lots 15 and 16,
- b.     the ownership, management, care and maintenance and replacement, in perpetuity, of the stormwater system and any and all of its components, as outlined in, among other things, the “Inspection and Maintenance Plan for Stormwater Management Facilities”, as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto as Schedule 1, and incorporated by reference, and, shall include those components situated on Lots 2, 8, 9, 15 and 16 as depicted on the Plan.
- c.     care, maintenance and necessary replacement of the trees along Ice Pond Drive.
- d.     care, maintenance and necessary replacement of buffer trees situated on Lots 8, 9 and Open Space (Lot 15).
- e.     repair, and maintenance, including snowplowing, of Ice Pond Drive, and the sidewalk along Ice Pond Drive, until accepted by the City of Portland.

Section 2.     Financing: Each Member is obligated to pay to the Association, annual and special assessments. Assessments are personal obligations of the members and may be secured by liens against the land of each lot owner. If the assessments are not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of twelve (12%) percent per annum, and the Association may bring an action at law against the member personally obligated to pay the same and shall be entitled to recover interest, costs and reasonable attorney’s fees.

### ARTICLE V

#### Members

Section 1. Annual Meetings: The first annual meeting of the Members shall be held within one (1) year from the date of the sale of the first lot in the Old Barn Estates Subdivision. The Members shall at that meeting select a date and time for the second and subsequent annual meetings.

Section 2. Parliamentary Procedure: At all meetings of the Members or of the Board of Directors, Roberts' Rule of Order, as then amended, shall be followed, except in the event of conflict in which case these Bylaws shall prevail.

Section 3. Proxies: Votes may be cast in person or by proxy. Proxies must be filed with the Secretary at or before the time of each meeting. A Member or Director may designate any person who need not be an owner to act as proxy. The designation of any such proxy shall be made in writing, signed by the Member or Director and shall be revocable at any time by written notice to the Secretary by the person designating the proxy.

Section 4. Special Meetings: Special meetings of the Members may be called at any time by the President, the Board of Directors or upon the written request of at least three (3) members who are entitled to vote.

Section 5. Notice of Meetings: Written notice of each meeting of the Members shall be given by, or at the direction of, the secretary or person duly authorized to call the meeting, by mailing a copy of such notice postage prepaid or by facsimile or electronic mail at least ten (10) days before such meeting to each Member entitled to vote there at, addressed to the Member's address last appearing on the books of the Association or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, date and hour of the meeting and in the case of a special meeting, the purpose of the meeting.

Section 6. Quorum: The presence at the meeting of Members entitled to vote or proxies equal to seven (7) votes of the membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation or these Bylaws. If however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice, other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

## ARTICLE VI

### Board of Directors

Section 1. Board of Directors: The affairs of the Association shall be governed by a Board of Directors consisting of three (3) Directors who need not be Members of the Association and who shall hold office until the election of their successors.

Section 2. Term of Office: At the first annual meeting, the Members shall elect one (1) Director for a term of one (1) year, one (1) Director for a term of two (2) years and one (1)

Director for a term of three (3) years. At each annual meeting thereafter, the Members shall elect those Directors whose terms are expiring for a term of two (2) years.

Section 3. Resignation: In the event of the death, resignation or removal of a Director, his successor shall be elected by the remaining Directors and shall serve the unexpired term of his predecessor. Any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association.

Section 4. Quorum: A majority of the Directors shall constitute a quorum for the transaction of business. Every action or decision made by a majority of the Board of Directors present at a duly held meeting in which a quorum is present shall be regarded as the act of the Board.

Section 5. Powers and Duties: The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and shall do all such acts and things except those which by law or by these Bylaws may not be delegated to the Board of Directors by the Members. Such powers and duties of the Board of Directors shall include, but shall not be limited to, the following:

a. Ownership management, maintenance and control all common areas identified on the Plan as Lots 15 and 16,

b. Maintenance of all stormwater system components according to the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, a copy of said Plan is attached hereto, as Schedule 1, and incorporated by reference, and shall include those components situated on Lots 2, 8, 9, 15 and 16 and depicted on the Plan.

c. The care, maintenance and necessary replacement of the trees along Ice Pond Drive.

d. The care, maintenance and necessary replacement of buffer trees situated on Lots 8, 9 and Open Space (Lot 15).

e. Adoption and amendment of reasonable rules and regulations governing the use of the common areas.

f. Opening of bank accounts on behalf of the Association and designating the signatories required therefor.

g. Suspend the voting rights of any member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Default shall be defined as that period commencing thirty (30) days following the date on which the assessment is due.

h. To enforce covenants, conditions and restrictions stated in the Declaration of



Restrictions and Covenants of the Old Barn Estates Subdivision recorded in the Cumberland County Registry of Deeds in Book \_\_\_\_, Page \_\_\_\_ and any amendments thereto.

i. Declare the office of a Director to be vacant in the event that such Director shall be absent from three (3) consecutive regular meetings of the Board of Directors.

j. To maintain an adequate liability insurance policy to protect the various lot owners and Association from liability in an amount not less than One Million Dollars (\$1,000,000.00).

k. Cause to be kept a complete record of all acts of the Board of Directors and to present a statement thereof to the Members at the annual meeting of Members, or at any special meeting requested in writing by five (5) of the Members who are entitled to vote.

l. To fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment and to send written notice of such assessment to every owner thirty (30) days in advance of the date by which such assessment is due and payable.

m. To file a lien with the Cumberland Country Registry of Deeds against the land of any Member whose assessment has not been paid within forty-five (45) days of the date such assessment or special assessment is due.

n. To bring an action at law against the owner personally obligated to pay the assessment and to collect the assessment or special assessment, costs of collection, interest and reasonable attorney's fees.

o. Unless sooner transferred by the Declarant/Developer, upon the sale of the last lot in the subdivision by the Declarant/Developer, the Association shall assume all of the duties set forth above within the Old Barn Estates Subdivision. The Association further recognizes that the Declarant shall thereafter be under no obligation to assert any rights or have any duties or obligations assigned, transferred, or conveyed to the Association.

p. Upon request by the Code Enforcement Officer, Plumbing Inspector, or Town Engineer, the Old Barn Estates Homeowners Association shall produce for inspection and copying at the Falmouth Town Hall, or the City of Portland as the case may be, or permit the inspection and copying at its own office of any or all of its corporate, financial, operating, inspection, and maintenance records, reports, contracts, budgets and other papers, for the purpose of determining its performance of any compliance with the requirements Stormwater Plan and Tree Maintenance and Buffering Plan.

q. repair, and maintenance, including snowplowing, of Ice Pond Drive, and the sidewalk along Ice Pond Drive until accepted by the City of Portland.

The Code Enforcement Officer, the Plumbing Inspector, or his authorized representative, or the Town Engineer, and other duly authorized employees of the City/Town bearing proper

credentials or identification, shall be permitted to enter at all reasonable times, upon all real or personal property of the Association necessary to the verification of compliance with the Association's responsibilities.

The City/Town shall have the right, but not the obligation (since any and all maintenance shall be performed by the Association), to enter upon the property in question in order to maintain, repair and/or replace the stormwater system in the event of any failure or neglect of the Association, the cost and expense thereof to be reimbursed in full to the said City of Portland or Town of Falmouth, as the case may be, under this paragraph and such costs shall be secured by a lien on the property in question.

The provisions of Article VI Section 5. p. may not be amended or otherwise modified, without notice to and the written consents from, the City of Portland and Town of Falmouth.

Section 6. Regular Meetings: Regular meetings of the Board of Directors may be held at such time and place as shall be determined from time to time by a majority of the Members of the Board of Directors, but at least one (1) such meeting shall be held during each fiscal year to elect the offices of the Association and to transact such other business as may be necessary. Notice of regular meetings of the Board of Directors shall be given to each Member of the Board of Directors, by mail, telephone, facsimile, or electronic mail, at least five (5) business days prior to the day stated for such meeting.

Section 7. Special Meetings: Special meetings of the Board of Directors may be called by the President on three (3) business days notice to each Member of the Board of Directors given by telephone, facsimile, or electronic mail, or on five (5) business days notice given by ordinary first-class mail, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Members of the Board of Directors.

Section 8. Waiver of Notice: Any Member of the Board of Directors may at any time waive notice of any meeting of the Board of Directors in writing, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Member of the Board of Directors at any meeting of the Board shall constitute a waiver of notice by him of the time and the place thereof. If all the Members of the Board of Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

Section 9. Informal Action by Board of Directors: Any action required to be taken at a meeting of the Board of Directors or any other action which may be taken at a meeting of the board of Directors, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members of the Board of Directors entitled to vote with respect to the subject matter thereof.

Section 10. Compensation: No Member of the Board of Directors shall receive any compensation from the Association for acting as a Director, except that Members of the

Board of Directors may be reimbursed for expenses they incur in connection with their services of Directors, as the Board may from time to time determine.

Section 11. Fiscal Year: The fiscal year for the Association shall be the calendar year.

## ARTICLE VII

### Officers

Section 1. Designation: The principal officers of the Association shall be the President, the Secretary/Clerk and the Treasurer, all of whom shall be elected by the Board of Directors. The Board of Directors may appoint such other officers as in its judgment may be necessary.

Section 2. Election of Officers: The offices of the Association shall be elected annually by the Board of Directors at the annual meeting of the Board of Directors and shall hold office at the pleasure of the Board of Directors.

Section 3. Removal of Officers: Upon the affirmative vote of a majority of the Members of the Board of Directors, any officer may be removed, either with or without cause, and his or her successor may be elected at any regular meeting of the Board of Directors or any special meeting of the Board of Directors called for that purpose.

Section 4. President: The President shall be the chief executive officer of the Association. He shall preside at all meetings of the Members and the Board of Directors. He shall have all of the general powers and duties which are incident to the office of the President of a non-profit corporation organized under the laws of the State of Maine, including, but not limited to the power to appoint committees from among the Members and, from time to time as he may, in his discretion, decide is appropriate to assist in the conduct of the affairs of the Association.

Section 5. Secretary/Clerk (Registered Agent): The Secretary/Clerk (Registered Agent) shall keep the minutes of all meetings of the Members and of the Board of Directors; he shall have charge of such books and papers as the Board of Directors may direct; and he shall, in general, perform all the duties incident to the office of Secretary/Clerk as a non-profit corporation organized under the laws of the State of Maine.

Section 6. Treasurer: The Treasurer shall have the responsibility for Association funds and securities and shall be responsible for keeping full and accurate financial records and books of accounts showing all receipts and disbursements and for the preparation of all required financial data. He shall be responsible for the deposit of all monies and other valuable effects in the name of the Association, in such depositories as may from time to time be designated by the Board of Directors, and he shall in general, perform all the duties incident to the Office of Treasurer of a non-profit corporation organized under the laws of the State of Maine.

Section 7. Agreements, Contracts, Checks, etc.: All agreements, contracts, checks and other instruments of the Association shall be executed by two officers of the Association or by such other person or persons as may be designated by the Board of Directors.

Section 8. Compensation of Officers: No officer shall receive any compensation from the Association for acting as such, except that officers may be reimbursed for expenses incurred by them for their services as officers of the Association, as the Board of Directors may from time to time determine.

## **ARTICLE VIII**

### Records

Section 1. Records and Audits: The Board of Directors or its agent shall keep detailed records of the actions of the Board of Directors and its agents, minutes of the meeting of the Board of Directors and financial records and books of accounts for the Association.

Section 2. Statement: A written report summarizing all receipts and expenditures of the Association shall be rendered by the Board of Directors to all Members at least annually.

## **ARTICLE IX**

### Miscellaneous

Section 1. Notices: All notices hereunder shall be sent registered or certified mail to the Board of Directors, in care of the President, to the office of the Board of Directors or to such other address as the Board of Directors may hereafter designate from time to time by notice in writing to all Members. All notices to any lot owner shall be sent by ordinary prepaid mail to the address or to such other address as may have been designated by them from time to time, in writing to the Board of Directors. All notices shall be deemed to have been given when mailed, except notices of change of address which shall be deemed to have been given when received.

## **ARTICLE X**

### Amendments to Bylaws

These Bylaws may be altered, amended or added to, at any duly called meeting of Members provided: (1) that the notice of the meeting shall contain a full statement of the proposed amendments; and (2) that the amendment shall be approved by at least eight (8) of the total votes of the Association. However, so long as the Association remains responsible for the operation and maintenance of the drainage systems and devices, common areas and tree buffers of Old Barn Estates, Subdivision, and Ice Pond Drive, no action shall be taken by the Members to dissolve this Association.

DATE:

**Inspection and Maintenance Plan  
For Stormwater Management Facilities**

**Old Barn Estates  
Ice Pond Drive  
Falmouth, Maine**

**January 2013  
Rev 1 – February 8, 2013  
Rev. 2 – February 19, 2013**

Stormwater management facilities include paved surfaces, ditches/swales, catch basins, culverts, storm drain pipe, level spreaders, buffers, and grassed underdrain soil filters. During construction activities, the maintenance of all stormwater measures will be the direct responsibility of the Developer. After transfer to the Old Barn Estates, Home Owners Association (“Home Owners Association”), the maintenance of all stormwater management facilities, the establishment of any contract services required to implement the program, and the keeping of records and maintenance log book will be the responsibility of the Home Owners Association.

The Home Owners Association shall comply with the following standards to meet the City of Portland’s Post Construction Stormwater Management Plan requirements in accordance with Chapter 32 of the City Zoning Ordinance:

Any person owning, operating, or otherwise having control over a best management practice (BMP) required by a post construction stormwater management plan shall maintain the BMPs in accordance with the approved plan and shall demonstrate compliance with that plan as follows:

- (a) *Inspections.* The Home Owners Association or operator of a BMP shall hire a qualified post-construction stormwater inspector to at least annually, inspect the BMPs, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures, in accordance with all municipal and state inspection, cleaning and maintenance requirements of the approved post-construction stormwater management plan.
- (b) *Maintenance and repair.* If the BMP requires maintenance, repair or replacement to function as intended by the approved post-construction stormwater management plan, the Home Owners Association or operator of the BMP shall take corrective action(s) to address the deficiency or deficiencies as soon as possible after the deficiency is discovered and shall provide a record of the deficiency and corrective action(s) to the City of Portland Department of Public Services (DPS) and the Town of Falmouth Department of Parks and Public Works (DPPW) in the annual report.

- (c) *Annual report.* The Home Owners Association or operator of a BMP or a qualified post-construction stormwater inspector hired by that person, shall, on or by June 30 of each year, provide a completed and signed certification to DPS and DPPW in a form provided by DPS, certifying that the person has inspected the BMP(s) and that they are adequately maintained and functioning as intended by the approved post-construction stormwater management plan, or that they require maintenance or repair, including the record of the deficiency and corrective action(s) taken.
- (d) *Filing fee.* Any persons required to file an annual certification under this section shall include with the annual certification a filing fee established by DPS to pay the administrative and technical costs of review of the annual certification.
- (e) *Right of entry.* In order to determine compliance with this article and with the post-construction stormwater management plan, DPS and/or DPPW may enter upon property at reasonable hours with the consent of the owner, occupant or agent to inspect the BMPs.

At a minimum, the following maintenance activities for each stormwater management system shall be performed on a prescribed schedule.

#### Paved Surfaces

Accumulations of winter sand along paved surfaces shall be cleared at least once a year, preferably in the spring, and periodically during the year on an as-needed basis, to minimize transportation of sediment during rainfall events. Accumulations on pavement may be removed by pavement sweeping or vacuuming. Accumulations of sand along road shoulders may be removed by grading excess sand to the pavement edge and removing it manually or by a front-end loader.

#### Ditches and Swales

Open swales and ditches shall be inspected twice per year (in spring and fall) to assure that debris and/or sediments do not reduce the effectiveness of the system. Debris and sediments shall be removed at that time. Any sign of erosion or blockage shall be immediately repaired to assure a vigorous growth of vegetation for the stability of the ditches and slopes proper function. Maintenance shall include, but not be limited to, mowing, trimming and removal vegetation in the ditches and slopes as required in order to prevent vegetation from blocking or diverting storm flows, replacement of riprap channel lining to prevent scour of the channel invert, removing vegetation and debris from the culverts.

Vegetated ditches should be mowed at least monthly during the growing season. Larger brush or trees must not be allowed to become established in the channel. Any areas

where the vegetation fails will be subject to erosion and should be reseeded and mulched immediately.

Riprap ditches and aprons where stone is displaced should be replaced and chinked to assure stability. With time, additional riprap may be added. Vegetation growing through riprap should be removed on an annual basis.

### Catch Basins

All catch basins, and any other field inlets throughout the collection system, shall be inspected twice per year (in spring and fall) to assure that the inlet entry and grates are clear of debris and will accept the intended flows. Any debris and sediments shall be cleared.

Sediment should be removed from these structures when it accumulates within 12 inches of the lowest pipe invert. If the basin outlet is designed with a hood to trap floatable materials (i.e. Snout or Casco Bay trap), check to ensure watertight seal is working. At a minimum, remove floating debris and hydrocarbons at the time of the inspection. The removed material must be disposed of in accordance with the Maine Solid Waste Disposal Rules. Confined space entry safety procedures shall be practiced should entry into these structures be required.

### Culverts and Storm Drainage Pipes

Culverts and piped drainage systems shall be inspected on an annual basis to remove any obstructions to flow; remove accumulated sediments and debris at the inlet, at the outlet, and within the conduit; and to repair any erosion damage at the pipe inlet and outlet. Sediment should be removed when its level exceeds 20% of the pipe diameter. This may be accomplished by hydraulic flushing or any mechanical means; however, care should be taken to contain the sediment at the pipe outlet, and not flush the sediments into the detention/infiltration pond areas as this will reduce the ponds capacity and ability to infiltrate runoff, and will hasten the time when the pond must be cleaned or rehabilitated.

### Underdrained Soil Filters

Mowing and removal of woody growth – underdrained soil filters are designed to grow water tolerant plantings and mowing is not required in the interior of the structure. However, the external and top slopes of earthen embankments will be mowed up to three times per growing season to control over growth.

Outlet inspection and cleaning – The soil filter outlet consists of a layer of planting loam and sand with a stone and perforated pipe underdrain. Influx of sediments will be limited by sumps on all upstream catch basin structures and vegetated swales. Outlet inspections shall include flushing of the underdrain through the cleanout at the end of the pipe. Trash, sediment and debris shall be removed from the vicinity of the outlet and disposed

of at a licensed off-site facility. The basin shall be inspected bi-annually for evidence of excessive retention or rapid release of flow.

If the filter fails to drain within 72 hours, the surface of the pond shall be rototilled to promote aeration of the filter media and vegetation shall be re-established. If aeration of the surface soil fails to promote filtration of impounded water within 72 hours, then the filter media shall be replaced as necessary. The stone underdrain shall also be replaced at this time, along with the perforated pipe.

Underdrained soil filters shall not be used for snow storage area.

Vehicular equipment used to maintain or rehabilitate underdrained soil filters should work from the basin perimeter and not enter the basin area, as this will compact the soil surface and reduce the design infiltration rate.

#### Dripline Filters

Dripline filters shall be inspected semi-annually and after heavy rains. The filter shall be cleaned of debris and sediment at the surface of the filter. Stone within the reservoir shall be repaired and replaced as necessary when stones have been dislodged.

Filter material shall be replaced if it fails to drain within 72 hours after a one-inch rainfall event.

Dripline filters are part of the Stormwater management plan for the project. They shall not be paved over or altered in any way. They shall not be used for snow storage area. Gutters may not be installed on the roofline draining to the dripline filters.

#### Level Spreaders

Level spreaders shall be inspected twice per year (in spring and fall) to assure that debris and/or sediments do not reduce the effectiveness of the system. Debris and sediments shall be removed at that time. Any sign of erosion or blockage shall be immediately repaired to assure a vigorous growth of vegetation and stability of stone berms for the stability of the level spreader for proper function. Maintenance shall include, but not be limited to, mowing, trimming and removal vegetation in the level spreaders as required in order to prevent vegetation from blocking or diverting storm flows, replacement of riprap as necessary to prevent scour of the level lip, removing vegetation and debris from the level spreaders.

Riprap ditches and aprons where stone is displaced should be replaced and chinked to assure stability. With time, additional riprap may be added. Vegetation growing through riprap should be removed on an annual basis.

#### Vegetated Buffers



Buffers for this project are primarily undisturbed forested buffers. Buffers shall be marked with permanent markers. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, windblown, or damaged trees and for pruning of tree branches below 12' provided two-thirds of the tree's canopy is maintained. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except as noted in the "Declaration of Restrictions."

Buffers shall be inspected yearly. If erosion is observed within the buffer it shall be restabilized and the upgradient distribution structure (i.e. level spreader) shall be inspected for proper functionality.

#### Disposal

Any sediment or debris removed during maintenance of the stormwater system must be disposed of in accordance with the Maine Solid Waste Disposal Rules.

#### Recordkeeping

The Home Owners Association will keep a written maintenance log that summarizes inspections, maintenance, and any corrective actions taken. The log shall include the date on which each inspection or maintenance task was performed, a description of the inspection findings or maintenance completed, and the name of the inspector or maintenance personnel performing the task. If a maintenance task requires the clean-out of any sediment or debris, the location where the sediment or debris was disposed after removal will be indicated. This log shall be made available to the Maine Department of Environmental Protection upon request.

**Sample Inspection Report:**

OLD BARN ESTATES  
ICE POND ROAD, FALMOUTH, MAINE  
STORMWATER FACILITIES INSPECTION REPORT

NAME: \_\_\_\_\_ SIGNATURE: \_\_\_\_\_

TITLE: \_\_\_\_\_ COMPANY: \_\_\_\_\_

DATE: \_\_\_\_\_

OBSERVATIONS:

<u>BMP</u>	<u>Defects</u>	<u>Location(s)</u>	<u>Repair/Action Needed</u>	<u>Date/Action taken</u>
Ditches/ Swales	Yes/no			
Roads, Sidewalks and Parking Areas	Yes/no			
Catch Basins	Yes/no			
Pipes and Culverts	Yes/no			
Riprap Aprons	Yes/no			
Grassed Underdrained Soil Filters	Yes/no			
Dripline Filters	Yes/no			
Level Spreaders	Yes/no			
Vegetated Buffers	Yes/no			

**QUITCLAIM DEED**  
**With covenant**  
(Maine Statutory Short Form)

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **OLD BARN ESTATES HOMEOWNERS ASSOCIATION**, a non-profit corporation organized and existing under the laws of the State of Maine, whose mailing address is \_\_\_\_\_ Ice Pond Drive, in the City of Portland, County of Cumberland and State of Maine,

The following real estate situated in the City of Portland, County of Cumberland, State of Maine, described as follows:

Lot 15 and Lot 16 as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/15/13, and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_ (the "Plan"), to which plan reference is hereby made for a more particular description of the lots herein described.

Also hereby conveying, a perpetual right and easement over and across Lots 2, 8, and 9 as shown on said plan in order to maintain and repair all stormwater system components according to the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, which plan is recorded as Schedule 1 to the Old Barn Estates Homeowners Association Bylaws in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_.

Also hereby conveying, a perpetual right and easement over and across Lots 8 and 9, in order to provide for the care, maintenance and necessary replacement of buffer trees situated on said lots as shown on said plan.

Also hereby conveying, a perpetual right and easement in order to provide for the care, maintenance and replacement of trees situated along Ice Pond Drive as shown on said plan.

The Old Barn Estates Homeowners Association shall restore all disturbed areas to substantially their condition prior to the exercise of its rights as contemplated hereunder.

SUBJECT , HOWEVER, to the following:

1. All general notes, easements, facts and other matters shown on the "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road,

Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/15/13, recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_.

2. The rights (but not the obligation) of the City of Portland and Town of Falmouth to enter upon the land of the Grantee, and to take any remedial action deemed necessary by said municipalities in order to maintain, repair and/or replace the stormwater system in the event of any failure or neglect of the Old Barn Estates Homeowners Association, as set forth in the Old Barn Estates Homeowners Association Bylaws, recorded in the Cumberland County Registry of Deeds, in Book \_\_\_\_\_, Page \_\_\_\_\_.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this \_\_\_\_\_ day of March, 2013.

TPO Properties, LLC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

March \_\_\_\_\_, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

\_\_\_\_\_  
Notary Public/Attorney at Law

## EASEMENT DEED

**KNOW ALL PERSONS BY THESE PRESENTS** that **TPO PROPERTIES, LLC**, a Maine Limited Liability Company, with a place of business in the Town of Falmouth, County of Cumberland, State of Maine, for consideration paid **GRANTS** to the **CITY OF PORTLAND**, a Maine municipality, corporate and politic, situated in the City of Portland, Maine, and the **TOWN OF FALMOUTH**, a body corporate and politic situated in the Town of Falmouth, Maine,

The following easements as shown on a plan entitled "Subdivision Recording Plan 1 Old Barn Estates Ocean Ave. & Ledgewood Drive Portland and Falmouth, Maine", made for TPO Properties, LLC by Cullenberg Land surveying, 892 Old Danville Road, Auburn, Maine 04210 and dated February 8, 2013, last revised 3/19/13, and a plan entitled "Old Barn Estates 1062 Ocean Avenue, Portland, Maine Subdivision Plan Recording Plan 2 of 2" prepared by Land Design Solutions, P.O. Box 316, 160 Longwoods Road, Cumberland, ME 04081, dated May 2012, last revised 3/19/13, and recorded in the Cumberland County Registry of Deeds in Plan Book \_\_\_\_\_, Pages \_\_\_\_\_ (the "Plan"), to which plan reference is hereby made for a more particular description and location of the easements herein described.

The perpetual easement and right over and across Lots 2, 8, 9, 15 and 16 as shown on said plan in order to maintain and repair all stormwater system components including but not limited to underdrain soil filters, grading, drainage and maintenance according to the "Inspection and Maintenance Plan for Stormwater Management Facilities", as approved by the respective Planning Boards for the City of Portland and Town of Falmouth, which plan is recorded as Schedule 1 to the Old Barn Estates Homeowners Association Bylaws in the Cumberland County Registry of Deeds in Book \_\_\_\_\_, Page \_\_\_\_\_. The rights granted herein notwithstanding, neither the City of Portland nor the Town of Falmouth shall have any responsibility for maintenance and repair of said stormwater system components.

Also hereby conveying to the Town of Falmouth a perpetual right and easement over and across Lot 16 to maintain such drainage through said lot as the Town shall determine. The Town of Falmouth, however, shall have no responsibility for said maintenance.

Also hereby conveying, a temporary public right and easement to the sidewalk along Ice Pond Drive as shown on said plan until Ice Pond Drive has been dedicated and accepted as a public way by the City of Portland. The rights of the public granted by this easement shall commence upon the installation of the base coat pavement of said sidewalk. The City of Portland shall have no responsibility for said sidewalk until such time as it accepts the dedication of Ice Pond Drive.

The City of Portland, or Town of Falmouth, as the case may be, shall restore all disturbed areas to substantially their condition prior to the exercise of its rights as contemplated hereunder.

IN WITNESS WHEREOF, Timothy P. O'Donovan, a Member and duly authorized representative of TPO Properties, LLC, has hereunto set his hand and seal this \_\_\_\_\_ day of March, 2013.

TPO Properties, LLC

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By: Timothy P. O'Donovan  
Its: Member

STATE OF MAINE  
CUMBERLAND, ss.

March \_\_\_\_\_, 2013

Personally appeared the above named Timothy P. O'Donovan and acknowledged the foregoing instrument to be his free act and the free act and deed of TPO Properties, LLC.

\_\_\_\_\_  
Notary Public/Attorney at Law

## Jean Fraser - Signing of plats

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**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 3/20/2013 5:19 PM  
**Subject:** Signing of plats  
**CC:** Barhydt, Barbara; O'Donovan', 'Tim  
**Attachments:** Revised Easements 031813.pdf

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Peter

Just to confirm my understanding of our telephone conversation today- which is that we will not be receiving the mylars of the plats tomorrow and there is no expectation that they will be signed by the Planning Board tomorrow.

I also understand that your attorney will try to speak direct to Danielle West-Chuhta regarding any concerns.

I am guessing that the concern is that the homeowners association will not be in place initially and that the easement would only be in effect when it is- so how to time the easement recording.

I am out of the office tomorrow but back in the office Friday.

thank you  
Jean

## Jean Fraser - NOT TO BOARD TO SIGN TOMORROW-Old Barn Estates Subdivision Plats

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**From:** Jean Fraser  
**To:** Barhydt, Barbara; Clark, William; West-Chuhta, Danielle  
**Date:** 3/20/2013 3:45 PM  
**Subject:** NOT TO BOARD TO SIGN TOMORROW-Old Barn Estates Subdivision Plats  
**CC:** Margolis-Pineo, David  
**Attachments:** Revised Easements 031813.pdf

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Hello all

Despite everyone's best efforts to review these plats quickly so that the Planning Board can sign them tomorrow, a legal question has come up (from applicant's attorney) at the last minute and the applicant has decided not to try to get these finalized and signed tomorrow.

Bill- this means you and Kevin might have time to resolve the monument issue that came up on Monday;

Danielle- I do not know what the key issue is; it might relate to Easement #7 (see attached) which has been included to address Falmouth concerns that the public would not have rights of access along the new street (after its constructed and open to vehicles and before the City of Portland accepts the street) and therefore would not be able to access the trail head at the end which allows access to an extensive trail system within both Falmouth and Portland.

Barbara and Danielle- the applicant is OK to have the Falmouth Planning Board sign this first (April 2) and then have the Portland Planning Board sign on April 9th - are we OK with that sequence??? (I prefer it as it leaves the signed mylar with us to manage, but there may be some other reason as to why that should not happen)

I am out of the office tomorrow so will follow up on Friday.

thank you  
Jean



## Jean Fraser - RE: Comments re Old Barn Estates Subdivision Plats

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**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 3/18/2013 2:52 PM  
**Subject:** RE: Comments re Old Barn Estates Subdivision Plats  
**CC:** O'Donovan', 'Tim'

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Peter

I have consulted Corporation Counsel re the easement notation on first plan and she suggests that the notes #1-#5 be written to clarify firstly who the easement is **to** (that would only be the party responsible ie Homeowners Association in 4 of those) and clarify that other parties (list them) would have rights (but not obligations).

Re #7 clarify that its to Portland only for public access and not maintenance or other responsibilities which remain with the Homeowners Association until the street is accepted.

You need to check easement #6 with Falmouth.

Our surveyor comments are:

Elevation Benchmark

The benchmark stated as the basis of all bearings is M Monument over 3-1/2 miles away from the project site. It was on a recorded plan of a Robert Greenlaw survey of Harborview Condominiums on York Street. To run a closed level loop over 7 miles would seem rather costly rather than utilizing control which is closer to the project site.

We do not provide benchmark elevations for the M Monuments as they are short, do not have a well defined elevation point, and subject to frost heaving.

In addition, the plan calls for that point as a City Benchmark. That monument specified is NOT an official City of Portland Benchmark.

Is this a correct statement, or a copied note from another plan?

Drainage Easements

I see that the language has been changed to a Drainage Maintenance Agreement. Is this acceptable for Planning, David, and Corporation Counsel?

thanks  
Jean

PS Its possible- depending on the snowstorm- that the Planning Board hearing tomorrow evening will be postponed. I have alerted Barbara to the need for your plat to be signed and if necessary we will ask 4 Board members to stop by and sign them (ie if postponement date is too far off). but for now I am assuming a signing tomorrow evening.

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 3/15/2013 11:22 AM >>>

Hi Jean,

Easement #5: The level spreader grading and drainage easement is on Lot 16 and ALSO extends into Lot 2 so the Homeowners need the easement for the maintenance which is occurring on Lot 2.

I have revised Easement #7 to read; "Interim public access easement granted to the City of Portland. Book \_\_\_\_\_ and Page \_\_\_\_\_."

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [mailto:[JF@portlandmaine.gov](mailto:JF@portlandmaine.gov)]  
**Sent:** Friday, March 15, 2013 11:03 AM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Comments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.

Isn't that also the case with Easement #5.

I am not sure the wording for the easements on the first plat is correct- #7 for example is access granted to the public but responsibility of the Homeowners Assoc.. Whatever it says on the second plat, these need to avoid being misleading.

I think our attorney is out of the office today so I am not sure we will be able to get clarity on this and I believe your attorney is also away- it really needs a legal take on this.

thanks

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 3/15/2013 10:51 AM >>>

Hi Jean,

Easement 1 is the underdrain soil filter on Lot 15, which is owned by the Homeowners Association so there is no need for them to have an easement.

Peter

Peter Biegel, ASLA, LEED AP

Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Friday, March 15, 2013 10:45 AM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Comments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.

Peter

Isn't easement #1 also to the Homeowners Association?

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 3/15/2013 10:14 AM >>>

Hi Jean,

I have added the 3/15/13 date to the plans.

Thank you,

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

---

**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Friday, March 15, 2013 9:52 AM

**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Comments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.

Peter

Could you please amend the dates on these before I circulate them so we can keep track of what we are looking at/commenting on- each revision should have a new date and the ones you sent this morning should be dated March 15, 2013.

The mylars should have the same dates as the last ones we see.

Thanks  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 3/15/2013 7:39 AM >>>

Hi Jean,

I have attached a PDF of the revised plans in for your review:

- Subdivision Recording Plan recording plan 1 of 2
- S-101 Subdivision Plan recording plan 2 of 2

Do you want a new revision status and date on the mylar plans?

Thank you,

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Thursday, March 14, 2013 3:42 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'

**Subject:** Copmments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.

Peter,

Below in **red** please find the updated survey comments- these are somewhat "raw" in the interest of time. Re 5, yes they should be set as we have discussed so maybe needs to be stated; re 7 ignore that as we have discussed this and our Corporation Counsel will have a final look at the wording.

Thanks  
Jean

1. No surveyor certification.

**OK. Certification has been added.**

2. Turnaround has not moved toward the end of Ice Pond Drive.

**OK. It appears that planning review has approved the turnaround location as proposed.**

3. Monuments need to be set on the three foot offset line and not the sideline of the street. Needed on right side at all PCs, PTs, and at end.

**Monuments have been added. Need to move the monuments for Curve C7 to the three foot offset line.**

4. Set property corners at all PCs and PTs.

**OK.**

5. Buffers are not dimensioned.

**OK. Will Planning require markers to be set.**

6. No coordinates are shown. Need coordinates for at least two of the monuments to be set.

**Need to add the coordinates for two monuments to be set along Ice Pond Drive.**

7. Easement ownership needs to be stated for all easements.

**Does the City of Portland want to be responsible for Easements 1, 2, 3, or 5? If so, I suggest drainage and maintenance agreements, as has been done on other projects.**

8. No revision block.

**OK.**

9. The official benchmark to establish elevations is not stated.

**It calls for a benchmark at the corner of Danforth and Park Street. We have no official benchmark for such a location. Needs to be addressed.**

11. Site TBM?

**Needs to be addressed.**

12. Datum? Maine State Plane, West Zone, US Foot, NAD83?

**OK.**

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

## Jean Fraser - Re: Urgent review of easements Old Barn Estates SubDiv Plat

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 3/18/2013 2:35 PM  
**Subject:** Re: Urgent review of easements Old Barn Estates SubDiv Plat

---

I would list in notes on the plat.

>>> Jean Fraser 3/18/2013 1:15 PM >>>

We need these easements but only to have rights of access/repair if the responsible party does not do it. They are mainly to the Homeowners Association (who have responsibility) but Portland and Falmouth are mentioned too as they would have rights (but not obligation) to go in if HO failed to take necessary action- so the question is do you list all three on the Plat or only the one with responsibilities?

Thanks

>>> Danielle West-Chuhta (Danielle West-Chuhta) 3/18/2013 12:50 PM >>>

I do not want the easements to be too the City of Portland unless DPS/Planning has determined that we need these for some reason - these should be to someone else and I am ok where we can have access if we need to, but not obligation to maintain.

Danielle

>>> Jean Fraser 3/18/2013 12:20 PM >>>

Danielle

Please see list of easements on the first attachment (to be signed tomorrow).

The agent/surveyor has included Portland as "to" where the City has rights (but not obligations) ie re Easements #1-#5.

#6 was requested by the Falmouth Town engineer as it benefits Ledgewood Drive, so just Falmouth.

Easement #7 is the interim easement until the street is accepted to allow public access- so thats also to City of Portland.

Are you OK with this text?

Thanks  
Jean

## Jean Fraser - Copmments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.

---

**From:** Jean Fraser  
**To:** Peter Biegel  
**Date:** 3/14/2013 3:42 PM  
**Subject:** Copmments re Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.  
**CC:** 'Tim O'Donovan'

---

Peter,

Below in **red** please find the updated survey comments- these are somewhat "raw" in the interest of time. Re 5, yes they should be set as we have discussed so maybe needs to be stated; re 7 ignore that as we have discussed this and our Corporation Counsel will have a final look at the wording.

Thanks  
Jean

1. No surveyor certification.

**OK. Certification has been added.**

2. Turnaround has not moved toward the end of Ice Pond Drive.

**OK. It appears that planning review has approved the turnaround location as proposed.**

3. Monuments need to be set on the three foot offset line and not the sideline of the street. Needed on right side at all PCs, PTs, and at end.

**Monuments have been added. Need to move the monuments for Curve C7 to the three foot offset line.**

4. Set property corners at all PCs and PTs.

**OK.**

5. Buffers are not dimensioned.

**OK. Will Planning require markers to be set.**

6. No coordinates are shown. Need coordinates for at least two of the monuments to be set.

**Need to add the coordinates for two monuments to be set along Ice Pond Drive.**

7. Easement ownership needs to be stated for all easements.

**Does the City of Portland want to be responsible for Easements 1, 2, 3, or 5? If so, I suggest drainage and maintenance agreements, as has been done on other projects.**

8. No revision block.

**OK.**

9. The official benchmark to establish elevations is not stated.

**It calls for a benchmark at the corner of Danforth and Park Street. We have no official benchmark for**



***such a location. Needs to be addressed.***

11. Site TBM?

***Needs to be addressed.***

12. Datum? Maine State Plane, West Zone, US Foot, NAD83?

***OK.***

**Jean Fraser - Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.**

---

**From:** William Clark  
**To:** David Margolis-Pineo  
**Date:** 3/14/2013 3:08 PM  
**Subject:** Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13.  
**CC:** Jean Fraser

---

David,

My comments regarding the plan submitted for Old Barn Estates Subdivision Plan dated 2/08/2013.

***My comments from today regarding Old Barn Estates Subdivision Plan Revision #2 dated 3/7/13 are in italics, bold, and red text.***

1. No surveyor certification.

***OK. Certification has been added.***

2. Turnaround has not moved toward the end of Ice Pond Drive.

***OK. It appears that planning review has approved the turnaround location as proposed.***

3. Monuments need to be set on the three foot offset line and not the sideline of the street. Needed on right side at all PCs, PTs, and at end.

***Monuments have been added. Need to move the monuments for Curve C7 to the three foot offset line.***

4. Set property corners at all PCs and PTs.

***OK.***

5. Buffers are not dimensioned.

***OK. Will Planning require markers to be set.***

6. No coordinates are shown. Need coordinates for at least two of the monuments to be set.

***Need to add the coordinates for two monuments to be set along Ice Pond Drive.***

7. Easement ownership needs to be stated for all easements.

***Does the City of Portland want to be responsible for Easements 1, 2, 3, or 5? If so, I suggest drainage and maintenance agreements, as has been done on other projects.***

8. No revision block.

***OK.***

9. The official benchmark to establish elevations is not stated.

***It calls for a benchmark at the corner of Danforth and Park Street. We have no official benchmark for such a location. Needs to be addressed.***

11. Site TBM?

***Needs to be addressed.***

12. Datum? Maine State Plane, West Zone, US Foot, NAD83?

***OK.***

Thanks,

Bill

William Clark, PLS  
Senior Project Engineer  
Engineering  
Department of Public Services  
City of Portland  
55 Portland St.  
Portland, ME 04101  
207 874 8847

## Jean Fraser - Fwd: RE: second reply RE: Re Plat, deed and Homeowners Assoc Docs

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**From:** Jean Fraser  
**To:** Peter Biegel  
**Date:** 3/13/2013 2:48 PM  
**Subject:** Fwd: RE: second reply RE: Re Plat, deed and Homeowners Assoc Docs  
**CC:** 'Joe Mazziotti'; 'Tim O'Donovan'

---

Peter

I have tried to respond/explain in **BLUE** annotations on your annotations. Plan 1 needs to have a title to match Plan 2 and both need notes referring to the other to make sure they are read together. Wherever S-101 refers to an agreement or easement, it needs the reference to Plan 1 as I have suggested below.

One other point has come up today:

We would like note 19 on S-101 to read as follows (add wording in **red**):

"All single family homes constructed on lots 1-12 **and Lot 14** require single family site plan/building permit review by the City of Portland only, prior to any work starting on the lots. The installation of the sidewalks and curbs shown on **Lot #14 shall be implemented as part of the overall subdivision infrastructure at the same time as Ice Pond Drive is constructed, and prior to its installation the sidewalk and curbing construction details for lot #14 shall be submitted and approved by the Portland Department of Public Services.**

The note on S-101 near lot #14 that says "construct curb and sidewalk both sides of driveway" needs to have this added at end: "**as per Note 19**".

I am pressing DPS for their comments.

Thank you

Jean

CITY CORPORATION COMMENTS (NUMBERED) WITH YOUR ANNOTATIONS (IN **REDDISH**) as in e-mail of today, with mine added IN **BLUE**:

2) The Homeowner's bylaws need to be amended to reference the S-W Maintenance Agreement and various easements in the subdivision (especially the public pedestrian easement), as well as specify that the City of Portland does not have any responsibility to maintain said easement areas;

**See Article IV Section 1., b., c & d and Article VI, section 5, a, b, c, & d. THIS ARTICLE DOES NOT REFERENCE THE ACTUAL MAINTENANCE AGREEMENT (A SEPARATE DOCUMENT THAT NEEDS TO BE RECORDED) NOR THE OTHER EASEMENTS, WHICH IS WHAT CORPORATION COUNSEL IS REQUESTING. PLEASE ADD RE PORTLAND AS THAT IS SOMETHING WE ASK TO BE INCLUDED FREQUENTLY AS A LEGAL REQUIREMENT (AS WE GET SO MANY REQUESTS AND HAVE ENDED UP IN COURT BECAUSE IT WAS NOT CLEAR)**

The S-101 Subdivision Plan recording plan 2 of 2 Plan notes specifically state that the homeowners are responsible for the S-W element maintenance and the Falmouth Land Trust is responsible for the pedestrian walk maintenance. After clearly stating who is responsible for the maintenance it seems odd to then state who is not responsible, but we can add that if needed.

Since the public pedestrian easement within the right of way (sidewalk) which will be owned and maintained by the City or it is on private property (lot 9) to be maintained by the Falmouth Land Trust I am not clear why it would be mentioned in the homeowners bylaws? SO HOMEOWNERS ARE AWARE OF THE VARIOUS RESPONSIBILITIES

- 3) All of the easements (numbered 1-6 on the plat need to indicate who they are being conveyed to and they also need to specify in the notes that the City of Portland does not have any responsibility to maintain said easement areas (this would also include the public pedestrian easement - it should reference who that is being conveyed to and who will be maintaining said easement area);

The easements listed under "Easements" on the Subdivision Plat Plan recording plan 1 of 2 do call out who the easement is being granted to. Note #17 on plan S-101 Subdivision Plan sole purpose is to state that the Homeowners Association is the owner and responsible for the maintenance of the stormwater elements and the open space. I SUGGEST THAT WHERE YOU HAVE REFERRED TO EASEMENTS ON S-101 THAT YOU ADD "SEE DETAILS ON SUBDIVISION RECORDING PLAN 1" AND LABEL PLAN 1 AS A SUBDIVISION RECORDING PLAN.

The public pedestrian walk which is on private property (Lot 9) is labeled on S-101 Subdivision Plan recording Plan 2 of 2 and in that label it states "to be maintained by the Falmouth Land Trust". The easement to this 20' wide strip has also been granted to the City of Portland and the Falmouth Land Trust would you like us to remove the "City of Portland" from that easement? THIS SHOULD BE LISTED UNDER THE EASEMENTS/AGREEMENTS ON THE FIRST PLAN ALONG WITH THE INTERIM PUBLIC ACCESS EASEMENT, WITH SPACES FOR RECORDING DETAILS. THEN ON THE SECOND PLAN ADD A NOTE "SEE DETAILS ON SUBDIVISION RECORDING PLAN 1"

WE NEED TO REVIEW THAT EASEMENT AND I WAS UNDER THE IMPRESSION THAT IF THE FALMOUTH LAND TRUST DID NOT MAINTAIN THEN IT WOULD BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION. THE CITY OF PORTLAND SHOULD HAVE RIGHTS TO ENFORCE MAINTENANCE BY WHOEVER IS RESPONSIBLE .

- 4) the S-W buffer areas should indicate how large the area is, who maintains - and should also be included in the Homeowner's Bylaws; and

The distances have been added to the S-W buffer boundaries so that a homeowner can see their size or do you mean we should show the square footage? INCLUDE DESCRIPTION (INLC SQ FT) HERE AND IN HOMEOWNERS ASSOC DOC AND CLARIFY WHICH ARE RESPONSIBILITY OF ASSOCIATION AND WHICH ARE RESPONSIBILITY OF INDIVIDUAL LOT OWNER SINCE THEY ARE PART OF THE STORMWATER MANAGEMENT FACILITIES

Note #17 on plan S-101 Subdivision Plan sole purpose is to state that the Homeowners Association is the owner and responsible for the maintenance of the stormwater elements and the open space. SAME ISSUE AS ABOVE

- 5) Lastly - in note 2 on the plat I think that the word "until" needs to be inserted into that sentence.

Yes I agree the wording is not quite right.

## Jean Fraser - Fwd: RE: Re Plat, deed and Homeowners Assoc Docs

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 3/13/2013 12:41 PM  
**Subject:** Fwd: RE: Re Plat, deed and Homeowners Assoc Docs

---

The references on the plat to the easements do not indicate who they are too - they just state SW-easement etc. That is my concern.

>>> Jean Fraser 3/13/2013 12:39 PM >>>

Did you read his comments in red- he is saying that everything you have requested is already there.

>>> Danielle West-Chuhta (Danielle West-Chuhta) 3/13/2013 12:38 PM >>>

Yes, I would like the information in as many places as possible.

>>> Jean Fraser 3/13/2013 11:20 AM >>>

Danielle

Peter is concerned that the same info is going in several places and this may be unnecessary- please see his responses to your comments.

I attach the two plats (the first being mainly surveying and easements, the second being more re the proposed development) that are under discussion, along with the Homeowners Assoc Docs for your reference.

Thank you  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 3/13/2013 9:21 AM >>>

Hi Jean,

I am a little confused as it looks to me like most of the information you are requesting is already on the plans or documents am I missing something? Please see my comments in red below. I will call to follow up.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

## Jean Fraser - RE: Old Barn Estates - revised subdiv plats, deeds and Homeowner's Assoc. docs

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** David Margolis-Pineo; Jean Fraser  
**Date:** 3/11/2013 10:47 AM  
**Subject:** RE: Old Barn Estates - revised subdiv plats, deeds and Homeowner's Assoc. docs  
**CC:** Barbara Barhydt

---

Jean:

I have reviewed the documents and the following are my suggestions:

- 1) The deed is ok;
- 2) The Homeowner's bylaws need to be amended to reference the S-W Maintenance Agreement and various easements in the subdivision (especially the public pedestrian easement), as well as specify that the City of Portland does not have any responsibility to maintain said easement areas;
- 3) All of the easements (numbered 1-6 on the plat need to indicate who they are being conveyed to and they also need to specify in the notes that the City of Portland does not have any responsibility to maintain said easement areas (this would also include the public pedestrian easement - it should reference who that is being conveyed to and who will be maintaining said easement area);
- 4) the S-W buffer areas should indicate how large the area is, who maintains - and should also be included in the Homeowner's Bylaws; and
- 5) Lastly - in note 2 on the plat I think that the word "until" needs to be inserted into that sentence.

Thanks,

Danielle

>>> Jean Fraser 3/8/2013 10:41 AM >>>  
Danielle and David,

Sorry - here are more subdivision plats and associated documents to review- we are hoping to have the Planning Board sign the plat mylars on **March 19th** so fairly urgent please. You both have seen earlier versions of these (except deed).

I have not looked at these yet but did give the applicant some feedback on the ones that went to the PB (which were pretty good) so I am hopeful these are close to being final.

thank you  
Jean  
(I will also upload these into e-plan; let me know if you want scaled paper plans)

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 3/7/2013 2:42 PM >>>  
[Hi Jean,](#)

[I have attached the following for City review:](#)



## Jean Fraser - Fwd: RE: Re Plat, deed and Homeowners Assoc Docs

---

**From:** Jean Fraser  
**To:** Peter Biegel  
**Date:** 3/12/2013 3:18 PM  
**Subject:** Fwd: RE: Re Plat, deed and Homeowners Assoc Docs  
**CC:** 'Joe Mazziotti'; 'Tim O'Donovan'

---

Peter

I wanted to just make a comment regarding the deed.

Its OK "legally" but I think #2 should state that all owners are required to be members of the Homeowners Association, and that the Association has responsibility for the maintenance and management of the common areas and infrastructure... (describe/define so that buyers have some idea of the scale of commitment (potential cost) re this.

thank you  
Jean

>>> Jean Fraser 3/12/2013 2:33 PM >>>  
Peter,

I have not been able to obtain DPS comments on this so I am sending along the comments from Corporation Counsel so you can start addressing them if you want to; they are:

- 1) The deed is ok;
- 2) The Homeowner's bylaws need to be amended to reference the S-W Maintenance Agreement and various easements in the subdivision (especially the public pedestrian easement), as well as specify that the City of Portland does not have any responsibility to maintain said easement areas;
- 3) All of the easements (numbered 1-6 on the plat need to indicate who they are being conveyed to and they also need to specify in the notes that the City of Portland does not have any responsibility to maintain said easement areas (this would also include the public pedestrian easement - it should reference who that is being conveyed to and who will be maintaining said easement area);
- 4) the S-W buffer areas should indicate how large the area is, who maintains - and should also be included in the Homeowner's Bylaws; and
- 5) Lastly - in note 2 on the plat I think that the word "until" needs to be inserted into that sentence.

I will forward other comments as soon as possible.

Jean

*Jean Fraser, Planner*  
*City of Portland*  
874 8728

## Jean Fraser - RE: Old Barn Estates Subdivision

---

**From:** Jean Fraser  
**To:** Croce, Ethan  
**Date:** 3/6/2013 11:52 AM  
**Subject:** RE: Old Barn Estates Subdivision  
**Attachments:** APP LTR 1062 Ocean (Ledgewood Dr) Old Barn Estates Subdivision  
2.26.13.pdf

---

Ethan

Please find attached the Portland Planning Board subdivision approval letter for this project.

Please note that the my attorneys consider that the note on the plat as suggested by your attorney (*The Town of Falmouth is not accepting Ice Pond Drive as a public street. The Town of Falmouth shall have no obligation to repair, maintain, or plow Ice Pond Drive*) is sufficient to cover the City of Portland (since the applicant is going to deed the entire road to us, the road will be built to City standards and all departments have indicated that the proposal is acceptable).

The only issue that needs to be resolved is that we would not want to be taxed on this land in Falmouth (by the Town) and Danielle West-Chuhta (Corporation Counsel) will be liaising with someone from your municipality regarding this (but it does not need to be resolved before the plats are signed/recorded).

I am hoping to have the Portland Planning Board sign the plats on March 19 so that - if your Board is OK with the plats- your board can sign them on April 2. Therefore please let me know if there is anything else that you or your attorney would want on the plat asap as I would probably need to discuss it with my attorney before it gets added.

thank you  
Jean

Jean Fraser, Planner  
City of Portland  
874 8728

APP LTR also sent  
to applicant's agent  
on 3.6.13

## Jean Fraser - Re: Old Barn Estates - Action from last weeks meeting

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 3/4/2013 3:43 PM  
**Subject:** Re: Old Barn Estates - Action from last weeks meeting  
**CC:** O'Donovan', 'Tim'

---

Peter and Tim

Just to confirm that I have made enquiries re the E-911 addressing and street acceptance timing as we discussed.

Re street acceptance, I understand that when the road and all infrastructure is completed, City staff will inspect and a written recommendation will be made to Council to accept.

Re the E-911 addressing, I will get back to you asap.

While writing, I noticed that the lot boundaries on Plat #2 are not complete and it is confusing (for example, lot 1 is not bounded) - I think all the lot lines should be shown with the same line symbol and that the Falmouth Town line should also be clearer with a bold line symbol.

thanks  
Jean

## Jean Fraser - Re: Acceptance of a subdivision street

---

**From:** David Margolis-Pineo  
**To:** Jean Fraser  
**Date:** 3/4/2013 3:39 PM  
**Subject:** Re: Acceptance of a subdivision street  
**CC:** Gregory Vining; Rhonda Zazzara; William Clark; John Low

---

Jean,

It is my understanding that when the road and all infrastructure is completed, City staff will inspect and a written recommendation will be made to Council to accept.

>>> Jean Fraser 3/4/2013 3:08 PM >>>

David

The applicant for the 1062 Ocean 16 lot subdivision (new street to be accepted by Portland, Ice Pond Drive) would like to know when would be the earliest he could ask Portland to accept the street (I think the Falmouth Planning Board may be asking him that) - he is wondering if there need to be certain number of lots sold/developed or if there is some other trigger.

Could you let me know what governs the timing on this, please?.

(By the way, he is planning on starting construction of the road in May or June, assuming the plat is recorded in April)

thanks  
Jean

## Jean Fraser - Addressing for approved subdivision - 1062 Ocean

---

**From:** Jean Fraser  
**To:** Sweeney, Michelle  
**Date:** 3/4/2013 3:03 PM  
**Subject:** Addressing for approved subdivision - 1062 Ocean  
**Attachments:** S-101 Subdivision Plan recording plan 2 of 2 2.19.13.pdf

---

Michelle

You may recall we met to discuss this with the Fire Dept and various other DPS staff because it raised some questions re emergency access and addressing.

The project has just been approved by Portland Planning Board and will be going to Falmouth on April 2 with a start on site soon after that. The applicant would like to confirm the correct E-911 addresses and put them on the Plat by **March 22** so that they are confirmed/recorded before he markets the lots for development of single family homes.

New addresses are only needed for the 12 new single family lots within Portland ie Lots 1-12- see almost-final plat attached (the boundaries of the lots are not entirely clear).

(Lot #13 is already a house in Falmouth and its driveway and address will remain unchanged;  
Lot #14 is to be partially redeveloped; its in Portland and retain its 1062 Ocean Ave address;  
Lot #15 is in Falmouth and will be open space/stormwater detention owned and maintained by the Homeowner's Association - not sure if this needs an address but if so I guess it would be a Falmouth address  
Lot #16 is in Portland and will be retained as open space owned and maintained by the Homeowner's Association- again I don't know if it needs an address, but if so its Portland).

Would you be able to give me the final E-911 addresses for these 12 new single family lots in the next week or so?

Please call me if any question.

thanks  
Jean  
Ext 8728

## Jean Fraser - Addressing for approved subdivision - 1062 Ocean

---

**From:** Jean Fraser  
**To:** Sweeney, Michelle  
**Date:** 3/4/2013 3:03 PM  
**Subject:** Addressing for approved subdivision - 1062 Ocean  
**Attachments:** S-101 Subdivision Plan recording plan 2 of 2 2.19.13.pdf

---

Michelle

You may recall we met to discuss this with the Fire Dept and various other DPS staff because it raised some questions re emergency access and addressing.

The project has just been approved by Portland Planning Board and will be going to Falmouth on April 2 with a start on site soon after that. The applicant would like to confirm the correct E-911 addresses and put them on the Plat by **March 22** so that they are confirmed/recorded before he markets the lots for development of single family homes.

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Would you be able to give me the final E-911 addresses for these 12 new single family lots in the next week or so?

Please call me if any question.

thanks  
Jean  
Ext 8728

## Jean Fraser - Acceptance of a subdivision street

---

**From:** Jean Fraser  
**To:** Margolis-Pineo, David  
**Date:** 3/4/2013 3:08 PM  
**Subject:** Acceptance of a subdivision street  
**CC:** Clark, William

---

David

The applicant for the 1062 Ocean 16 lot subdivision (new street to be accepted by Portland, Ice Pond Drive) would like to know when would be the earliest he could ask Portland to accept the street (I think the Falmouth Planning Board may be asking him that) - he is wondering if there need to be certain number of lots sold/developed or if there is some other trigger.

Could you let me know what governs the timing on this, please?.

(By the way, he is planning on starting construction of the road in May or June, assuming the plat is recorded in April)

thanks  
Jean

# CITY OF PORTLAND, MAINE

## PLANNING BOARD

Carol Morrisette, Chair  
Stuart G. O'Brien, Vice Chair  
Elizabeth Boepple  
Timothy Dean  
Sean Dundon  
Bill Hall  
David Silk

March 4<sup>th</sup>, 2013

Tim O'Donovan  
TPO Properties LLC  
30 Ledgewood Drive  
Falmouth, ME 04104

Peter Biegel  
Land Design Solutions  
160 Longwoods Road  
Cumberland, ME 04021

as sent for  
signing.

Project Name: **Old Barn Estates 16 Lot Subdivision**  
Project ID: 2012-584; CBL: 414-A-4 (and part within Town of Falmouth)  
Address: 1062 Ocean Avenue (Ledgewood Drive)  
Applicant: Tim O'Donovan, TPO Properties LLC  
Planner: Jean Fraser

Dear Mr O'Donovan and Mr Biegel:

On February 26<sup>th</sup>, 2013, the Planning Board considered the Level III Subdivision Review application for the Old Barn Estates 16 lot subdivision at 1062 Ocean Avenue (Ledgewood Drive). The Planning Board reviewed the proposal for conformance with the standards of the Subdivision Ordinance.

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report #13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board voted 5-0 (O'Brien and Silk absent) to approve the application with the following waivers and conditions as presented below:

### WAIVERS

The Planning Board voted 5-0 (O'Brien and Silk absent) that:

1. *Sidewalks*
  1. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ice Pond Drive within the 12 lot new subdivision:
  2. The Planning Board finds that two of the waiver criteria do apply (namely 3 and 6), and therefore waives the requirement for a sidewalk along the south side of Ledgewood Drive on Lots #13 and #15:
  3. The Planning Board finds that the sidewalk waiver criteria do not apply and therefore does not waive the requirement for a sidewalk (with associated curbing) along the frontage of the property at 1062 Ocean Avenue (Lot #14):

#### APPLICABLE SIDEWALK WAIVER CRITERIA:

3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*



2. *Curbing:*

The Planning Board finds that the following criteria do apply (namely 1, 4 and 5), and therefore waives the requirement for curbing along the south side of Ice Pond Drive within the 12 lot new subdivision:

*APPLICABLE CURBING WAIVER CRITERIA:*

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*
4. *Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*
5. *Runoff from the development site or within the street does not require curbing for stormwater management.*

3. *Streetlighting:*

The Planning Board waives the Technical Standard, Section 10.2.1, to allow a reduction in the number of street lights along the proposed new street Ice Pond Drive to one new pole and light at the “dead end” of the new street and one new pole and light in the vicinity of the fire hydrant on Ice Pond Drive.

## **SUBDIVISION**

The Planning Board voted 5-0 (O’Brien and Silk absent) that the plan is in conformance with the subdivision standards of the land use code, subject to the following eight (8) conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- v. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vi. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and

- vii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

- viii. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

#### STANDARD CONDITIONS OF APPROVAL

Please note the following standard conditions of approval and requirements for all approved site plans:

1. **Subdivision Recording Plat** A revised recording plat listing all conditions of subdivision approval must be submitted for review and signature prior to the issuance of a performance guarantee.
2. **Subdivision Waivers** Pursuant to 30-A MRSA section 4406(B)(1), any waiver must be specified on the subdivision plan or outlined in a notice and the plan or notice must be recorded in the Cumberland County Registry of Deeds within 90 days of the final subdivision approval).
3. **Develop Site According to Plan** The site shall be developed and maintained as depicted on the site plan and in the written submission of the applicant. Modification of any approved site plan or alteration of a parcel which was the subject of site plan approval after May 20, 1974, shall require the prior approval of a revised site plan by the Planning Board or the Planning Authority pursuant to the terms of Chapter 14, Land Use, of the Portland City Code.
4. **Separate Building Permits Are Required** This approval does not constitute approval of building plans, which must be reviewed and approved by the City of Portland's Inspection Division.
5. **Site Plan Expiration** The site plan approval will be deemed to have expired unless work has commenced within one (1) year of the approval or within a time period up to three (3) years from the approval date as agreed upon in writing by the City and the applicant. Requests to extend approvals must be received before the one (1) year expiration date.
6. **Subdivision Plan Expiration** The subdivision approval is valid for up to three years from the date of Planning Board approval.
7. **Performance Guarantee and Inspection Fees** A performance guarantee covering the site improvements as well as an inspection fee payment of 2.0% of the guarantee amount and seven (7) final sets of plans must be submitted to and approved by the Planning Division and Public Services Department prior to the release of a building permit, street opening permit or certificate of occupancy for site plans. If you need to make any modifications to the approved plans, you must submit a revised site plan application for staff review and approval.
8. **Defect Guarantee** A defect guarantee, consisting of 10% of the performance guarantee, must be posted before the performance guarantee will be released.
9. **Department of Public Services Permits** If work will occur within the public right-of-way such as utilities, curb, sidewalk and driveway construction, a street opening permit(s) is required for your site. Please contact Carol Merritt at 874-8300, ext. 8828. (Only excavators licensed by the City of Portland are eligible.)

10. **Preconstruction Meeting** Prior to the release of a building permit or site construction, a pre-construction meeting shall be held at the project site. This meeting will be held with the contractor, Development Review Coordinator, Public Service's representative and owner to review the construction schedule and critical aspects of the site work. At that time, the Development Review Coordinator will confirm that the contractor is working from the approved site plan. The site/building contractor shall provide three (3) copies of a detailed construction schedule to the attending City representatives. It shall be the contractor's responsibility to arrange a mutually agreeable time for the pre-construction meeting.
11. **As-Built Final Plans** Final sets of as-built plans shall be submitted digitally to the Planning Division, on a CD or DVD, in AutoCAD format (\*.dwg), release AutoCAD 2005 or greater.
12. **Mylar Copies** Mylar copies of the as-built drawings for the public streets and other public infrastructure in the subdivision must be submitted to the Public Services Dept. prior to the issuance of a certificate of occupancy.

The Development Review Coordinator must be notified five (5) working days prior to date required for final site inspection. The Development Review Coordinator can be reached at the Planning Division at 874-8632. All site plan requirements must be completed and approved by the Development Review Coordinator prior to issuance of a Certificate of Occupancy. Please schedule any property closing with these requirements in mind.

If there are any questions, please contact Jean Fraser at 874-8728.

Sincerely,

Carol Morrissette, Chair  
Portland Planning Board

**Attachments:**

1. Memo from David Senus of Woodard & Curran dated 2.20.2013
2. Letter of agreement with the Falmouth Land Trust dated 2.20.2013
3. Planning Board Report #13-13
4. City Code, Chapter 32
5. Performance Guarantee Packet

**Electronic Distribution:**

cc: Jeff Levine, AICP, Director of Planning and Urban Development  
Alexander Jaegerman, Planning Division Director  
Barbara Barhydt, Development Review Services Manager  
Jean Fraser, Planner  
Philip DiPierro, Development Review Coordinator, Planning  
Marge Schmuckal, Zoning Administrator, Inspections Division  
Tammy Munson, Inspection Division Director  
Lannie Dobson, Administration, Inspections Division  
Gayle Guertin, Administration, Inspections Division  
Michael Bobinsky, Public Services Director  
Katherine Earley, Engineering Services Manager, Public Services  
Bill Clark, Project Engineer, Public Services  
David Margolis-Pineo, Deputy City Engineer, Public Services  
Doug Roncarati, Stormwater Coordinator, Public Services  
Greg Vining, Associate Engineer, Public Services  
Michelle Sweeney, Associate Engineer  
John Low, Associate Engineer, Public Services  
Rhonda Zazzara, Field Inspection Coordinator, Public Services  
Mike Farmer, Project Engineer, Public Services  
Jane Ward, Administration, Public Services  
Jeff Tarling, City Arborist, Public Services  
Captain Chris Pirone, Fire Department  
Thomas Errico, P.E., TY Lin Associates  
David Senus, P.E., Woodard and Curran  
Rick Blackburn, Assessor's Department  
Approval Letter File

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## MEMORANDUM

**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E.  
**DATE:** February 20, 2013  
**RE:** Final Level III Site Plan Application Response to Comments – Old Barn Estates

Woodard & Curran has reviewed the response to comments email and associated attachments received on February 20, 2013 for the Final Level III Site Plan Application for Old Barn Estates Subdivision off of Ledgewood Drive on the Falmouth/Portland line.

### Documents Provided By Applicant

- Response to Comments email, dated February 20, 2013, prepared by Peter Biegel at Land Design Solutions, on behalf of TPO Properties, LLC.
- Engineering Plans: Sheet S-101, C-101, C-201, C-202, C-300, C-302, C-303 revised February 19, 2013, prepared by Land Design Solutions on behalf of TPO Properties, LLC.
- Appendix D – Stormwater Inspection & Maintenance Plan, Rev. 2 – February 19, 2013
- Deed restriction language (PDF)

### Comments (In reference to previous W&C review memo comments from 2/14/2013)

1. *Comment: Sheet C-101 note 15; C-201 note 9; and the plan view call-out on C-201 for the 15" culvert under the Lot 2 driveway reference CMP (corrugated metal pipe) within the future City of Portland Right-of-Way. CMP is not an approved pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2). Given the cover depths of these culverts, we recommend the Applicant consider requiring the use of reinforced concrete pipe at these locations.*

*Applicant Response: Pipe material for the culvert pipes in the City of Portland Right-of-Way has been revised to RCP (see plans C-201 and C-101).*

**Comment adequately addressed.**

2. *Comment: The proposed culvert at STA 2+70 along the Lot 2 Driveway was modeled as a 36" diameter culvert and shown in profile as a 36" diameter culvert; however, sheet C-201 still refers to a 30" culvert in plan view.*

*Applicant Response: Plan C-201 now refers to a 36" culvert as is shown on C-202.*

**Comment adequately addressed.**

3. *Comment: The Applicant notes that "maintenance easement language (for the soil filters systems) has been included with this submission"; however, we did not receive / have not reviewed easement language with the current submittal. This language will be reviewed upon receipt.*

*Applicant Response: An updated Inspection and Maintenance (Appendix D) is provided which covers right of entry, plan S-101 also labels the stormwater easement areas.*

**The Applicant's submittal includes adequate right of entry language in the Inspection and Maintenance report; however, we assume that easements will be drafted for the stormwater BMP locations (soil filters) and submitted to the City for review as a Condition of Approval.**





4. *Comment: The Applicant notes that "Deed restrictions and covenants will be created for all buffers and will be provided for review". This language has not been received/reviewed with the current submittal, and will be reviewed upon receipt.*

*Applicant Response: Plan S-101 note 17 addresses the limitations of disturbance in the stormwater buffer areas which will be linked to the deed through Note 1 on the attached Deed Restriction PDF.*

**Additional language should be incorporated into the applicable deeds following the guidance outlined in the MaineDEP BMP Technical Design Manual, Volume III, Appendix D, "Templates for Deed Restrictions & Conservation Easements". Final deed restriction language should be submitted to the City for review as a Condition of Approval.**

5. *Comment: Sheet S-101, Note 15 states that "Tree save areas and stormwater buffer areas shall be identified on the ground with capped rebar pins and signage as shown on Plan C-101"; however, C-101 does not specifically call out the rebar pins or signage.*

*Applicant Response: Tree save and stormwater buffer areas are now identified on Plan C-101 showing location of rebar pins and signage. Also see note #15.*

**Although there appear to be symbols identifying the rebar pins and signage on C-101, these symbols are not identified within the plan legend or specifically called out on the plan. A callout for the pin and sign symbol should be added to C-101 (refer to the callouts used on S-101).**

6. *Comment: Sheet C-201, Note 14 states that "Dripline filters shall be installed to capture all stormwater runoff from roofs of houses constructed on lots 7, 8, and 9. See detail on sheet C-302". These details actually reside on sheet C-303.*

*Applicant Response: Note 14 on C-201 now refers to the correct sheet for the dripline filter detail (C-303).*

**Comment adequately addressed.**

Conserve. Explore. Enjoy.



www.falmouthlandtrust.org

February 20, 2013

Peter Biegel  
Land Design Solutions  
160 Longwoods Rd  
Cumberland, ME 04021

Tim O'Donovan  
TPO Properties  
Old Barn Estates  
Ledgewood Drive  
Falmouth, ME 04101  
VIA EMAIL

Peter and Tim,

The Falmouth Land Trust and Portland Trails are excited about the proposed connection between the Old Barn Estates and the Portland Trails Ocean Ave Dog park property via the Trust's Elms subdivision land. Thank you both for taking the time to meet with me as representative of the Trust and Jaime Parker from Portland Trails to discuss the project. This letter summarizes the various conversations to date and clearly defines responsibilities for the creation and maintenance of the proposed trail.

TPO Properties would like to create a pedestrian trail connection from the proposed Old Barn Estates subdivision located on Ledgewood Drive to the Ocean Ave Dog Park. The proposed trail location is shown in red on the attached document. Final trail placement on the adjacent Trust property will be determined in the field by representatives of the Falmouth Land Trust and Portland Trails. At the end of the paved subdivision road, TPO Properties will construct a trail or unpaved sidewalk within the development all the way to the property line (approx. 60' in length) where it will connect with the new trail on the Trust property. The entire trail will be open to the public for walking, running, cross country skiing, snowshoeing and mountain biking, however, motorized uses except for occasional and specific authorized trail maintenance activities will be prohibited.

Falmouth Land Trust working in cooperation with Portland Trails would construct the trail after TPO Properties receives final approvals, most likely in the summer of 2013. Based on the field walk the following trail improvements would be required for construction:

- Landscaping at both trail heads of the new trail
- Mowing and clearing for proposed trail
- Surface hardening (5 yards of crushed rock and 5 yards of superbanus)

P.O. Box 6172 Falmouth, Maine 04105 (207) 200-5488



- Signage - wayfinding at: Ledgewood Dr., paved sidewalk end (trail head), along the trail and a kiosk at Ocean Ave Dog Park end.

The cost to create the proposed trail on the Trust property, including materials and labor, would be \$2500.00. FLT would require a 50% deposit to start work with the balance due within 30 days of completion. In addition TPO Properties would make a one-time stewardship donation to the Falmouth Land Trust of \$1500.00 upon trail completion. The stewardship fee covers reasonable maintenance of the length of the trail from the end of the road to the property line as well as the length extending to the Dog Park perimeter trail as shown in red on the attached document. All of the proposed work and associated expenses would not commence until TPO Properties received final approval for the project from the City of Portland and the Town of Falmouth. Once TPO Properties completes the trail section within the subdivision and pays the additional trail construction cost and the stewardship fee neither they, nor the homeowners association, would have any future responsibilities associated with the trail.

If the terms of this letter are agreeable please sign and return a copy to my attention. On behalf of the Land Trust we look forward to working with you on this great project.

Jed Harris  
President

Sent and Agreed

Tim O'Donovan  
TPO Properties

2/21/13  
Date

P.O. Box 6172 Falmouth, Maine 04105 (207) 200-5488

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## MEMORANDUM

**TO: Jean Fraser, Planner**  
**FROM: David Senus, P.E.**  
**DATE: February 20, 2013**  
**RE: Final Level III Site Plan Application Response to Comments – Old Barn Estates**

---

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- Engineering Plans: Sheet S-101, C-101, C-201, C-202, C-300, C-302, C-303 revised February 19, 2013, prepared by Land Design Solutions on behalf of TPO Properties, LLC.
- Appendix D – Stormwater Inspection & Maintenance Plan, Rev. 2 – February 19, 2013
- Deed restriction language (PDF)

### Comments (In reference to previous W&C review memo comments from 2/14/2013)

1. *Comment: Sheet C-101 note 15; C-201 note 9; and the plan view call-out on C-201 for the 15" culvert under the Lot 2 driveway reference CMP (corrugated metal pipe) within the future City of Portland Right-of-Way. CMP is not an approved pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2). Given the cover depths of these culverts, we recommend the Applicant consider requiring the use of reinforced concrete pipe at these locations.*

*Applicant Response: Pipe material for the culvert pipes in the City of Portland Right-of-Way has been revised to RCP (see plans C-201 and C-101).*

#### **Comment adequately addressed.**

2. *Comment: The proposed culvert at STA 2+70 along the Lot 2 Driveway was modeled as a 36" diameter culvert and shown in profile as a 36" diameter culvert; however, sheet C-201 still refers to a 30" culvert in plan view.*

*Applicant Response: Plan C-201 now refers to a 36" culvert as is shown on C-202.*

#### **Comment adequately addressed.**

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4. *Comment: The Applicant notes that "Deed restrictions and covenants will be created for all buffers and will be provided for review". This language has not been received/reviewed with the current submittal, and will be reviewed upon receipt.*

*Applicant Response: Plan S-101 note 17 addresses the limitations of disturbance in the stormwater buffer areas which will be linked to the deed through Note 1 on the attached Deed Restriction PDF.*

**Additional language should be incorporated into the applicable deeds following the guidance outlined in the MaineDEP BMP Technical Design Manual, Volume III, Appendix D, "Templates for Deed Restrictions & Conservation Easements". Final deed restriction language should be submitted to the City for review as a Condition of Approval.**

5. *Comment: Sheet S-101, Note 15 states that "Tree save areas and stormwater buffer areas shall be identified on the ground with capped rebar pins and signage as shown on Plan C-101"; however, C-101 does not specifically call out the rebar pins or signage.*

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6. *Comment: Sheet C-201, Note 14 states that "Dripline filters shall be installed to capture all stormwater runoff from roofs of houses constructed on lots 7, 8, and 9. See detail on sheet C-302". These details actually reside on sheet C-303.*

*Applicant Response: Note 14 on C-201 now refers to the correct sheet for the dripline filter detail (C-303).*

**Comment adequately addressed.**

[to be inserted]

## Jean Fraser - RE: City sign off for Plats for Old Barn Estates

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 3/29/2013 4:12 PM  
**Subject:** RE: City sign off for Plats for Old Barn Estates  
**CC:** O'Donovan', 'Tim  
**Attachments:** S-101 Subdivision Plan recording plan 2 of 2.pdf; Subdivision Recording Plan 1 recording plan 1 of 2.pdf

---

Peter

I am writing to confirm that the Legal and Public Services Departments and Planning Division have signed off on the attached plats, subject to the following minor corrections being needed (two of these previously mentioned to you):

1. Feno Markers should be added on Plan 1 of 2 as well as bearing and distances from marker to marker to be consistent with both recording plans.
2. (first page) its should be Portland PB conditions of approval and the PPB box should be beneath it (see my e-mail of 3.26.2013 for details)
3. (second page) note 2 under "LOT DIVISION NOTES" should say that Lot #14 IS a part of the subdivision (not the opposite) (see my e-mail of 3.27.2013 for details).
4. That the plats are dated, stamped , signed etc as needed for a mylar

Hope all goes well on Tuesday- I have arranged with Ethan Croce that after his Board signs the mylars that you will take them to bring to me.

Thank you  
Jean

## Jean Fraser - RE: Plat notes re conditions of approval

---

**From:** Jean Fraser  
**To:** Biegel, Peter; Croce, Ethan  
**Date:** 3/27/2013 4:17 PM  
**Subject:** RE: Plat notes re conditions of approval  
**CC:** O'Donovan, Tim

---

Peter

I may not have final sign offs on the plats until Monday so I suggest you wait to print the mylars until then; I assume you will be taking them by hand to the Falmouth meeting and could explain any last minute changes.

I think that the second note on S101 under "Lot Division Notes" (left bottom of page) is incorrect- I think Lot #14 is part of the subdivision and that we confirmed that to you previously as it relates to State law (and that's why you need to show the improvements). I will double check with our attorney but I think that needs to be changed.

Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 3/26/2013 3:31 PM >>>

Hi Jean,

I will make those revisions.

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com

3/27/13  
+ sent Ethan Croce  
(Falmouth Senior  
Planner) note re  
Plats.

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, March 26, 2013 3:10 PM  
**To:** Peter Biegel; Ethan Croce  
**Cc:** 'Tim O'Donovan'

## Jean Fraser - Fwd: RE: Signing of plats

---

**From:** Jean Fraser  
**To:** Margolis-Pineo, David; West-Chuhta, Danielle  
**Date:** 3/27/2013 4:48 PM  
**Subject:** Fwd: RE: Signing of plats  
**Attachments:** C-101 Lot Development and Landscape Plan.pdf; S-101 Subdivision Plan recording plan 2 of 2.pdf; Subdivision Recording Plan 1 recording plan 1 of 2.pdf

---

Danielle and David,

I urgently need a final sign off re the 2 plats attached as they will be printed as mylars on Monday for the Falmouth PB to sign on April 2.

I have noticed 2 things which I have asked them to correct so let me know if there is anything else on Friday (I am out of the office tomorrow) :

1. (first page) its should be Portland PB conditions of approval and the PPB box should be beneath it
2. (second page) note 2 under "LOT DIVISION NOTES" should say that Lot #14 IS a part of the subdivision (not the opposite).

Many thanks

Jean

PS C101 does not need an urgent sign off

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 3/26/2013 11:17 AM >>>  
[Hi Jean,](#)

I have attached PDF's of the revised plans we discussed on the phone this morning.

- [Subdivision Recording Plan 1 recording plan 1 of 2 – easement and survey note revisions.](#)
- [S-101 Subdivision Plan recording plan 2 of 2 – various note additions and revisions. Legend change with Feno markers for stormwater buffers, tree saves and wetland setbacks.](#)
- [C-101 Lot Development and Landscape Plan – shows additional light, additional fire hydrant and pedestrian crosswalk signs relocated.](#)

Thank you,  
Peter

## Jean Fraser - Plat notes re conditions of approval

---

**From:** Jean Fraser  
**To:** Croce, Ethan; Peter Biegel  
**Date:** 3/26/2013 3:09 PM  
**Subject:** Plat notes re conditions of approval  
**CC:** 'Tim O'Donovan'

---

Peter

On the Plat Plan 1 of 2, the "conditions of approval" need to be renamed "Portland Planning Board conditions of approval" and the box for signing by Portland PB needs to be moved underneath this list.

A note at the end of that list would include whatever wording you have agreed with Ethan re the Falmouth PB conditions.

Please change this before it goes to Falmouth PB; I may have some other small edits tomorrow but wanted to highlight this today as this is important.

thank you  
Jean

EASEMENTS:

- EASEMENT #1 UNDERDRAINED SOIL FILTER (LOT 15 OPEN SPACE) GRADING, DRAINAGE AND MAINTENANCE EASEMENT GRANTED TO THE HOMEOWNERS ASSOCIATION WITH RIGHTS AND NOT OBLIGATIONS GRANTED TO THE CITY OF PORTLAND AND THE TOWN OF FALMOUTH. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #2 UNDERDRAINED SOIL FILTER ( LOT 9) GRADING, DRAINAGE AND MAINTENANCE EASEMENT GRANTED TO THE HOMEOWNERS ASSOCIATION WITH RIGHTS AND NOT OBLIGATIONS GRANTED TO THE CITY OF PORTLAND AND THE TOWN OF FALMOUTH. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #3 DIVERSION DITCH (LOT 8) GRADING, DRAINAGE AND MAINTENANCE EASEMENT GRANTED TO THE HOMEOWNERS ASSOCIATION WITH RIGHTS AND NOT OBLIGATIONS GRANTED TO THE CITY OF PORTLAND AND THE TOWN OF FALMOUTH. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #4 20 FOOT WIDE PEDESTRIAN WALKWAY (LOT 9) PUBLIC ACCESS AND MAINTENANCE EASEMENT GRANTED TO THE FALMOUTH LAND TRUST WITH RIGHTS AND NOT OBLIGATIONS GRANTED TO THE HOMEOWNERS ASSOCIATION AND THE CITY OF PORTLAND. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #5 LEVEL SPREADER (LOT 16 OPEN SPACE & LOT 2) GRADING, DRAINAGE AND MAINTENANCE EASEMENT GRANTED TO THE HOMEOWNERS ASSOCIATION WITH RIGHTS AND NOT OBLIGATIONS GRANTED TO THE CITY OF PORTLAND. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #6 DRAINAGE MAINTENANCE EASEMENT (LOT 16 OPEN SPACE) GRANTED TO THE TOWN OF FALMOUTH. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_
- EASEMENT #7 INTERIM PUBLIC ACCESS EASEMENT (ICE POND DRIVE SIDEWALK) GRANTED TO THE CITY OF PORTLAND FOR ACCESS ONLY AND TO THE HOMEOWNERS ASSOCIATION FOR MAINTENANCE AS SPELLED OUT IN THE HOMEOWNERS ASSOCIATION BYLAWS. BOOK \_\_\_\_\_ PAGE \_\_\_\_\_





**Jean Fraser - Re: Review of Plat for 1062 Ocean 16 lot SubDiv**

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**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 2/28/2013 10:24 AM  
**Subject:** Re: Review of Plat for 1062 Ocean 16 lot SubDiv  
**CC:** Barbara Barhydt

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Jean:

I have discussed the issue regarding an agreement internally with my staff and we all think that the note on the plat (suggested by the Falmouth attorney) is sufficient to cover us (since they are going to deed the entire road to us, the road will be built to City standards and all departments have indicated that the proposal is acceptable). The only issue that came up is that we would not want to be taxed on this land in Falmouth (by the Town). This may be something I need to speak with the attorney about, but I do not think that this has to happen before the plat is signed. My only concern about the plat is the reference to all of the easements and areas for drainage, etc. - they do not indicate who they are to be maintained by, etc. I think that a note needs to specify that they will not be maintained by the City. Finally, I would suggest that the following conditions of approval be placed on the plat: notes iii through the end of the list.

Thanks,

Danielle

>>> Jean Fraser 2/27/2013 2:20 PM >>>

Danielle,

Last night the PB approved this subdivision with the conditions as listed below. I attach the draft plat - its 2 pages with first page "surveying" info and the second page "development and restrictions". *[I have large paper set which I can bring down for a brief discussion if you would prefer, or I can send]*

I also attach the last-minute ADDENDUM I presented to the Board with the additional condition (and need for it) which we agreed yesterday- its #ii in the list below.

The applicant would like to have the Portland PB sign the Plat at the 3.28.13 PB meeting so they can have Falmouth PB members sign it on April 2nd which they typically do at the hearing. The applicant wants to record the plat asap after that and start on site asap.

I am meeting with the applicant this Friday at 10am to advise them as to what they need to do (by when) to get the plat signed in this time table.

It would help me to advise them appropriately if you could comment re the

*It appears recent conversations between the applicant and Dave Senus have addressed this issue.*

7. Note that Lot 13 will require an address off the Proposed Subdivision Drive with a Falmouth zip code.

**No comment necessary**

8. The final Plat Plan will need to be on a Maine State Plane with NGVD 29 vertical datum. Property pins will need to be set and Street Monuments shall be placed on the sidewalk side.

**Issue addressed.**

9. The Proposed Subdivision Drive currently shows pavement outside the drive right of way. The pavement should be brought back inside the drive right of way or an access easement will be required from the abutting lots.

**The plans still the roadway encroaching private property.**

*Where Ice Pond Drive intersects with Ledgewood Rd, the access drive still show proposed roadway encroaching private property.*

Feb. 22, 2013 – Item addressed.

10. **It request that the roadway be extended and the turn-around be incorporated with the maintenance access drive.**

*This Department is supportive of the applicant's current design.*

11. **Street lights. Applicant has requested to install one light at the turn around and use the existing light at the Ledgewood/Ice Pond Dr. intersection. The City's Technical Manual require a Town and Country style light at 120' intervals. This would mean adding five more street lights to meet this requirement. These lights would be City owned and maintained with a separate electric meter.**

*The applicant has requested a waiver of this standard. This Department is recommending that the Street lighting Ordinances be follow. The Planning Board may choose to address this item.*

12. **The plans do not show required underground electric and communication cables.**

*This item has been addressed.*

February 22, 2013

Survey comments:

1. No surveyor certification.
2. Turnaround has not moved toward the end of Ice Pond Drive.
3. Monuments need to be set on the three foot offset line and not the sideline of the street. Needed on right side at all PCs, PTs, and at end.
4. Set property corners at all PCs and PTs.
5. Buffers are not dimensioned.
6. No coordinates are shown. Need coordinates for at least two of the monuments to be set.
7. Easement ownership needs to be stated for all easements.
8. No revision block.
9. The official benchmark to establish elevations is not stated.
11. Site TBM?
12. Datum? Maine State Plane, West Zone, US Foot, NAD83?

A note to Falmouth/Portland Planning Staff that the two communities will need to coordinate on snow removal, street maintenance and emergency responses.

**No comment necessary.**

We have no further comments.

September 21, 2012  
**January 17, 2013**  
**February 4, 2013**  
February 22, 2013

TO: Jean Fraser  
Barbara Barhydt  
FROM: David Margolis-Pineo  
Dept. of Public Services  
RE: Review Comments: 1062 Ocean Ave – Old Barn Estates

The Department of Public Services has the following comments:

1. As stated by David Senus, “it appears the proposed project is adjacent to several natural resources (i.e., wetlands, stream). As noted, one on-site freshwater wetland will require a 75-foot setback; however, at this time, the plans do not appear to note this wetland setback.” The applicant will need to clearly demarcate the wetland/stream setback (FENO Markers?) and ensure that it is recorded on the deed (per usual process). The goal is to discourage the owner from clearing vegetation within the setback area.  
**I saw evidence that this issue was addressed. We are not supportive of reducing the 75’ no clear, no cut setback.**  
*It appears recent conversations between the applicant and Dave Senus have addressed this issue.*
2. A Stormwater Management Plan is required for this project.  
**Plan submitted.**
3. A sidewalk and curbing waiver is required to eliminate the sidewalk and curbing from one side of the proposed street. Also a sidewalk with curbing is required on Ocean Ave at the corner of Ocean and Ledgewood Drive.  
**This Department is supportive of a waiver to install one sidewalk do to the stormwater conveyance ditch. However, the applicant has not provided adequate justification to waive the elimination of curbing on one side of the proposed street. The lack of sidewalk in front of lot 14 on Ocean Ave still needs to be addressed.**  
*With the applicant’s latest submittal package, we are agreeable to support a request to waive the proposed sidewalk and curb on the South-East side of Ice Pond Drive.*
4. The proposed street will require a street name agreeable to the Town of Falmouth and City of Portland.  
**Issue addressed.**
5. It is assumed that a stream crossing is planned to access lot #2 in this subdivision. DEP review of this crossing may be required.  
**We are requesting to review DEP’s response to this issue.**
6. The applicant will need to clearly demarcate the wetland/stream setback (FENO Markers?) and ensure that it is recorded on the deed (per usual process). The goal is to discourage the owner from clearing vegetation within the setback area.  
**I saw no evidence that this issue was addressed. Again, we are not supportive of reducing the 75’ no clear, no cut setback.**

Present: Bill Hall  
Carol Morrison  
Tim Dean  
Beth Boepple  
Sean Dundas

Hearing 2-26-2013  
1062 Ocean Old Barn Estates

① JF pres (shortened by cough!)

② Peter Biegle -

re lot #14 sidewalk 115' frontage

showed plan w/ distances to existing sidewalk  
prefer sidewalk on same side as 1062 Ocean  
prelim app. from Falmenth 2/5/13.

Quire waivers, SD agrees w/ applicant. BB Clar Board  
has auth to waive or modify

No public comment

Discussion of lighting

SD agrees appl.

Beth comp. 1 more sufficient. <sup>thinks sidewalk</sup>  
<sup>+ curbing</sup>  
<sup>approp lot #14</sup>

Carol " "

Tim tends support city ord. <sup>curb.</sup> at least re lot #14  
can relax but needs it.

Bill Hall read motion

Annotated pink paper motion.

**Ledgewood Drive Subdivision - 1062 Ocean Avenue - 16 lot Subdivision**  
**PB HEARING 2.26.2013**

1. Tim O'Donovan of TPO Properties is proposing a 16 lot subdivision within an overall parcel of almost 13 acres. Two of the lots have existing structures on them and have been included to accord with State law. A further 2 lots are dedicated as open space for the remainder of the subdivision. An acre of the site is located within the Town of Falmouth along Ledgewood Drive; in Falmouth there is one existing house on Lot #13, the first 100 feet of the new street, and Lot #15 open space.
2. The location within two municipalities has triggered state consultation requirements which have been addressed by the applicant, staff and respective planning boards (2 workshops for the Portland PB). The Falmouth Planning Board hearing is scheduled for April 2 with the deadline for submissions on March 6<sup>th</sup>.
3. Staff from both municipalities support the new street being accepted by the City of Portland and staff have reached agreement regarding the emergency services and operational issues. The 12 new lots are along this new street and are all in Portland. However, because a 100 foot section of the new street is located in Falmouth (although will be owned by Portland), the respective attorneys would like the opportunity to review the formal notation /documentation and this is the subject of an additional potential condition.
4. The Portland part of the parcel is located in the R-3 zone where the minimum lot size is 6500 sq ft; the proposed lots are over 20,000 sq ft because they are proposed to have private septic systems.
5. Staff have not received any public comments. A Neighborhood Meeting was held on Sept 27<sup>th</sup> and attended by one neighbor.
6. Circulated papers: Since the Report was completed, DPS and Fire Dept. have provided updated comments and an additional condition has been suggested by Corporation Counsel (Addendum#1).
7. The applicant has addressed key points raised at the second workshop:
  - Where the ROW ends in front of lots 8 and 9; the proposals show this ending before the wetland buffer, with a public access easement of approx. 60 feet connecting the ROW sidewalk to the Falmouth Land Trust trails
  - The trail connections are the subject of an agreement between the applicant and Falmouth Land Trust dated 2.20.2013 and in the packet at att N. The Falmouth Planning Board want to ensure that the public are able to access this trailhead immediately the new street is completed (prior to acceptance by Portland)
  - Stormwater management: the technical analysis has been revised and questions regarding the impacts of the septic systems on the wetland and stormwater buffers have been resolved to reviewers satisfaction
  - Lot #14: shown on the Plat with specific proposals, which are satisfactory to reviewers
  - The draft Plat broadly addresses most issues and just needs some revised notes, easement references and surveyors corrections (DPS updated comments)
  - The City Arborist has not confirmed his final sign-off, but it is noted that the applicant has addressed his previous comments.
8. Unresolved:
  - Sidewalks and curbing:
    - 12 lot subdivision- staff support waiver of sidewalk and curbing on one side
    - Ledgewood Drive- staff support the waiver
    - Ocean by Lot #14- staff do not support a waiver and recommend a contribution of \$7500 towards a sidewalk that is likely to be on the other side
  - Streetlighting - proposal has one light near dead-end & one existing light at Ledgewood Dr- the technical standard requires street lights on 14 ft poles at 120 feet apart & staff do not support a waiver as they feel some lighting is required for safety.

\* both sign off + Da.

Board can approve under 14-506  
pink paper

\* have Plat re-cons land

Potential conditions self-explanatory... use map on pink.

Re Item 5ii Hearing 2.26.2013.

September 21, 2012  
January 17, 2013  
February 4, 2013  
February 22, 2013

updated DPS comments

TO: Jean Fraser  
Barbara Barhydt  
FROM: David Margolis-Pineo  
Dept. of Public Services  
RE: Review Comments: 1062 Ocean Ave – Old Barn Estates

The Department of Public Services has the following comments:

1. As stated by David Senus, “it appears the proposed project is adjacent to several natural resources (i.e., wetlands, stream). As noted, one on-site freshwater wetland will require a 75-foot setback; however, at this time, the plans do not appear to note this wetland setback.” The applicant will need to clearly demarcate the wetland/stream setback (FENO Markers?) and ensure that it is recorded on the deed (per usual process). The goal is to discourage the owner from clearing vegetation within the setback area.  
**I saw evidence that this issue was addressed. We are not supportive of reducing the 75’ no clear, no cut setback.**  
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4. The proposed street will require a street name agreeable to the Town of Falmouth and City of Portland.  
**Issue addressed.**
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**We are requesting to review DEP’s response to this issue.**
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*It appears recent conversations between the applicant and Dave Senus have addressed this issue.*

7. Note that Lot 13 will require an address off the Proposed Subdivision Drive with a Falmouth zip code.  
**No comment necessary**
8. The final Plat Plan will need to be on a Maine State Plane with NGVD 29 vertical datum. Property pins will need to be set and Street Monuments shall be placed on the sidewalk side.  
**Issue addressed.**
9. The Proposed Subdivision Drive currently shows pavement outside the drive right of way. The pavement should be brought back inside the drive right of way or an access easement will be required from the abutting lots.  
**The plans still the roadway encroaching private property.**  
*Where Ice Pond Drive intersects with Ledgewood Rd, the access drive still show proposed roadway encroaching private property.*  
Feb. 22, 2013 – Item addressed.
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*This Department is supportive of the applicant's current design.*
11. **Street lights. Applicant has requested to install one light at the turn around and use the existing light at the Ledgewood/Ice Pond Dr. intersection. The City's Technical Manual require a Town and Country style light at 120' intervals. This would mean adding five more street lights to meet this requirement. These lights would be City owned and maintained with a separate electric meter.**  
*The applicant has requested a waiver of this standard. This Department is recommending that the Street lighting Ordinances be follow. The Planning Board may choose to address this item.*
12. **The plans do not show required underground electric and communication cables.**  
*This item has been addressed.*

February 22, 2013

Survey comments:

1. No surveyor certification.
2. Turnaround has not moved toward the end of Ice Pond Drive.
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8. No revision block.
9. The official benchmark to establish elevations is not stated.
11. Site TBM?
12. Datum? Maine State Plane, West Zone, US Foot, NAD83?

A note to Falmouth/Portland Planning Staff that the two communities will need to coordinate on snow removal, street maintenance and emergency responses.

**No comment necessary.**

We have no further comments.



**Jean Fraser - Fwd: Re: 1062 emergency response**

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**From:** Jean Fraser  
**To:** Fraser, Jean  
**Date:** 2/26/2013 3:53 PM  
**Subject:** Fwd: Re: 1062 emergency response

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>>> Chris Pirone 2/26/2013 3:39 PM >>>

I comfortable with this project moving forward as long as my original comments are met which were presented on 9/20/12. Please pay special attention to NFPA 1 2009 Fire Flow requirements not just the City Tech standards as these are more strict. Per the current plans more hydrants may need to be installed.

Since this development is on City lines it is imperative that street addresses shall be approved by the City E-911 Addressing Officer before the certificate of occupancy will be issued which will make sure City of Portland Emergency Services are notified in case of an emergency.

**Fire Comments:**

All construction shall comply with City Code Chapter 10.

<http://www.portlandmaine.gov/citycode/chapter010.pdf>

Fire hydrants may be required based on 2009 NFPA 1.

Private fire mains and fire hydrants shall be maintained, tested and painted in accordance with Fire Department Regulations.

<http://www.portlandmaine.gov/fireprevention/fdrulesandregulations.pdf>

Street addresses shall be marked on the structure and shall be as approved by the City E-911 Addressing Officer. Contact Michelle Sweeney at 874-8682 for further information.

Sprinkler systems shall be installed in accordance with NFPA 13D

Captain Chris Pirone

Portland Fire Department

Fire Prevention Bureau

380 Congress Street

Portland, ME 04101

(t) 207.874.8405

(f) 207.874.8410

 Please consider the environment before printing this email.



## Department of Planning and Urban Development Planning Division

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**To:** Chair Morrisette and Members of the Portland Planning Board

**From:** Jean Fraser, Planner

**Date:** February 26, 2013

**Re:** Ledgewood Drive 16 Lot Subdivision (Old Barn Estates), 1062 Ocean Avenue  
TPO Properties, LLC, Tim Donovan

**Project #:** 2012-584                      **CBL:** 414-A-4 (Part within Town Of Falmouth)

**Meeting Date:** February 26, 2013

### ADDENDUM #1 Additional Potential Condition of Approval

---

1. The suggested conditions under the Motion in Report #13-13 have been modified to add another potential condition of approval.
2. The additional condition has been recommended by the Corporation Counsel to address several concerns:
  - Falmouth attorney had asked the applicant to add notes to the plat to clarify the status of the new street;
  - City staff may determine there needs to be a formal agreement regarding the 100 foot section of new street (to be accepted by the City of Portland) within Falmouth;
  - Falmouth Planning Board seeks to ensure that the public will be able to access the public access easement and associated trail system at the dead-end part of Ice Pond Drive prior to the City's acceptance of the street.
3. The new condition would read:

*That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.*
4. This condition also allows staff to document, as necessary, the agreements that have been made at staff level regarding emergency response and maintenance of the new street and the 12 new lots. Lots #13 and #14 will not be changed from existing, and lots #15 and #16 are open space.
5. The following shows the entire Motion as revised, with new language underlined:

### IX. PROPOSED MOTIONS

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

## WAIVERS

### 1. Sidewalks

1. The Planning Board finds that two of the following criteria **do/do not** apply, (namely 3 and 6, as per applicant's request) and therefore **waives/does not waive** the requirement for a sidewalk along the south side of Ice Pond Drive within the 12 lot new subdivision:
2. The Planning Board finds that two of the following criteria **do/do not** apply, (namely 3 and 6, as per applicant's request) and therefore **waives/does not waive** the requirement for a sidewalk along the south side of Ledgewood Drive on Lots #13 and #15:
3. The Planning Board finds that two of the following criteria **do/do not** apply, (namely 1 and 6, as per applicant's request) and therefore **waives/does not waive** the requirement for a sidewalk along the frontage of the property at 1062 Ocean Avenue (Lot #14). If this sidewalk is not waived, a contribution of \$7500 is required towards an equivalent length of sidewalk and curbing along Ocean Avenue in the vicinity of 1062 Ocean Avenue:

#### *SIDEWALK WAIVER CRITERIA:*

1. *There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.*
2. *There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.*
3. *A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.*
4. *The reconstruction of the street is specifically identified and approved in the first or second year of the current capital improvement program or has been funded through an earlier CIP or through other sources.*
5. *The street has been constructed or reconstructed without sidewalks within the last 24 months.*
6. *Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*

### 2. Curbing:

The Planning Board finds that two of the following criteria **do/do not** apply, (namely 1, 4 and 5, as per applicant's request) and therefore **waives/does not waive** the requirement for curbing along the south side of Ice Pond Drive within the 12 lot new subdivision:

#### *CURBING WAIVER CRITERIA:*

1. *The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.*
2. *The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.*
3. *The street has been rehabilitated without curbing in the last 60 months.*
4. *Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.*
5. *Runoff from the development site or within the street does not require curbing for stormwater management.*

*[In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the land development plan relating to transportation and pedestrian infrastructure and the regulations of this article.]*

### 3. Streetlighting:

The Planning Board (**waives/does not waive**) the Technical Standard, Section 10.2.1, to allow a reduction in the number of street lights along the proposed new street Ice Pond Drive to one new pole and light at the "dead end" of the new street.

## SUBDIVISION

That the Planning Board finds that the plan (**is/is not**) in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:

Potential conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the applicant shall submit copies of the required permits from the MDEP prior to the release of the signed Subdivision Plat; and
- v. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the release of the signed subdivision plat:
  - a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- vi. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vii. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and
- viii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.
- ix. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

**Development Review, Wednesday, February 27, 2013**

*Reviewers present:  
DS; DM-P; JT; MS/AM;  
TE; JP.*

PLANNING BOARD UPCOMING AGENDA		
February 26, 2013		
<i>Workshop</i> 3:30 p.m.	<ul style="list-style-type: none"> <li>Midtown Project, Master Plan &amp; Zoning Amendments - height, Federated Applicant (#2012-636)</li> </ul>	RK
<i>Public Hearing</i> 7:00 p.m.	<ul style="list-style-type: none"> <li>40-44 Pine &amp; 183-189 Brackett Streets, Subdivision/Site Plan, Redfern LWS, LLC (#2012-612)</li> <li>1062 Ocean Avenue – Ledgewood Dr subdivision</li> <li>Conditional Use – Etz Chaim Synagogue – 267 Congress Street</li> </ul>	SW JF ND
March 12, 2013		
<i>Workshop</i> 3:30 p.m.	<ul style="list-style-type: none"> <li>Conditional Use – Car Dealership – Forest Avenue</li> </ul>	
<i>Public Hearing</i> 7:00 p.m.	<ul style="list-style-type: none"> <li>Canco Woods Zone Change</li> <li>Midtown Project, Master Plan &amp; Zoning Amendments - height, Federated Applicant (#2012-636)</li> </ul>	ND RK
(Note Change in Date) March 19, 2013		
<i>Workshop</i> 3:30 p.m.	<ul style="list-style-type: none"> <li>R-7 Map Amendment – 91 State Street</li> </ul>	

**AGENDA**

**PROJECTS FOR ADMINISTRATIVE AND BOARD REVIEW**

**A. Preliminary Plans**

1. Midtown Federated...rk
2. 300 Allen Ave - Site Alteration.....pd
3. 11 Bayview Terr. - Retaining Wall.....pd
4. PWD Pumping Station...sw
5. 119 Exchange - parking

*stream prot / tree removal.*

*send Cick wood ord photos.*

**B. Final Plans**

1. 56 Commercial (Casco Bay Lines)....nd *comments needed.*
- 2.
- 3.
- 4.

**C. Issues, Administrative Authorizations, Curb Cuts**

1. Dinosaur enterprises SPCC plan...rk
2. High Street retaining wall...sw
3. PBH debrief 1062 Ocean Subdiv.....jf
4. Requested Curb Cut at 53 Brackett St.....dm-p
5. Conf final plans OK re 321 Comm St project.....all reviewers
6. 503 Woodford Street - adminis. author.....bb
7. 135 Walton St ....bb

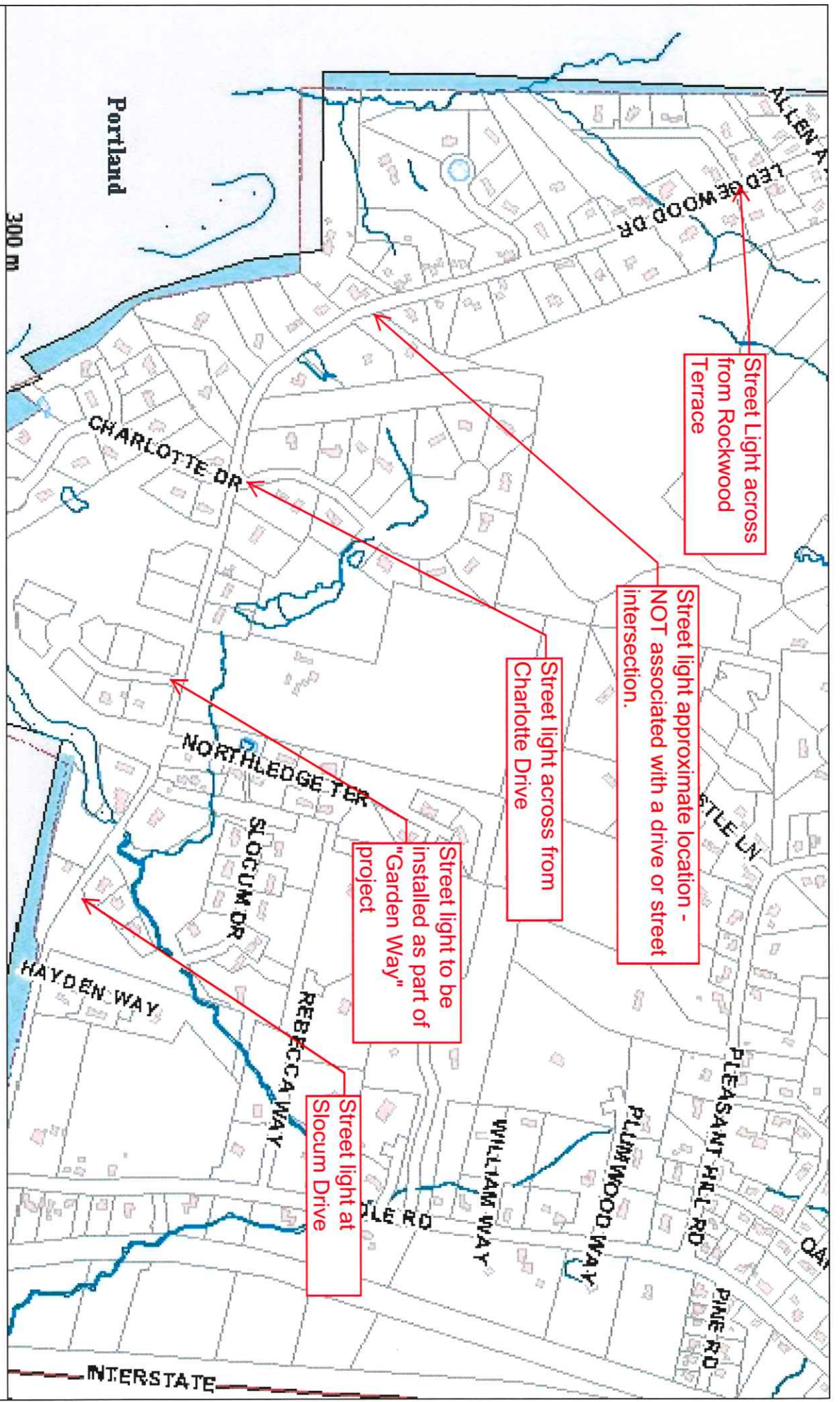
*have found + steel permits (MS)*

**D. Distribution of Plans**

1. 165 Presumpscot (Eldridge Lumber) - final approved plans...jf
2. Blueberry Road - Eco Maine .... bb
- 3.



# Ledgewood Street Lights





**Department of Planning and Urban Development  
Planning Division**

---

**To:** Chair Morrisette and Members of the Portland Planning Board

**From:** Jean Fraser, Planner

**Date:** February 26, 2013

**Re:** Ledgewood Drive 16 Lot Subdivision (Old Barn Estates), 1062 Ocean Avenue  
TPO Properties, LLC, Tim Donovan

*Annotated at  
Hearing  
2-26-13  
JF*

**Project #:** 2012-584                      **CBL:** 414-A-4 (Part within Town Of Falmouth)

**Meeting Date:** February 26, 2013

**ADDENDUM #1 Additional Potential Condition of Approval**

---

1. The suggested conditions under the Motion in Report #13-13 have been modified to add another potential condition of approval.
2. The additional condition has been recommended by the Corporation Counsel to address several concerns:
  - Falmouth attorney had asked the applicant to add notes to the plat to clarify the status of the new street;
  - City staff may determine there needs to be a formal agreement regarding the 100 foot section of new street (to be accepted by the City of Portland) within Falmouth;
  - Falmouth Planning Board seeks to ensure that the public will be able to access the public access easement and associated trail system at the dead-end part of Ice Pond Drive prior to the City's acceptance of the street.
3. The new condition would read:
 

*That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.*
4. This condition also allows staff to document, as necessary, the agreements that have been made at staff level regarding emergency response and maintenance of the new street and the 12 new lots. Lots #13 and #14 will not be changed from existing, and lots #15 and #16 are open space.
5. The following shows the entire Motion as revised, with new language underlined:

**IX. PROPOSED MOTIONS**

On the basis of the application, plans, reports and other information submitted by the applicant, findings and recommendations contained in Planning Board Report # 13 -13 for the Old Barn Estates subdivision at 1062 Ocean Avenue (Ledgewood Drive) relevant to the Subdivision ordinance and other regulations, and the testimony presented at the Planning Board hearing, the Planning Board finds the following:

passed all 5-0.

**SUBDIVISION**

That the Planning Board finds that the plan (is/is not) in conformance with the subdivision standards of the land use code, subject to the following conditions of approval:

Potential conditions of approval:

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services, Corporation Counsel and include references to stormwater management, easements, boundary markers, street trees, Homeowners Association documents, status of Lot # and relevant conditions; and
- ii. That the applicant shall also include such other legal agreements as are necessary, subject to ensure that the agreed public access, responsibilities associated with the subdivision development
- iii. That the applicant shall include the section for City of Portland, including the section for City acceptance of the street; and
- iv. That the applicant shall submit to the MDEP prior to the release of the signed Subdivision Plat
- v. That the following items be submitted to Corporation Counsel, Department of Public Services and the applicant of the signed subdivision plat:
  - a. Public access easement for Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust)
  - b. Stormwater maintenance agreements/easements re lot #9 and #15; these are Homeowners Association; responsibility but with rights of access to Portland re lot #9 and both municipalities re Lot #15;
  - c. Other easements as indicated on the Plat in Plans 5 and 6;
  - d. Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e. Homeowner Association Documents;
  - f. Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- vi. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vii. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and
- viii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.

The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.

A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.

- ix. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

PB updated  
d can be deleted  
5-0 or more  
passed

~~draft~~  
~~in order~~  
Hearing docs  
App. letter signed +  
w/ Jen.



**Jean Fraser - Review of Plat for 1062 Ocean 16 lot SubDiv**

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**From:** Jean Fraser  
**To:** West-Chuhta, Danielle  
**Date:** 2/27/2013 2:20 PM  
**Subject:** Review of Plat for 1062 Ocean 16 lot SubDiv  
**CC:** Barhydt, Barbara  
**Attachments:** Subdivision Plat Plan recording plan 1 of 2.pdf; S-101 Subdivision Plan recording plan 2 of 2 2.19.13.pdf; ADDENDUM TO HEARING REPORT.docx

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Danielle,

Last night the PB approved this subdivision with the conditions as listed below. I attach the draft plat - its 2 pages with first page "surveying" info and the second page "development and restrictions". *[I have large paper set which I can bring down for a brief discussion if you would prefer, or I can send]*

I also attach the last-minute ADDENDUM I presented to the Board with the additional condition (and need for it) which we agreed yesterday- its #ii in the list below.

The applicant would like to have the Portland PB sign the Plat at the 3.28.13 PB meeting so they can have Falmouth PB members sign it on April 2nd which they typically do at the hearing. The applicant wants to record the plat asap after that and start on site asap.

I am meeting with the applicant this Friday at 10am to advise them as to what they need to do (by when) to get the plat signed in this time table.

It would help me to advise them appropriately if you could comment re the following:

1. How soon would you, together with the Falmouth attorney, be able to determine what agreement or other legal mechanism you want to put in place re the first 100 feet of the new street which is in Falmouth? Bearing mind that NONE of the new house lots are in Falmouth- just an existing house lot (Lot #13) which retains its Falmouth driveway and address, and this 100 linear feet of

the street starting from Ledgewood Dr., and Lot #15 which is stormwater maintenance and needs a 3 way easement/agreement in any case.

2. Does the action agreed as per 1. above need to be done before the plat is signed and recorded or is there some way it can be referenced on the plat without being completed?

3. Are you OK with the note requested by the Falmouth attorney to be added to the plat (quoted below):

*"The Town of Falmouth is not accepting Ice Pond Drive as a public street. The Town of Falmouth shall have no obligation to repair, maintain, or plow Ice Pond Drive."*

4. Could you advise as to which of these approved conditions need to be listed on the Plat?

5. Do you have any specific detailed comments on the plat?

Many thanks

Jean

**CONDITIONS AS APPROVED BY PB 2.26.2013:**

- i. That the Subdivision Plat shall be finalized to the satisfaction of the Planning Authority, Department of Public Services and Corporation Counsel and include references to stormwater management, easements, buffer and treesave markers, street trees, Homeowners Association documents, status of Lot #14, septic system locations, and relevant conditions; and
- ii. That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed public access, road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.
- iii. That the applicant shall convey the fee interest for the new street to the City of Portland, including the section within the Town of Falmouth, as part of the process for City acceptance of the street; and
- iv. That the following shall be finalized to the satisfaction of the Corporation Counsel, Department of Public Services and the Planning Authority prior to the

release of the signed subdivision plat:

- a Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
  - b Stormwater maintenance agreements/easements for Lots #9 and #15; these are Homeowners Association; responsibility but with rights of access for Portland re lot #9 and both municipalities re Lot #15;
  - c Other easements as indicated on the Plat in Plans 5 and 6;
  - d Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
  - e Homeowner Association Documents;
  - f Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
- v. That the applicant shall construct a crosswalk across Ledgewood Drive as shown in the approved plans prior to the first CO for a single family home on Ice Pond Drive, including the installation of crosswalk warning signs complying with the MUTCD; and
- vi. That the signs and markers, including materials, wording and location, that delineate the location and restrictions of wetland and stormwater buffers and treesave areas be called out on Plans 6 and 7 more clearly and installed as part of the Ice Pond Drive street construction; and
- vii. The developer/contractor/subcontractor must comply with conditions of the construction stormwater management plan and sediment and erosion control plan based on City standards and state guidelines.
- The owner/operator of the approved stormwater management system and all assigns shall comply with the conditions of Chapter 32 Stormwater including Article III, Post Construction Stormwater Management, which specifies the annual inspections and reporting requirements.
- A maintenance agreement for the stormwater drainage system, as included in Attachment 1 of the approval letter, or in substantially the same form with any changes to be approved by Corporation Counsel, shall be submitted and signed prior to the issuance of a Certificate of Occupancy with a copy to the Department of Public Services.
- viii. That the applicant shall show evidence that the terms of the agreement with the Falmouth Land Trust dated 2.20.2013 regarding the trail connections have been met in full, and that the details of the trail within the site be submitted to the Planning Authority for review and approval, both prior to the release of the signed Subdivision Plat.

Re Item 5ii Hearnsg 2.26.2013.

September 21, 2012  
January 17, 2013  
February 4, 2013  
February 22, 2013

updated DPS comments

TO: Jean Fraser  
Barbara Barhydt  
FROM: David Margolis-Pineo  
Dept. of Public Services  
RE: Review Comments: 1062 Ocean Ave – Old Barn Estates

The Department of Public Services has the following comments:

1. As stated by David Senus, "it appears the proposed project is adjacent to several natural resources (i.e., wetlands, stream). As noted, one on-site freshwater wetland will require a 75-foot setback; however, at this time, the plans do not appear to note this wetland setback." The applicant will need to clearly demarcate the wetland/stream setback (FENO Markers?) and ensure that it is recorded on the deed (per usual process). The goal is to discourage the owner from clearing vegetation within the setback area.  
**I saw evidence that this issue was addressed. We are not supportive of reducing the 75' no clear, no cut setback.**  
*It appears recent conversations between the applicant and Dave Senus have addressed this issue.*
2. A Stormwater Management Plan is required for this project.  
**Plan submitted.**
3. A sidewalk and curbing waiver is required to eliminate the sidewalk and curbing from one side of the proposed street. Also a sidewalk with curbing is required on Ocean Ave at the corner of Ocean and Ledgewood Drive.  
**This Department is supportive of a waiver to install one sidewalk do to the stormwater conveyance ditch. However, the applicant has not provided adequate justification to waive the elimination of curbing on one side of the proposed street. The lack of sidewalk in front of lot 14 on Ocean Ave still needs to be addressed.**  
*With the applicant's latest submittal package, we are agreeable to support a request to waive the proposed sidewalk and curb on the South-East side of Ice Pond Drive.*
4. The proposed street will require a street name agreeable to the Town of Falmouth and City of Portland.  
**Issue addressed.**
5. It is assumed that a stream crossing is planned to access lot #2 in this subdivision. DEP review of this crossing may be required.  
**We are requesting to review DEP's response to this issue.**
6. The applicant will need to clearly demarcate the wetland/stream setback (FENO Markers?) and ensure that it is recorded on the deed (per usual process). The goal is to discourage the owner from clearing vegetation within the setback area.  
**I saw no evidence that this issue was addressed. Again, we are not supportive of reducing the 75' no clear, no cut setback.**  
*It appears recent conversations between the applicant and Dave Senus have addressed this issue.*

**Jean Fraser - RE: Portland Pl Bd Hearing Report on Old Barn Estates, 1062 Ocean/Ledgewood Dr.**

---

**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>, Peter Biegel <pbiegel@landdesignso...>  
**Date:** 2/26/2013 10:58 AM  
**Subject:** RE: Portland Pl Bd Hearing Report on Old Barn Estates, 1062 Ocean/Ledgewood Dr.  
**CC:** 'Tim O'Donovan' <ocpminc@maine.rr.com>

---

Jean,

That sounds fine. Thank you.

Ethan

*Falmouth  
sign off re new  
conditions +  
report*

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Tuesday, February 26, 2013 10:54 AM  
**To:** Peter Biegel; Ethan Croce  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Portland Pl Bd Hearing Report on Old Barn Estates, 1062 Ocean/Ledgewood Dr.

Ethan

Thank you for confirming re this.

I have just agreed the following additional condition with our attorney:

**That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.**

I think that should cover the issue- our attorney will discuss this further with your attorney after the approval as she thinks there may need to be formal agreement re status of the 100 feet of new street in Falmouth (in addition to having the fee given by the owner to the city and in addition to city acceptance of the street).

thank you  
Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 2/26/2013 10:40 AM >>>  
Jean,

Thank you. I've skimmed over the material and nothing looks disconcerting to me. I don't necessarily anticipate that the Falmouth Board will ask for any major changes to the plans at this point, but I like your idea

of having a general condition of approval that allows Portland staff the authority to sign off on any minor changes to the plans that the Falmouth Board may require.

Regards,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

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**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Friday, February 22, 2013 4:12 PM  
**To:** Peter Biegel; Ethan Croce  
**Cc:** 'Tim O'Donovan'  
**Subject:** Portland Pl Bd Hearing Report on Old Barn Estates, 1062 Ocean/Ledgewood Dr.

Peter and Ethan

Please find attached the Staff report and associated attachments that went out to the Planning Board members today for the meeting (this item is second in evening hearing, estimated start 7:45pm; I will send the agenda separately) . In the next e-mail I will send the "applicant's submittal".

Peter- Pl check the applicant's submittal to check if all is there that should be.

Ethan- Pl check Att 2 of the report to see if all OK there (a bit disorganized but I felt I had to include)

Please have a look at the conditions of approval as you may have some concerns/questions- if so, please call me on Monday. I may need to add one that allows staff to amend the Plat to address Falmouth issues.....not sure.

Both parts of the Report are on the City's web site at:

[http://www.portlandmaine.gov/planning.htm#Current\\_Backup\\_Material](http://www.portlandmaine.gov/planning.htm#Current_Backup_Material)

Have a good weekend  
Jean

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

**Jean Fraser - Re: Pl Bd Hearing Report 1062 Ocean Subdiv**

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 2/26/2013 9:23 AM  
**Subject:** Re: Pl Bd Hearing Report 1062 Ocean Subdiv  
**CC:** Barbara Barhydt; Chris Pirone

*Corp Counsel  
sign off new  
condition*

*add in  
public access.*

I think that this would work:

**That the applicant shall add notes to the subdivision plat and obtain such other legal agreements as are necessary, subject to the review and approval of Corporation Counsel, to ensure that the agreed road maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.**

Thanks,

Danielle

>>> Jean Fraser 2/26/2013 9:18 AM >>>  
Danielle

What if I add a condition along these lines (since the Falmouth Attorney wanted a note on the Plat to clarify that the Town of Falmouth is not accepting Ice Pond Drive as a public street)?:

**That the applicant, in conjunction with the municipalities of the City of Portland and Town Of Falmouth shall add notes to the subdivision plat prior to the issuance of a building permit, and arrange such other legal agreements as are necessary prior to the issuance of a certificate of occupancy, to ensure that the agreed maintenance and emergency response responsibilities associated with the subdivision development are permanently documented.**

thanks  
Jean

>>> Danielle West-Chuhta (Danielle West-Chuhta) 2/25/2013 4:15 PM >>>  
I understand that they have agreed to deed it to us - which is important - but I am still concerned that it is physically located in the Town of Falmouth - we may need to put in place an agreement or (as I specified below) adjust the lines in the area to make this part of Portland....

>>> Jean Fraser 2/25/2013 4:11 PM >>>  
Danielle

The owner of the land has agreed to deed all of the new street to the city (as you had requested when we first met) and all staff and Falmouth Planning Board members are OK re emergency services- the new road (12 new

**From:** William Clark  
**To:** Jean Fraser  
**CC:** Michelle Sweeney  
**Date:** 11/30/2012 1:04 PM  
**Subject:** Re: Fwd: Ledgewood Dr Subdiv - Street Names

re street name

They seem OK. No Mike Drive in street records. There's a Michael Drive but down in York. There are a few Ice Pond Roads around the state.

Bill

>>> Jean Fraser November 30, 2012 12:30 PM >>>  
Bill

Are these two suggested names (for a new subdivision road) OK for them to use?

thanks  
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 11/30/2012 12:06 PM  
>>>

Hi Jean,  
We have two potential street names we would like to put forward:

- 1) Ice Pond Drive
- 2) Mike's Drive

Please let me know if these pass muster with the City.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717  
email: pbiegel@landdesignsolutions.com



**Jean Fraser - RE: Ledgewood Drive Subdivision , 1062 Ocean**

---

**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>  
**Date:** 10/22/2012 3:47 PM  
**Subject:** RE: Ledgewood Drive Subdivision , 1062 Ocean

*Falmouth  
emer services*

Jean,

Yes, I can confirm that Falmouth emergency services would respond to this lot. Should we inquire with the developer as to whether he takes exception to switching the property's address? If he is agreeable, then perhaps the issue is solved?

Ethan

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Monday, October 22, 2012 3:42 PM  
**To:** Ethan Croce  
**Subject:** RE: Ledgewood Drive Subdivision , 1062 Ocean

Ethan

Thank you.

I understand that if the lot is located in Falmouth it can be addressed to the new street but it would still be Falmouth emergency services that would serve it.

The reason we don't want to change it is that it is occupied; our addressing expert says there are lots of cases where the address is on one street and the driveway is on another. This sounds like it might need a joint meeting.

Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 10/22/2012 1:45 PM >>>  
Hi Jean,

Thank you for the update. A joint staff meeting at a future point sounds like a fine idea. Your comments below all make sense to me. (Keeping in mind that I have only reviewed conceptual sketch plans to-date and that additional issues may be brought up once final engineered and detailed plans are submitted.) The only staff comment below which I have some additional information on is the comment related to street addressing for Lot #13. I recently had a conversation with the Community Development Director and the Fire Chief and they both indicated that if the driveway to this lot switches to the new subdivision street they would likely ask that the address be switched to reflect the name of the new street. (To be clear, staff take no exception to relocating the driveway to the new street.)

Thanks,

**Jean Fraser - RE: Ledgewood Drive Subdivision , 1062 Ocean**

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## Jean Fraser - RE: Ledgewood Drive Subdivision , 1062 Ocean

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Thanks,

Falmouth Planners Report to 2-5-13  
Falmouth PB

**TPO Properties, LLC** – 26 Ledgewood Drive - Request for preliminary subdivision approval for the 14-lot Old Barn Estates Subdivision. Tax Sheet 512; Map-Lot R04-068-E. Zoned RA and RCZO.

The applicant appeared before the Board in August 2012 for a pre-application sketch plan review for this project. The applicant is now applying for preliminary subdivision approval for the proposed 14 lot Old Barn Estates Subdivision located off Ledgewood Drive in Falmouth. The proposed subdivision consists of 12 new house lots, two existing house lots with residential structures already on them (one structure at 26 Ledgewood Drive and one at the corner of Ledgewood Drive and Ocean Avenue in Portland), and two open space lots consisting primarily of wetlands and stormwater facilities. The 12 new lots will be served by public water and private wastewater disposal systems. A homeowners association will be formed to maintain the two open space parcels, the stormwater management systems, and the landscaping/buffering located on private lots.

This is a unique application since the subdivision straddles the municipal boundary between Portland and Falmouth. As a result of this, both the Portland and Falmouth Planning Boards are required to review and approve this project. The applicant has appeared before the Portland Planning Board on two occasions to-date and is seeking an approval from the Portland Board at the end of February. (Unlike in Falmouth, where subdivisions must obtain a preliminary approval prior to obtaining final approval, the Portland Planning Board only takes one vote for a subdivision approval.) The applicant would then return to the Falmouth Board for a final approval after obtaining approval from Portland.

All of the 12 new house lots being created are located in Portland. The only portions of the subdivision that are located in Falmouth are: a short section (approximately 100 feet) of the subdivision road, Ice Pond Drive; a small open space lot (Lot 15) containing a stormwater facility; and Lot 13, an existing single family house lot which will be bisected by the new subdivision road. Since the majority of the subdivision, including all of the new house lots and most of the infrastructure, are located within the City of Portland, the Portland Planning Board has jurisdiction over the majority of the project's design elements. The Falmouth Planning Board's involvement in the review process should be limited to those items directly located in, or directly impacting land in, the Town of Falmouth.

At the August 2012 pre-application sketch plan review meeting, the Board asked the applicant, without limitation, to explore pedestrian connectivity to the adjacent Portland Dog Park open space, evaluate the capacity and safety of nearby street intersections, and closely evaluate stormwater/drainage issues as they relate to impacts to property located in Falmouth. In addition to the general subdivision review criteria under Section 3 and Appendix 1 of the Subdivision Ordinance, below are some issues staff have identified for the Board to consider with this project:

**Requested Waivers**

The applicant is requesting the following two waivers. (Note: Waiver #1 was already granted at the last Planning Board meeting)

1. Waiver of joint municipal review process

Maine statute (30-MRSA §4403, Paragraph 1-A) states that when a subdivision crosses municipal boundaries, all planning board meetings and hearings to review an application must be held jointly with each municipality's planning board unless, upon written agreement, the respective reviewing

authorities waive the requirement for the joint meetings and hearings. At the August 7, 2012 Planning Board meeting, the Falmouth Board approved the applicant's request to waive the joint meeting requirement.

On October 9, 2012, the Portland Board voted similarly to waive this requirement with the condition that the option for a joint meeting would remain open in the event that there were issues that arose in the future that warranted joint consideration between the two municipalities. Per the Falmouth Board's request at the August 2012 sketch plan meeting, Falmouth and Portland Planning staff have been communicating throughout the review process for this project to keep each other informed as to each municipality's concerns and requirements.

## 2. Waiver for a traffic study

The applicant is requesting a waiver from the Appendix 5.E.2 requirement for a full traffic study. At the sketch plan meeting, the Board indicated that it would be open to considering this waiver request. The Board did request to have a traffic engineer analyze existing traffic operations at the intersections of Ledgewood Drive/Allen Avenue and Ledgewood Drive/Middle Road. The applicant has submitted an assessment from Eaton Traffic Engineering which concludes that there are no high crash locations in the vicinity of the project and that traffic impacts from the proposed subdivision on levels of service will be minimal.

## Street Design

- Ice Pond Drive is classified as a local street under the Subdivision Ordinance. The local street standard in Falmouth requires a 24 foot pavement width and a sidewalk on at least one side of the street. The City of Portland requires a 28 foot pavement width and sidewalks on both sides of the street. At the sketch plan review hearing, the Falmouth Planning Board indicated that it would give deference to the City of Portland's design standards since the majority of the development is located in Portland and since the City of Portland will be taking over and maintaining the street as a public street. Plowing, trash collection, and emergency response for the 12 new house lots will be the responsibility of Portland.
- To staff's knowledge, the applicant is still working to resolve street lighting details with the City of Portland. The developer would like to illuminate the new street intersection using the existing CMP cobra-style street light at the intersection of Slocum Drive and Ledgewood Drive. The applicant is also proposing one pole mounted fixture at the hammerhead turnaround. In Falmouth, street light treatment is subject to the Planning Board's discretion. The City of Portland's standards require full cut-off, "Town and Country" lights spaced 120 feet apart along the sidewalk side of the street. The developer is believed to be requesting a waiver from Portland's street lighting requirement.

## Pedestrian connectivity

- At the hammerhead turnaround, the applicant is proposing to install a gravel path to the property line from the terminus of the paved sidewalk. The applicant has also been working with the Falmouth Land Trust (owner of the abutting subdivision's open space) and Portland Trails to create a trail connection to the Portland Dog Park trail network. The applicant has verbally agreed to construct the trail and provide a one-time stewardship fee for trail maintenance. A letter of support from the Land Trust is included in your packets.

Final siting of the trail on land within Falmouth, and proposed trail design standards, should be described in greater detail prior to final subdivision approval.

- The Town Engineer has requested that the proposed crosswalk across Ledgewood Drive include signs approved by the Manual of Uniform Traffic Control Devices providing notification of a pedestrian crosswalk. A similar request has been made by the City of Portland.

### **Buffers**

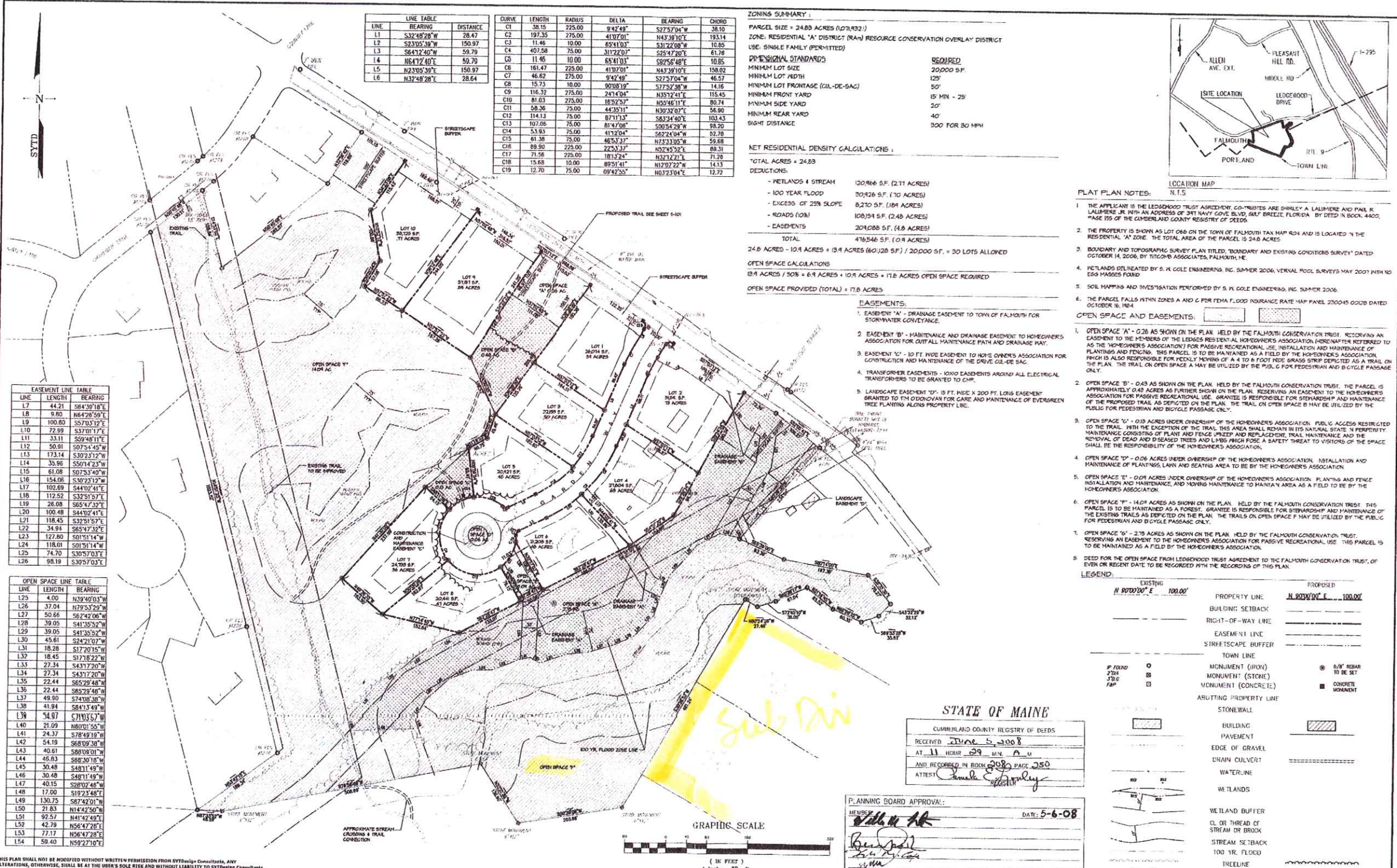
- Appendix 1(B) of the Subdivision Ordinance speaks to the preservation of trees >10" dbh. Open Space Lot 15 is currently heavily wooded but is being proposed to include an underdrained soil filter basin which will entail clearing much, if not all, of this area. The applicant is proposing to replant this stormwater area with eight "buffer trees" and two "street trees". One question is whether there are any opportunities to preserve any of the mature vegetation on this parcel to help retain the character of Ledgewood Drive along this stretch of road and to help buffer the stormwater area and the new house lots behind.
- A "no disturb stormwater buffer" is proposed along the back of Lots 9-12. This buffer will help screen the visual impacts of the development from Ledgewood Drive. How will these buffers be identified to prevent clearing abuses by future lot owners?

### **Stormwater**

- Per Appendix 7(C) of the Subdivision Ordinance, the stormwater management plan needs to show the pre- and post-development peak runoff rates for the 100 year storm.
- Sheet C-101 and C-201 appear to show conflicting storm drain alignments in the street near the municipal property boundary. (The Town Engineer has made some comments regarding the location and configuration of drainage structures in this area – See Mr. Mason's review memo.)
- One of the points of analysis (AP #1) used to compare pre- and post-development flows is located off-site at the existing 60" culvert under Ledgewood Drive. While there is some rationale for using this location as a point of analysis, especially since the flows are directed to an off-site wetland that is owned in part by the applicant and in part by the open space to the abutting Elm Landing Subdivision, the Subdivision Ordinance technically requires that an analysis be performed at the subdivision boundary. The Board should determine if it is comfortable with the analysis presented or if it would like the applicant to run the stormwater calculations for flows at the subdivision's property boundary.
- Prior to final approval, evidence of DEP permitting (three Permit by Rules are required) should be submitted as well as an endorsement from the Cumberland County Soil and Water Conservation District for both the stormwater plan and erosion and sedimentation control plan.

### **Misc.**

- Since Lot 13 will continue to obtain its frontage and access from Ledgewood Drive, the building envelope on the Subdivision Plan will need to show a 40 foot setback from the rear lot line, which is the southerly lot line and the municipal boundary. Also, only a 20 foot setback is required from the easterly lot line abutting the Ice Pond Drive right of way.



LINE	BEARING	DISTANCE
L1	S32°48'28"W	28.47
L2	S23°05'18"W	150.97
L3	S64°12'40"W	59.79
L4	N64°12'40"E	50.79
L5	N23°05'39"E	150.97
L6	N37°48'28"E	28.64

CURVE	LENGTH	RADIUS	DELTA	BEARING	CHORD
C1	38.15	225.00	9°42'49"	S72°57'04"W	38.10
C2	197.35	275.00	41°07'01"	N43°39'10"E	193.14
C3	11.46	10.00	65°11'03"	S31°22'08"W	10.85
C4	407.58	75.00	31°22'07"	S25°47'28"E	61.78
C5	11.46	10.00	65°11'03"	S29°56'48"E	10.85
C6	161.47	275.00	41°07'01"	N43°39'10"E	158.02
C7	46.62	275.00	9°42'48"	S27°37'04"W	46.57
C8	15.73	10.00	30°08'39"	S72°57'04"W	14.16
C9	116.32	275.00	24°14'04"	N35°12'41"E	115.45
C10	81.03	275.00	16°52'57"	N50°46'11"E	80.74
C11	58.36	75.00	44°35'11"	N30°32'07"E	56.90
C12	114.13	75.00	87°11'13"	S83°34'40"E	103.43
C13	107.06	75.00	81°47'06"	S89°34'29"W	98.70
C14	53.93	75.00	41°32'04"	S67°21'04"W	52.78
C15	61.38	75.00	46°53'37"	N73°33'05"W	59.88
C16	89.90	225.00	22°53'37"	N52°45'52"E	88.31
C17	71.56	225.00	18°13'24"	N42°12'21"E	71.28
C18	15.68	10.00	89°31'41"	N17°07'22"W	14.13
C19	12.70	75.00	09°42'26"	N03°23'04"E	12.72

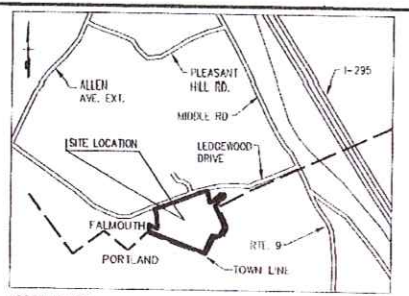
**ZONING SUMMARY:**  
 PARCEL SIZE = 24.83 ACRES (LOT 193)  
 ZONE: RESIDENTIAL 'A' DISTRICT (R-A) RESOURCE CONSERVATION OVERLAY DISTRICT  
 USE: SINGLE FAMILY (PERMITTED)

**DEVELOPMENT STANDARDS:**

REQUIRED	REQUIRED
MINIMUM LOT SIZE	20,000 SF
MINIMUM LOT WIDTH	125'
MINIMUM LOT FRONTAGE (GIL-DE-SAC)	14.16
MINIMUM FRONT YARD	15 MIN - 25'
MINIMUM SIDE YARD	20'
MINIMUM REAR YARD	40'
SIGHT DISTANCE	300 FOR 80 MPH

**NET RESIDENTIAL DENSITY CALCULATIONS:**  
 TOTAL ACRES = 24.83  
 DEDUCTIONS:  
 - WETLANDS & STREAM 120,966 SF. (2.71 ACRES)  
 - 100 YEAR FLOOD 30,926 SF. (.70 ACRES)  
 - EXCESS OF 25% SLOPE 8,210 SF. (.18 ACRES)  
 - ROADS (10%) 100,514 SF. (2.28 ACRES)  
 - EASEMENTS 20,000 SF. (.45 ACRES)  
 TOTAL 418,546 SF. (9.49 ACRES)  
 24.83 ACRES - 10.94 ACRES = 13.89 ACRES (60,228 SF) / 20,000 SF. = 30 LOTS ALLOWED

**OPEN SPACE CALCULATIONS:**  
 13.89 ACRES / 50% = 6.94 ACRES + 10.94 ACRES = 17.88 ACRES OPEN SPACE REQUIRED  
 OPEN SPACE PROVIDED (TOTAL) = 17.8 ACRES



**EASEMENT LINE TABLE**

LINE	LENGTH	BEARING
L7	44.21	S84°30'18"E
L8	9.80	N64°26'59"E
L9	100.80	S57°03'12"E
L10	72.99	S37°01'17"E
L11	33.11	S59°48'11"E
L12	50.91	S07°54'45"W
L13	173.14	S30°23'12"W
L14	35.96	S50°14'23"W
L15	61.08	S07°53'40"W
L16	154.06	S30°23'12"W
L17	102.89	S44°02'41"E
L18	112.52	S32°51'57"E
L19	26.08	S65°47'32"E
L20	100.48	S44°02'41"E
L21	118.45	S32°51'57"E
L22	34.94	S65°47'32"E
L23	122.80	S01°51'14"W
L24	118.01	S01°51'14"W
L25	74.70	S30°57'03"E
L26	98.19	S30°57'03"E

**OPEN SPACE LINE TABLE**

LINE	LENGTH	BEARING
L25	4.00	N39°40'03"W
L26	37.04	N79°53'29"W
L27	50.66	S62°42'06"W
L28	39.05	S41°35'52"W
L29	39.05	S41°35'52"W
L30	45.61	S24°21'07"W
L31	18.28	S17°20'15"W
L32	18.45	S17°18'22"W
L33	27.34	S43°17'20"W
L34	27.34	S43°17'20"W
L35	22.44	S65°29'48"W
L36	22.44	S65°29'48"W
L37	49.80	S74°05'38"W
L38	41.94	S84°13'49"W
L39	54.07	S71°03'57"W
L40	21.09	N60°01'55"W
L41	24.37	S78°49'19"W
L42	54.19	S68°09'38"W
L43	40.61	S88°09'01"W
L44	46.63	S68°30'18"W
L45	30.48	S48°11'49"W
L46	30.48	S48°11'49"W
L47	40.15	S28°02'46"W
L48	17.00	S12°33'48"E
L49	130.75	S87°42'01"W
L50	21.83	N14°42'50"E
L51	92.57	N41°42'48"E
L52	42.79	N56°47'28"E
L53	77.17	N56°47'28"E
L54	58.40	N59°22'10"E

**EASEMENTS:**

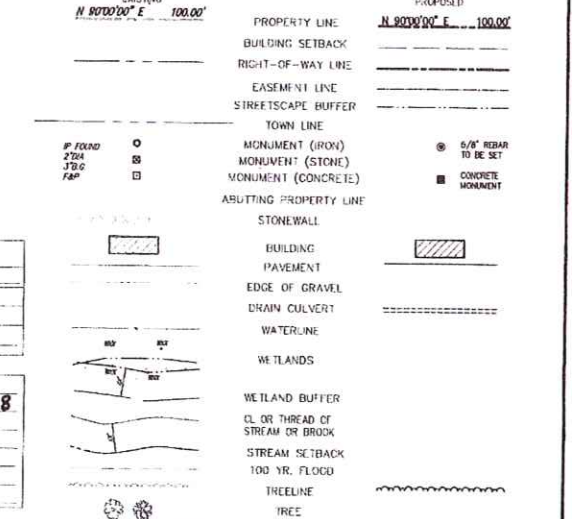
- EASEMENT 'A' - DRAINAGE EASEMENT TO TOWN OF FALMOUTH FOR STORMWATER CONVEYANCE.
- EASEMENT 'B' - MAINTENANCE AND DRAINAGE EASEMENT TO HOMEOWNERS ASSOCIATION FOR UTILITY MAINTENANCE PATH AND DRAINAGE WAY.
- EASEMENT 'C' - 10 FT. WIDE EASEMENT TO HOME OWNERS ASSOCIATION FOR CONSTRUCTION AND MAINTENANCE OF THE DRIVE GIL-DE-SAC.
- TRANSFORMER EASEMENTS - 1000 EASEMENTS AROUND ALL ELECTRICAL TRANSFORMERS TO BE GRANTED TO CMP.
- LANDSCAPE EASEMENT 'D' - IS FT. WIDE X 200 FT. LONG EASEMENT GRANTED TO THE O'DONOVAN FOR CARE AND MAINTENANCE OF EVERGREEN TREE PLANTING ALONG PROPERTY LINE.

**FLAT PLAN NOTES:**

- THE APPLICANT IS THE LEDGEWOOD TRUST AGREEMENT, CO-TRUSTEES ARE SHIRLEY A. LALMIERE AND PAUL R. LALMIERE, JR. WITH AN ADDRESS OF 391 NAVY COVE BLVD., GULF BREEZE, FLORIDA BY DEED IN BOOK 4400, PAGE 159 OF THE CUMBERLAND COUNTY REGISTER OF DEEDS.
- THE PROPERTY IS SHOWN AS LOT 088 ON THE TOWN OF FALMOUTH TAX MAP 204 AND IS LOCATED IN THE RESIDENTIAL 'A' ZONE. THE TOTAL AREA OF THE PARCEL IS 24.83 ACRES.
- BOUNDARY AND TOPOGRAPHIC SURVEY PLAN TITLED "BOUNDARY AND EXISTING CONDITIONS SURVEY" DATED OCTOBER 14, 2006, BY TITCORN ASSOCIATES, FALMOUTH, ME.
- WETLANDS DELINEATED BY S. K. COLE ENGINEERING, INC. SUMMER 2006. VERNAL POOL SURVEYS MAY 2007 WITH NO EGGS/SPAWNS FOUND.
- SOIL MAPPING AND INVESTIGATION PERFORMED BY S. K. COLE ENGINEERING, INC. SUMMER 2006.
- THE PARCEL FALLS WITHIN ZONES A AND C FOR FEMA FLOOD INSURANCE RATE MAP PANEL 230045 0212B DATED OCTOBER 16, 1984.

**OPEN SPACE AND EASEMENTS:**

- OPEN SPACE 'A'** - 0.26 AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. RESERVING AN EASEMENT TO THE MEMBERS OF THE LEDGES RESIDENTIAL HOMEOWNERS ASSOCIATION (HEREINAFTER REFERRED TO AS THE HOMEOWNERS ASSOCIATION) FOR PASSIVE RECREATIONAL USE, INSTALLATION AND MAINTENANCE OF PLANTINGS AND FENCING. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOMEOWNERS ASSOCIATION, WHICH IS ALSO RESPONSIBLE FOR PICKET MOVING OF A 4 TO 6 FOOT WIDE GRASS STRIP DESIGNATED AS A TRAIL ON THE PLAN. THE TRAIL ON OPEN SPACE A MAY BE UTILIZED BY THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE 'B'** - 0.43 AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. THE PARCEL IS APPROXIMATELY 0.43 ACRES AS FURTHER SHOWN ON THE PLAN. RESERVING AN EASEMENT TO THE HOMEOWNERS ASSOCIATION FOR PASSIVE RECREATIONAL USE. GRANTEE IS RESPONSIBLE FOR STEWARDSHIP AND MAINTENANCE OF THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE 'C'** - 0.18 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. PUBLIC ACCESS RESTRICTED TO THE TRAIL. WITH THE EXCEPTION OF THE TRAIL, THIS AREA SHALL REMAIN IN ITS NATURAL STATE. NECESSARY MAINTENANCE CONSISTING OF PLANT AND FENCE REPLACEMENT AND REPLACEMENT, TRAIL MAINTENANCE AND THE REMOVAL OF DEAD AND DISEASED TREES AND LIMBS WHICH POSE A SAFETY THREAT TO VISITORS OF THE SPACE SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE 'D'** - 0.06 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. INSTALLATION AND MAINTENANCE OF PLANTINGS, LAWN AND SEATING AREA TO BE BY THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE 'E'** - 0.09 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. PLANTING AND FENCE INSTALLATION AND MAINTENANCE AND MOWING MAINTENANCE TO MAINTAIN AREA AS A FIELD TO BE BY THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE 'F'** - 14.09 ACRES AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. THIS PARCEL IS TO BE MAINTAINED AS A FOREST. GRANTEE IS RESPONSIBLE FOR STEWARDSHIP AND MAINTENANCE OF THE EXISTING TRAILS AS DEPICTED ON THE PLAN. THE TRAILS ON OPEN SPACE F MAY BE UTILIZED BY THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE 'G'** - 2.15 ACRES AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. RESERVING AN EASEMENT TO THE HOMEOWNERS ASSOCIATION FOR PASSIVE RECREATIONAL USE. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOMEOWNERS ASSOCIATION.
- DEED FOR THE OPEN SPACE FROM LEDGEWOOD TRUST AGREEMENT TO THE FALMOUTH CONSERVATION TRUST, OF EVEN OR RECENT DATE TO BE RECORDED WITH THE RECORDS OF THIS PLAN.



**STATE OF MAINE**  
 CUMBERLAND COUNTY REGISTRY OF DEEDS  
 RECEIVED June 5, 2008  
 AT 11 HOUR 29 MIN. A.M.  
 AND RECORDED IN BOOK 208 PAGE 250  
 ATTEST *[Signature]*

**PLANNING BOARD APPROVAL:**  
 MEMBER *[Signature]* DATE: 5-6-08  
*[Signature]*

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SYTDesign Consultants, ANY ALTERATIONS, OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SYTDDesign Consultants.

REV.	DATE	STATUS	BY	CHKD.	APPD.	RLV.	DATE	STATUS	BY	CHKD.	APPD.
E	4/01/08	SUBMITTED TO TOWN OF FALMOUTH FOR SUBDIVISION RE-APPROVAL		PBB	PBB	PBT					
D	10/1/07	SUBMITTED TO TOWN OF FALMOUTH FOR FINAL SUBDIVISION APPROVAL		PBB	PBB	PBT					
C	7/1/07	SUBMITTED TO TOWN OF FALMOUTH FOR FINAL SUBDIVISION APPROVAL		WTE	PBB	PBT					
B	6/20/07	REVISED PER TOWN COMMENTS		WTE	PBB	PBT					
A	5/09/07	SUBMITTED TO TOWN OF FALMOUTH FOR PRELIMINARY APPROVAL		WTE	PBB	PBT					

**SYTDDesign CONSULTANTS**  
 CIVIL ENGINEERS & LANDSCAPE ARCHITECTS  
 397 NAVY COVE BLVD., GULF BREEZE, FL. 32561  
 TEL: 904.202.0994 FAX: 904.202.2231

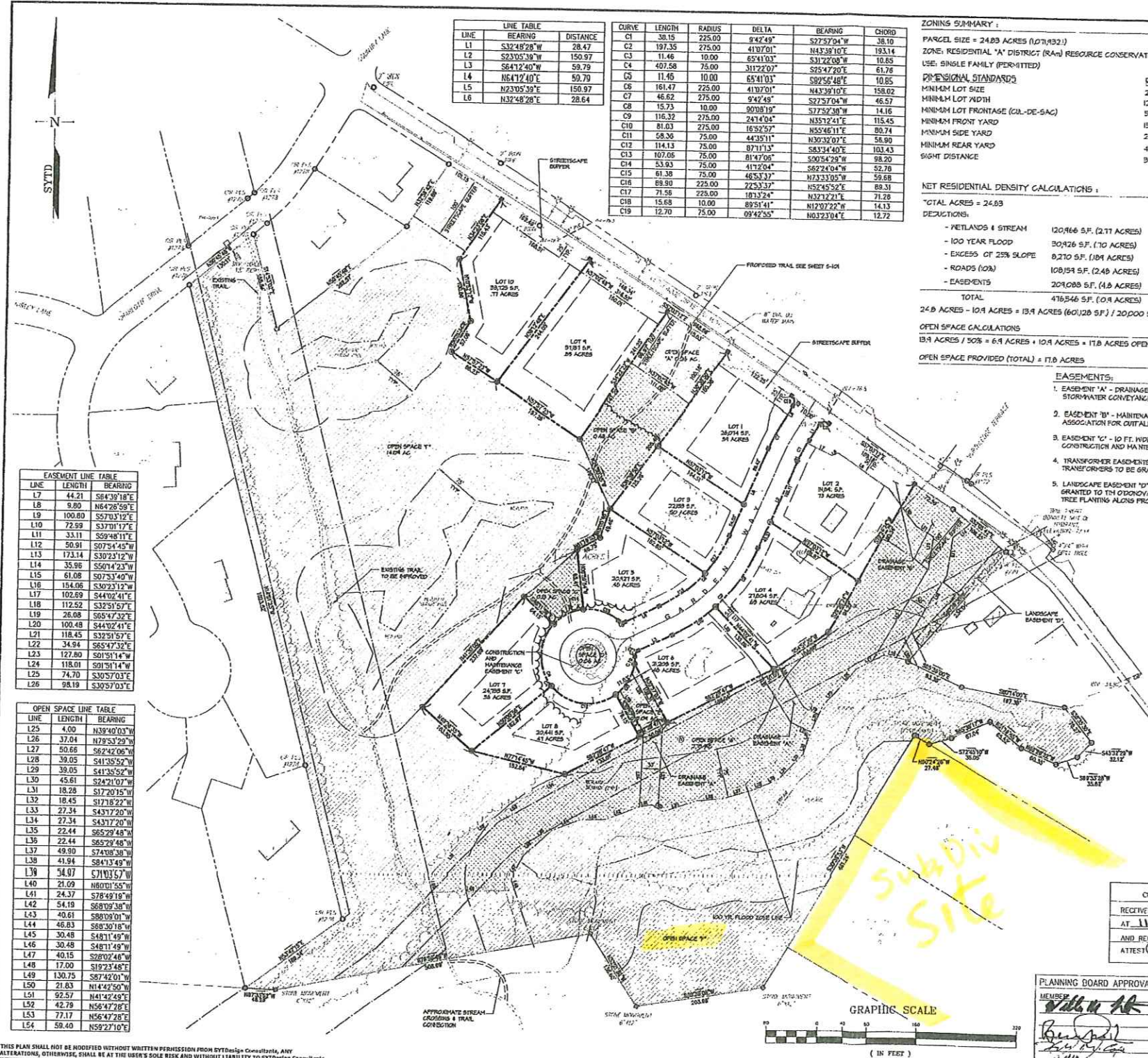
**DESIGN:** PBB  
**DRAWN:** WTE  
**CHKD:** PBT

**PROJECT:** "THE LEDGES" RESIDENTIAL SUBDIVISION  
 50 LEDGEWOOD DRIVE, FALMOUTH, ME. 04105

**SUBDIVISION PLAT PLAN RECORDING PLAN 1 OF 2**

**DATE:** FEB. 2007  
**SCALE:** 1" = 80'

**PROJ. NO.:** 06-24200  
**DWG. NO.:** S-100



LINE	BEARING	DISTANCE	CURVE	LENGTH	RADIUS	DELTA	BEARING	CHORD
L1	S32°48'28\"W	28.47	C1	38.15	225.00	9°42'49\"	S27°57'04\"W	38.10
L2	S23°05'30\"W	150.97	C2	191.35	275.00	41°07'01\"	N43°38'10\"E	193.14
L3	S64°12'40\"W	59.78	C3	11.46	10.00	65°41'01\"	S23°42'09\"W	10.85
L4	N54°12'40\"E	50.70	C4	407.58	75.00	31°22'00\"	S23°42'09\"W	61.78
L5	N73°05'39\"E	150.97	C5	11.46	10.00	65°41'01\"	S23°42'09\"W	10.85
L6	N32°48'28\"E	28.64	C6	161.47	225.00	41°07'01\"	N43°38'10\"E	158.02
			C7	46.62	275.00	9°42'49\"	S27°57'04\"W	46.57
			C8	15.75	10.00	90°08'19\"	S72°52'38\"W	14.16
			C9	116.32	275.00	24°14'04\"	N35°12'41\"E	115.45
			C10	81.03	275.00	16°52'52\"	N55°46'11\"E	80.74
			C11	58.30	75.00	44°29'11\"	N30°32'07\"E	54.90
			C12	114.13	75.00	87°11'13\"	S83°34'40\"E	103.43
			C13	107.05	75.00	81°47'06\"	S90°54'29\"W	98.20
			C14	53.93	75.00	41°22'04\"	S62°24'04\"W	52.70
			C15	41.30	75.00	22°53'22\"	N52°45'52\"E	69.31
			C16	69.90	225.00	48°51'32\"	N73°33'05\"W	59.68
			C17	71.56	225.00	10°13'24\"	N52°22'21\"E	71.29
			C18	15.68	10.00	89°51'41\"	N12°07'22\"N	14.13
			C19	12.70	75.00	09°42'55\"	N02°23'04\"E	12.72

LINE	LENGTH	BEARING
L7	44.21	S64°39'18\"E
L8	9.80	N64°26'59\"E
L9	100.80	S57°03'12\"E
L10	72.59	S37°09'17\"E
L11	33.11	S29°44'11\"E
L12	50.91	S07°54'45\"W
L13	173.14	S30°23'12\"W
L14	35.96	S50°14'23\"W
L15	61.08	S07°53'40\"W
L16	154.06	S30°23'12\"W
L17	102.69	S44°02'41\"E
L18	112.52	S32°51'57\"E
L19	26.08	S65°47'32\"E
L20	100.48	S44°02'41\"E
L21	118.45	S32°51'57\"E
L22	34.94	S65°47'32\"E
L23	127.80	S01°51'14\"W
L24	118.01	S01°31'14\"W
L25	74.70	S30°57'03\"E
L26	98.19	S30°57'03\"E

LINE	LENGTH	BEARING
L25	4.00	N38°40'03\"W
L26	37.04	N78°53'29\"W
L27	50.66	S62°42'06\"W
L28	39.05	S41°35'52\"W
L29	38.05	S41°35'52\"W
L30	45.61	S24°21'07\"W
L31	18.28	S17°20'15\"W
L32	18.45	S17°18'22\"W
L33	27.34	S43°17'20\"W
L34	27.34	S43°17'20\"W
L35	22.44	S65°29'48\"W
L36	22.44	S65°29'48\"W
L37	49.50	S74°08'38\"W
L38	41.94	S84°13'49\"W
L39	54.07	S71°03'57\"W
L40	21.09	N66°01'55\"W
L41	24.37	S78°49'18\"W
L42	54.19	S68°09'38\"W
L43	40.61	S88°09'01\"W
L44	46.83	S88°30'18\"W
L45	30.48	S48°11'49\"W
L46	30.48	S48°11'49\"W
L47	40.15	S28°02'48\"W
L48	17.00	S19°23'48\"E
L49	130.75	S87°42'01\"W
L50	21.83	N14°42'50\"W
L51	92.57	N41°42'49\"E
L52	42.79	N56°47'28\"E
L53	77.17	N56°47'28\"E
L54	59.40	N59°27'10\"E

**ZONING SUMMARY:**  
 PARCEL SIZE = 24.89 ACRES (107,932)  
 ZONE: RESIDENTIAL "A" DISTRICT (RA) RESOURCE CONSERVATION OVERLAY DISTRICT  
 USE: SINGLE FAMILY (PERMITTED)

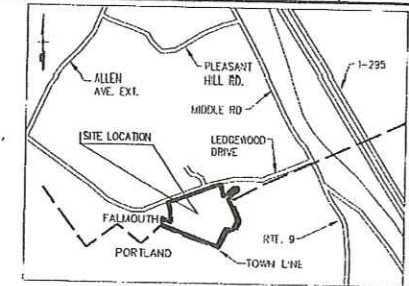
**MINIMUM STANDARDS:**  
 MINIMUM LOT SIZE: 20,000 SF.  
 MINIMUM LOT WIDTH: 125'  
 MINIMUM LOT FRONTAGE (CUL-DE-SAC): 50'  
 MINIMUM FRONT YARD: 15' MIN. - 25'  
 MINIMUM SIDE YARD: 20'  
 MINIMUM REAR YARD: 40'  
 SIGHT DISTANCE: 300 FOR 30 MPH

**NET RESIDENTIAL DENSITY CALCULATIONS:**  
 TOTAL ACRES = 24.89  
 DEDUCTIONS:  
 - WETLANDS & STREAM: 120,166 SF. (2.71 ACRES)  
 - 100 YEAR FLOOD: 20,926 SF. (0.70 ACRES)  
 - EXCESS OF 25% SLOPE: 6,270 SF. (0.24 ACRES)  
 - ROADS (10%): 108,594 SF. (2.48 ACRES)  
 - EASEMENTS: 20,000 SF. (0.46 ACRES)  
 TOTAL: 478,546 SF. (10.9 ACRES)

24.8 ACRES - 10.9 ACRES = 13.9 ACRES (60,126 SF.) / 20,000 SF. = 30 LOTS ALLOWED

OPEN SPACE CALCULATIONS:  
 13.9 ACRES / 50% = 6.95 ACRES + 10.9 ACRES = 17.85 ACRES OPEN SPACE REQUIRED

OPEN SPACE PROVIDED (TOTAL) = 17.8 ACRES

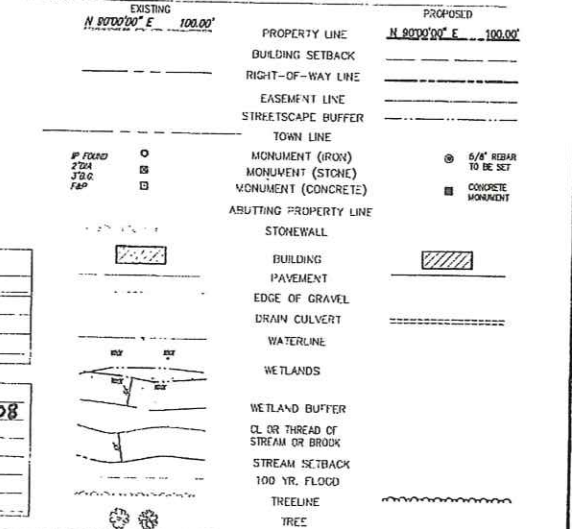


**PLAT PLAN NOTES:**

- THE APPLICANT IS THE LEDGEMOOD TRUST AGREEMENT, CO-TRUSTEES ARE SHIRLEY A. LALAMERE AND PAUL R. LALAMERE JR. WITH AN ADDRESS OF 391 NAVY COVE BLVD, GULF BREEZE, FLORIDA. BY DEED IN BOOK 4400, PAGE 155 OF THE CUMBERLAND COUNTY REGISTRY OF DEEDS.
- THE PROPERTY IS SHOWN AS LOT 068 ON THE TOWN OF FALMOUTH TAX MAP #04 AND IS LOCATED IN THE RESIDENTIAL "A" ZONE. THE TOTAL AREA OF THE PARCEL IS 24.89 ACRES.
- BOUNDARY AND TOPOGRAPHIC SURVEY PLAN TITLED "BOUNDARY AND EXISTING CONDITIONS SURVEY" DATED OCTOBER 14, 2006, BY TITCOB ASSOCIATES, FALMOUTH, ME.
- WETLANDS DELINEATED BY S. H. COLE ENGINEERS, INC. SUMMER 2006, VERNAL POOL SURVEYS MAY 2007 WITH NO EGS MASSES FOUND.
- SOIL MAPS AND INVESTIGATION PERFORMED BY S. H. COLE ENGINEERS, INC. SUMMER 2006.
- THE PARCEL FALLS WITHIN ZONES A AND C PER FEMA FLOOD INSURANCE RATE MAP PANEL 230045 0202B DATED OCTOBER 16, 1984.

**OPEN SPACE AND EASEMENTS:**

- OPEN SPACE "A" - 0.26 AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. RESERVING AN EASEMENT TO THE MEMBERS OF THE LEDGES RESIDENTIAL HOMEOWNERS ASSOCIATION (HEREINAFTER REFERRED TO AS THE HOMEOWNERS ASSOCIATION) FOR PASSIVE RECREATIONAL USE, INSTALLATION AND MAINTENANCE OF PLANTINGS AND FENCING. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOMEOWNERS ASSOCIATION. FINCH IS ALSO RESPONSIBLE FOR FERTILIZING OF A 4 TO 6 FOOT WIDE GRASS STRIP DEPICTED AS A TRAIL ON THE PLAN. THE TRAIL ON OPEN SPACE A MAY BE UTILIZED BY THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE "B" - 0.49 AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. THE PARCEL IS APPROXIMATELY 0.49 ACRES AS FURTHER SHOWN ON THE PLAN. RESERVING AN EASEMENT TO THE HOMEOWNERS ASSOCIATION FOR PASSIVE RECREATIONAL USE. GRANTEE IS RESPONSIBLE FOR STEWARDSHIP AND MAINTENANCE OF THE PROPOSED TRAIL AS DEPICTED ON THE PLAN. THE TRAIL ON OPEN SPACE B MAY BE UTILIZED BY THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE "C" - 0.13 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. PUBLIC ACCESS RESTRICTED TO THE TRAIL. WITH THE EXCEPTION OF THE TRAIL, THIS AREA SHALL REMAIN IN ITS NATURAL STATE. IN PERMANENT MAINTENANCE CONSISTING OF PLANT AND FENCE upkeep and replacement, TRAIL MAINTENANCE AND THE REMOVAL OF DEAD AND DISEASED TREES AND LIMBS WHICH POSE A SAFETY THREAT TO VISITORS OF THE SPACE SHALL BE THE RESPONSIBILITY OF THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE "D" - 0.06 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. INSTALLATION AND MAINTENANCE OF PLANTINGS, LAWN AND SEATING AREA TO BE BY THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE "E" - 0.01 ACRES UNDER OWNERSHIP OF THE HOMEOWNERS ASSOCIATION. PLANTING AND FENCE INSTALLATION AND MAINTENANCE, AND MAINTENANCE TO MAINTAIN AREA AS A FIELD TO BE BY THE HOMEOWNERS ASSOCIATION.
- OPEN SPACE "F" - 14.67 ACRES AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. THIS PARCEL IS TO BE MAINTAINED AS A FOREST. GRANTEE IS RESPONSIBLE FOR STEWARDSHIP AND MAINTENANCE OF THE EXISTING TRAILS AS DEPICTED ON THE PLAN. THE TRAILS ON OPEN SPACE F MAY BE UTILIZED BY THE PUBLIC FOR PEDESTRIAN AND BICYCLE PASSAGE ONLY.
- OPEN SPACE "G" - 2.75 ACRES AS SHOWN ON THE PLAN. HELD BY THE FALMOUTH CONSERVATION TRUST. RESERVING AN EASEMENT TO THE HOMEOWNERS ASSOCIATION FOR PASSIVE RECREATIONAL USE. THIS PARCEL IS TO BE MAINTAINED AS A FIELD BY THE HOMEOWNERS ASSOCIATION.
- DEED FOR THE OPEN SPACE FROM LEDGEMOOD TRUST AGREEMENT TO THE FALMOUTH CONSERVATION TRUST, OF EVEN OR RECENT DATE TO BE RECORDED WITH THE RECORDS OF THIS PLAN.



**STATE OF MAINE**  
 CUMBERLAND COUNTY REGISTRY OF DEEDS  
 RECEIVED June 5, 2008  
 AT 11 HOUR 59 MIN PAGE 250  
 AND RECORDED IN BOOK 208 PAGE 350  
 ATTEST: *Charles E. Dunlop*  
 REGISTER

**PLANNING BOARD APPROVAL:**  
 MEMBER: *WILLIAM JR* DATE: 5-6-08  
 MEMBER: *Benjamin*  
 MEMBER: *John*

THIS PLAN SHALL NOT BE MODIFIED WITHOUT WRITTEN PERMISSION FROM SYTDesign Consultants, ANY ALTERATIONS, OTHERWISE, SHALL BE AT THE USER'S SOLE RISK AND WITHOUT LIABILITY TO SYTDesign Consultants.

REV.	DATE	STATUS	BY	CHKD.	APPD.	REV.	DATE	STATUS	BY	CHKD.	APPD.
E	4/01/08	SUBMITTED TO TOWN OF FALMOUTH FOR SUBDIVISION RE-APPROVAL		PBB	PBB	PBT					
D	10/7/07	SUBMITTED TO TOWN OF FALMOUTH FOR FINAL SUBDIVISION APPROVAL		PBB	PBB	PBT					
C	7/1/07	SUBMITTED TO TOWN OF FALMOUTH FOR FINAL SUBDIVISION APPROVAL		WTE	PBB	PBT					
B	6/20/07	REVISED PER TOWN COMMENTS		WTE	PBB	PBT					
A	5/09/07	SUBMITTED TO TOWN OF FALMOUTH FOR PRELIMINARY APPROVAL		WTE	PBB	PBT					

**SYTDesign CONSULTANTS**  
 CIVIL ENGINEERING & LANDSCAPE ARCHITECTURE  
 397 NAVY COVE BLVD., GULF BREEZE, FL. 32561

**THE LEDGES RESIDENTIAL SUBDIVISION**  
 50 LEDGEMOOD DRIVE, FALMOUTH, ME, 04105

**SUBDIVISION PLAT PLAN**  
 RECORDING PLAN 1 OF 2

DESIGN: PBB  
 DRAWN: WTE  
 CHKD: PBT

DATE: FEB. 2007  
 SCALE: 1" = 80'

PROJ. NO. 06-24200  
 DWG. NO. S-100



**Jean Fraser - Fwd: Re: 1062 emergency response**

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**From:** Jean Fraser  
**To:** Fraser, Jean  
**Date:** 2/26/2013 3:53 PM  
**Subject:** Fwd: Re: 1062 emergency response

---

>>> Chris Pirone 2/26/2013 3:39 PM >>>

I am comfortable with this project moving forward as long as my original comments are met which were presented on 9/20/12. Please pay special attention to NFPA 1 2009 Fire Flow requirements not just the City Tech standards as these are more strict. Per the current plans more hydrants may need to be installed.

Since this development is on City lines it is imperative that street addresses shall be approved by the City E-911 Addressing Officer before the certificate of occupancy will be issued which will make sure City of Portland Emergency Services are notified in case of an emergency.

**Fire Comments:**

All construction shall comply with City Code Chapter 10.

<http://www.portlandmaine.gov/citycode/chapter010.pdf>

Fire hydrants may be required based on 2009 NFPA 1.

Private fire mains and fire hydrants shall be maintained, tested and painted in accordance with Fire Department Regulations.

<http://www.portlandmaine.gov/fireprevention/fdrulesandregulations.pdf>

Street addresses shall be marked on the structure and shall be as approved by the City E-911 Addressing Officer. Contact Michelle Sweeney at 874-8682 for further information.

Sprinkler systems shall be installed in accordance with NFPA 13D

Captain Chris Pirone

Portland Fire Department


Fire Prevention Bureau

380 Congress Street

Portland, ME 04101

(t) 207.874.8405

(f) 207.874.8410

 Please consider the environment before printing this email.

---

**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Friday, February 15, 2013 10:31 AM  
**To:** Peter Biegel  
**Subject:** RE: Re: Old Barn Estates - Stormwater comments

Peter

I am forwarding these review comments for info but not necessarily to ask them to be addressed before the hearing, because I would like everything that goes to the Board to have been reviewed by staff here and with Monday a holiday we are running out of time.

I think the stormwater issues can be handled with a condition.

Re the Subdivision Plat Plans and the 20 foot easement, I hope to be able to get back to you by the end of today on that and if OK then you can revise any other plans as necessary (I need final plans on tuesday unless changes really insignificant).

thanks  
Jean

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## Jean Fraser - FW: Re: Old Barn Estates - Revised Plat Plan

---

**From:** Jean Fraser  
**To:** Biegel, Peter  
**Date:** 2/15/2013 6:04 PM  
**Subject:** FW: Re: Old Barn Estates - Revised Plat Plan  
**CC:** O'Donovan', 'Tim'

---

Peter

I think we are OK with the revised plats you sent today, so please send any other revised plans by end of tuesday. I am not in the office on tuesday so will be presenting any you send on tuesday to colleagues on Wednesday morning (they have seen the revised sub div plats).

The Plat needs a note to confirm that any the single family homes on lots 1-12 will need single-family site plan/building permit review by the City of Portland only, prior to any work starting on site.

thank you  
Jean

## Jean Fraser - Fwd: RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** Jean Fraser  
**Date:** 2/15/2013 4:02 PM  
**Subject:** Fwd: RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)  
**CC:** Barbara Barhydt

---

The deed for the street will not need to be finalized until the end of the project. The other option regarding the street would be to accept the land at the end of the street as a public access easement. I think that this can be done under Maine law. Once the street is accepted it is a City street and so is the sidewalk, so of course it is accessible to anyone to use in the City.

>>> Jean Fraser 2/15/2013 10:15 AM >>>  
Danielle,

Thank you for your comments on the homeowner's docs.

Here are the [updated subdivision plat plans 1 and 2](#)- do you have any comments on these? The applicant did not want to relocate the link between the ROW and the property boundary to the lot line between lots #8 and #9 because he thought the snow pile would then be right on top of it. Since there is also an easement on Lot #9 for access to the maintenance swale, he thought it best to keep it all together on one lot. In his e-mail below he confirms he is exploring other maintenance options with Falmouth Land Trust.

Falmouth staff have asked us to ensure that prior to the city's acceptance of the street that the street is accessible to the public (peds) wanting access to the trail at the end- in that period when the developer/homeowner's association is managing the street. Can we assume that prior to acceptance by Portland the street and sidewalk are legally open to the public who don't live there? Or do we need a public access easement for the whole street during that interim period?

I also attach the [deed to the City for Ice Pond Drive](#) and the [deed restrictions relating to the lots](#) which were received today.

thank you  
Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 2/15/2013 8:47 AM >>>  
[Hi Jean,](#)

I have attached the following plans:

- [Subdivision Plat Plan \(recording plan 1 of 2\)](#) - The plan has been revised to show a 20 wide pedestrian walkway easement.
- [S-101 Subdivision Plan \(recording plan 2 of 2\)](#) - I have clouded in red the walk which is now offset slightly after the street R.O.W. terminus and shows the timber stairs and calls for the maintenance to be by the homeowners association (see our comments below about maintenance).
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pedestrian walk to be gravel, shows the walk offset layout and location for the trailhead. This plan also shows the grading and drainage elements in the area.

Other thoughts and comments responding to your comments below:

- I am trying to initiate a discussion with the Falmouth Land Trust to inquire if they would;
  - a) Give guidance for the walk construction,
  - b) Be interested in the maintenance of that section of walk.
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- What is the process and how long does it typically take to get a street accepted?
  
- If the 20' wide easement and revised walk layout work for the City we will need to revised a number of plans, what is the process and timeframe for doing that?

Thank you,  
Peter

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, February 13, 2013 5:33 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

Peter

I have spoken to Ethan and I think we are all set in principle ie you just need a 20 foot wide pedestrian access easement between the end of the ROW to the City boundary (for ped and bikes). You can send a revised Plat plan re this asap (I am not in the office tomorrow so Fri OK). Please re-title this stretch of ped walkway (now called a "sidewalk") to avoid implication that its City of Portland.

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thanks  
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**Subject:** RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

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Do you think the 20 ft ped/bike easement would meet the concerns of the Falmouth PB?

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Please see my responses below in red.

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**Cc:** 'Tim O'Donovan'

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We are having second thoughts about the 50 foot easement and the ref to a street on the plat. **We will wait to hear from you on a final decision.**

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Don't revise the plat until I confirm on this; it can be submitted next week. **Ok we will wait to hear from you.**

Also we held a prelim review this morning and I don't think there is anything "big" of concern altho' the waivers will be a point of discussion with the planning Board. **I am glad to hear there is nothing "big" and we will be prepared to present our waiver request cases to the Planning Board abide by their decision.**

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## Jean Fraser - Fwd: RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

---

**From:** Jean Fraser  
**To:** West-Chuhta, Danielle  
**Date:** 2/15/2013 5:53 PM  
**Subject:** Fwd: RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)  
**CC:** Barhydt, Barbara

---

Danielle

I am out of the office on Tuesday so just need to know what the condition of approval re the Plat would be on this as it seems too complicated to resolve before the Hearing.

The street is partly in Falmouth (about 100 ft) so do we need the fee interest sooner....

Until we accept that deed isn't the street in private ownership and therefore technically not open to the public? (We can accept the easement at the end at any time I think.)

I will send a draft of the conditions on Wed after I know the other reviewer comments.

thanks  
Jean

>>> Danielle West-Chuhta (Danielle West-Chuhta) 2/15/2013 4:02 PM >>>

The deed for the street will not need to be finalized until the end of the project. The other option regarding the street would be to accept the land at the end of the street as a public access easement. I think that this can be done under Maine law. Once the street is accepted it is a City street and so is the sidewalk, so of course it is accessible to anyone to use in the City.

>>> Jean Fraser 2/15/2013 10:15 AM >>>

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---

**From:** Danielle West-Chuhta (Danielle West-Chuhta)  
**To:** David Margolis-Pineo; Errico Thomas; Jean Fraser; Jeff Tarling; Mar...  
**Date:** 2/15/2013 1:50 PM  
**Subject:** Fwd: RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)  
**CC:** Barbara Barhydt; Chris Pirone; DSenus@woodardcurran.com

---

I think that this is a good point, Marge. I think it should be included as a note on the plat.

Thanks,

Danielle

>>> Marge Schmuckal 2/15/2013 11:40 AM >>>

First of all, Zoning has no issues with the proposed resolution for the end of Ice Pond Drive as shown on these plans.

However, I would like some consideration at this time as to what the review process would be if in the future, a potential home owner, or builder comes in for an amendment to the approved plans. Would it need review by both Planning staffs or Boards of both Portland and Falmouth? I would hope that a note be placed on the approved subdivision/site plan reflecting that possibility and the foreseen process it would require. It will save a lot of future work trying to figure out what to do.

Marge

>>> Jean Fraser 2/15/2013 10:54 AM >>>

Hi

You recall that at the Dev Rev this week that Barbara and I had a different interpretation of the legal position re the area between the ROW and the City boundary.

We met with Danielle to clarify and the result is that it will remain private property (lots #8 and #9) and we are asking them for a 20 foot ped/bike (public access) easement between the end of the ROW and the City Boundary (Falmouth Land Trust land) and for it to be less sidewalk-y.

I have left the trail of e-mails attached to this so you can see that this has raised some other questions which I am trying to resolve and which Peter Beigel has commented on, eg:

1. Location of the pedestrian walkway- and whether it is straight? (note: Peter Biegel did not want to move the ped route to the boundary between lots #8 and 9 because its likely the snow storage would be right on that line.)
2. Its surface (if not City of Portland, maybe reconsider gravel? (he has changed it to gravel on revised plan attached)
3. Who maintains- Homeowner's Association or maybe Portland Trails (who have public interest more at heart)? (Plans currently show Homeowners Assoc, as do Docs)
4. Does Ice Pond Drive need a public access easement during the period its finished but not yet accepted?
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## Jean Fraser - RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

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**To:** Biegel, Peter  
**Date:** 2/13/2013 5:33 PM  
**Subject:** RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)  
**CC:** O'Donovan', 'Tim'

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>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 2/13/2013 3:40 PM >>>  
Hi Jean,

I believe the Falmouth Planning Board is looking for a simple trail connection and as long as we are providing that and are working with the Land Trust so that the Town of Falmouth is assured the trail is in a good spot and will be maintained they will be satisfied. I do not believe they are concerned with width of the easement as long as it accommodates a decent trail.

Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
Land Design Solutions  
P.O. Box 316  
160 Longwoods Road  
Cumberland, ME 04021

tel: (207) 939-1717

email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, February 13, 2013 3:36 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

Peter

Do you think the 20 ft ped/bike easement would meet the concerns of the Falmouth PB?

Jean

>>> "Peter Biegel" <[pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)> 2/13/2013 3:33 PM >>>  
Hi Jean,

Please see my responses below in red.

Thank you,  
Peter

Peter Biegel, ASLA, LEED AP  
Maine Licensed Landscape Architect  
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Cumberland, ME 04021

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email: [pbiegel@landdesignsolutions.com](mailto:pbiegel@landdesignsolutions.com)

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**From:** Jean Fraser [<mailto:JF@portlandmaine.gov>]  
**Sent:** Wednesday, February 13, 2013 3:20 PM  
**To:** Peter Biegel  
**Cc:** 'Tim O'Donovan'  
**Subject:** RE: Re: Old Barn Estates - Revised Plat Plan (50 ft easement)

Peter

We are having second thoughts about the 50 foot easement and the ref to a street on the plat. **We will wait to hear from you on a final decision.**

Subject to agreement with Ethan Croce (I have just left him a message) we would like a 20 ft public access easement (maybe moved so its 10 ft each side of the boundary between lots 8 and 9) for pedestrians and bicyclists. Could the steps/connection with trail in the Land Trust area be moved? **We do have some flexibility with the steps, the best plan to see what is happening in this area is the C-101 lot development which shows the walk, steps and stormwater pipe outfalls and the C-201 plan which shows the grading in this area.**

Don't revise the plat until I confirm on this; it can be submitted next week. **Ok we will wait to hear from you.**

Also we held a prelim review this morning and I don't think there is anything "big" of concern altho' the waivers will be a point of discussion with the planning Board. **I am glad to hear there is nothing "big" and we will be prepared to present our waiver request cases to the Planning Board abide by their decision.**

Thank you  
Jean

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



**Development Review, Wednesday, February 13, 2013**

*DS explained re buffer Jeff Turling not at the meeting - here for 1002. late to follow up with Jeff + Danielle.*

**PLANNING BOARD UPCOMING AGENDA**

**February 12, 2013**

<b>Workshop</b> 3:30 p.m.	<ul style="list-style-type: none"> <li>*** Canco Woods Map Amendment</li> <li>Site Plan Amendments for Master Plans and Overview of Height Regulations in Bayside</li> </ul>	ND BB/RK
<b>Public Hearing</b> 7:00 p.m.	<ul style="list-style-type: none"> <li>** Congress Street Zone Map Amendment from I-M to B-4 (#2012-609) - <i>Tabled Old Business</i></li> <li>Conditional Use - Place of Assembly - <i>RP- Tabled Old Business</i></li> <li>** Brackett Street - Zone Change from R-6 to B-1; City of Portland (#2012-642)</li> </ul>	JF ND SW

**February 26, 2013**

<b>Workshop</b> 3:30 p.m.	<ul style="list-style-type: none"> <li>Midtown Project, Master Plan &amp; Zoning Amendments - height, Federated Applicant (#2012-636)</li> </ul>	RK
<b>Public Hearing</b> 7:00 p.m.	<ul style="list-style-type: none"> <li>40-44 Pine &amp; 183-189 Brackett Streets, Subdivision/Site Plan, Redfern LWS, LLC (#2012-612)</li> <li>1062 Ocean Aven - Ledgewood Dr subdivision</li> <li>Conditional Use - Etz Chaim Synagogue - 267 Congress Street</li> </ul>	SW JF ND

*Use UI - transomital letters & use more.*

**AGENDA**

**PROJECTS FOR ADMINISTRATIVE AND BOARD REVIEW**

**A. Preliminary Plans**

1. 40-44 Pine Street...reminder that I need written comments by Wednesday...sw
- 2.
- 3.
- 4.
- 5.

**B. Final Plans**

1. 1062 Ocean- Old Barn Estates- Ledgewood Dr 16 lot Subdiv- for 2.26. PBH.....jf
2. 119 Exchange Street...sw *not to*
3. 267 Congress....nd

**C. Issues, Administrative Authorizations, Curb Cuts**

1. Requested Curb Cut at #58 Winter Street.....dm-p *in H-P + needs survey*
2. Debrief re 2282 Congress cond rezoning.....jf
3. 86 Commercial Street - second floor deck.....bb *custom Ho Wharf.*
4. 470 Riverside Street - storage container.....bb
5. 321 Commercial- Const. Man Plan- non DPS issues.....jf/ms

**D. Distribution of Plans**

1. Fort Allen Park...revised plans...sw
- 2.
- 3.

*for rent.*

- Cost \$1 sidewalk Ocean + case
- culverts clar on plan
- 50' easement at end BB concerned review with Danielle.
- \* get out my note
- DS to confirm need for easements

*\* send BB + DW-C EPlan note*

*send email to David Tom has comments ? why sidewalks closed now add note re noise ck Tech manual*

*Ecomaine trucks welcome alt. fuels*

*\* - send Theresa wording for order - update AIRF + len do reports*

Dee Lee 2-13-13

Revisions appl. has made:



Fal mouth support - asked if could go to FLT.

- 1) Shortened road  
Revised plat shows a) 50' wide easement  
b) ped easement to trail.
- 2) Lot #14 proposals.
- 3) Stormwater - fill slope vegetation
- 4) Trees all on rec. list + more trees  
lots 11, 12, 13

ck email diff.

To resolve:

NO ~~\*~~ Street light waiver - require house lights?

Sidewalk waiver Ocean Ave lot #14.

DW-C { Securing of trails off site  
Plat(s) - one word missing  
ref to lot DW Plan.

Sidewalk waiver lot #14. TE suggests contribution based on future layout.

DS Culverts under driveways  
36" corrugated metal pipe w Row concrete metered. future single family

# Jean Fraser - Fwd: RE: Update RE: Old Barn Estates Subdivision

**From:** Jean Fraser  
**To:** Barhydt, Barbara  
**Date:** 2/13/2013 11:44 AM  
**Subject:** Fwd: RE: Update RE: Old Barn Estates Subdivision  
**Attachments:** TPO Properties\_Feb 2013.pdf; The Ledges\_Subdivision Plan\_2008.pdf

Barbara

Please see below:

1. The note I sent you after we met with Danielle - I didn't send to Danielle so we can review with her. I really think the easement is the easiest way to go to avoid conflict with Falmouth or with our colleagues in DPS.
2. Note from Sr Planner Ethan Croce in Falmouth re his Boards comments on connectivity.

For discussion today if poss as I am out of the office tomorrow.

thanks

Jean

**1. E-mail sent:**

Barbara

This is what I took away from the meeting with you, Danielle, Marge and David today at 2pm; pl let me know if this is what you concluded, esp re necessary easements:

*Met w/ DW-C 2-13-13 -  
 she recs 20' easement for maybe  
 public access (peds/bikes) relocated  
 along  
 cot bdy between  
 8+9*

1. That the Subdivision Ordinance requires that the street be designed to [unclear]/connection, which would require the ROW to [unclear] boundary. There is also a prohibition against creating

*2-13-13  
 Ethan  
 easement near by  
 lot #16 re: Falmouth  
 joint east #15  
 OK 20' ped/bike  
 interim before City accept  
 1) public easement  
 enough  
 2) to limit for acceptance*

and is now conservation land and under the control of the Trust, its potentially possible that at some time in the future it could be developed and the potential for the street to be lost.

Planning Board that they have the ability to waive the provisions of 14-506 in view of the wetland setbacks; the status of the conservation easements etc) and the objective of the Ordinance is to provide a paved/imperious surface. The PB Report will have PB findings for the

waiver and there will be an associated condition of approval to be quoted on

the final plat along with a note at the location of the ROW end (which could confirm status in relation to 14-403).

4. The plans should show the ROW shortened to match the paved street, with the land between the end of the paved street and the Falmouth boundary reverting to one or both of the abutting lots as long as they each meet the frontage requirement under zoning.
5. The street area (ie of street width) between the end of the ROW and the Falmouth boundary needs an associated public access easement from the ROW to the property boundary. To avoid it being interpreted as a spite strip it should cover potential use for vehicles, pedestrians and bikes. It also should clarify that the paved sidewalk is for public access to the trail and state who to maintain and be liable for it as won't be city.
6. The access for the stormwater maintenance would also need an easement from the end of the ROW.

## 2. FROM FALMOUTH yesterday

>>> Ethan Croce <ecroce@town.falmouth.me.us> 2/12/2013 11:37 AM >>>  
Jean,

*See note of  
conversation  
Ethan Croce  
2/13/13*

The minutes from the meeting are not prepared until just prior to the next Board meeting, but I will try to summarize the discussion that occurred relative to your issues below.

### Lighting

The Board was fine with allowing the applicant to utilize the existing CMP cobra light fixture at the intersection of Ledgewood/Slocum to illuminate the Ledgewood/Ice Pond Drive intersection. The Board was OK with the applicant's proposal to place just one additional light at the hammerhead turnaround since this is consistent with the lighting treatment for other Falmouth subdivisions in the area.

### Curb/sidewalk waiver

The Board was comfortable with the design presented (curb/sidewalk on one side of the street) but is ultimately deferring design of these aspects to Portland since it has been represented that the City will be accepting the street.

### Connectivity

The plans submitted by the applicant showed the street right of way extending to the property line. The applicant, however, presented revised plans to the Board on the night of the meeting showing the street right of way stopping short of the property line with the fee to this area now owned by Lots 8 and 9. Staff inquired as to the possibility of providing a paper street to the property line instead. Mr. Biegel represented that Portland would require the street to be paved if a right of way were extended to the property line. The applicant confirmed that there would, however, be an easement off the end of the street right of way that would provide a connection to the Land Trust property. One Board member was concerned with the proposed arrangement to allow the fee to Lots 8 and 9 to "block" access to the Land Trust Land and asked whether the applicant had explored deeding the area of land between the end of the street right of way and the Land Trust property to the Land Trust to better ensure that the trail extension would be maintained in perpetuity and would be better recognized as being a public use area and not private property. The applicant stated that the formerly-proposed gravel trail would now be a paved sidewalk extending to the Land Trust property line. The Board was comfortable with the plan of providing an easement to the property line in conjunction with paving the sidewalk to the property line.

### Conservation Easement

I cannot readily locate a copy of the conservation easement associated with the abutting Ledges Subdivision, however, it is recorded at 26108/122. In the easement, you will see reference to "Open Space F". That is the specific parcel of open space which abuts the developer's land and the parcel over which the proposed trail connection is to be located. (See attached Subdivision Plan)

Regards,  
Ethan

Ethan J. Croce  
Senior Planner  
Town of Falmouth  
271 Falmouth Road  
Falmouth, ME 04105  
(207) 781-5253 x-5328  
(207) 781-8677 (fax)  
[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)

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thanks

Jean

### 1. E-mail sent:

Barbara

This is what I took away from the meeting with you, Danielle, Marge and David today at 2pm; pl let me know if this is what you concluded, esp re necessary easements:

1. That the Subdivision Ordinance requires that the street be designed to allow a future extension/connection, which would require the ROW to extend to the property boundary. There is also a prohibition against creating spite (or malice) strips.
2. Although the abutting land is now conservation land and under the control of the Falmouth Land Trust, its potentially possible that at some time in the future part or all of it could be developed and the potential for the street to connect should not be lost.
3. Staff will advise the Planning Board that they have the ability to waive the requirements under Sec 14-506 in view of the wetland setbacks; the status of the Falmouth land (conservation easements etc) and the objective of reducing impervious surface. The PB Report will have PB findings for the waiver and there will be an associated condition of approval to be quoted on

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