

CITY OF PORTLAND, MAINE

PLANNING BOARD

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March 4th, 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 26th, 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)

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- 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

Seth and Agreed

Tim O'Donovan
TPO Properties

2/21/13

Date

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