## CitySealADDENDUM TO HEARING REPORT#13-13

**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

**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.

1. 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.*

1. 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.

1. The following shows the entire Motion as revised, with new language underlined:
2. **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*
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 Ice Pond Drive within the 12 lot new subdivision:
3. 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:
4. 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.*

1. *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.]*

1. *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:

* + 1. 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

1. 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.
2. 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
3. That the applicant shall submit copies of the required permits from the MDEP prior to the release of the signed Subdivision Plat; and
4. 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:
5. Public access easement for the trail/walkway between the Ice Pond Drive ROW and the Falmouth boundary (Falmouth Land Trust land);
6. 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;
7. Other easements as indicated on the Plat in Plans 5 and 6;
8. Interim public access easement along Ice Pond Drive as soon as practical until it is accepted;
9. Homeowner Association Documents;
10. Individual lot deed final generic wording, including stormwater language as suggested in the Memo from David Senus of Woodard & Curran dated 2.20.2013.
11. 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
12. 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
13. 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 1of 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.

1. 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.