



# Memorandum

## Planning and Urban Development Department

### Planning Division

**To:** Chair Morrissette and Members of the Portland Planning Board

**From:** Jean Fraser, Planner

**Date:** September 21, 2012

**Re:** Ledgewood Drive 14 Lot Subdivision, 1062 Ocean Avenue  
TPO Properties, LLC, Tim Donovan  
Preliminary Review

**Project #:** 2012-584                      **CBL:** 414-A-4 (Part Within Town Of Falmouth)

**Meeting Date:** September 24, 2012

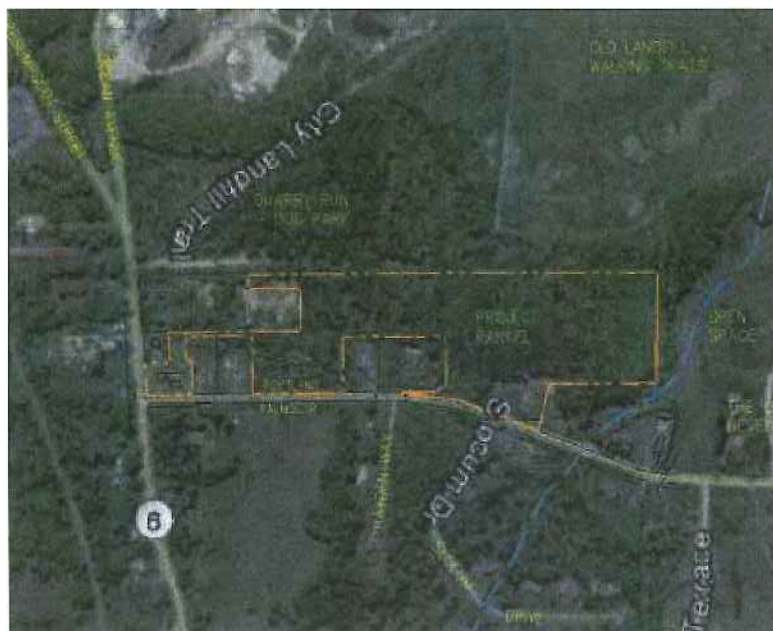
#### I. INTRODUCTION

Tim Donovan is proposing a 14-lot subdivision on land between Ocean Avenue in Portland and Ledgewood Drive in Falmouth. The site includes an existing (vacant) house at 1062 Ocean Avenue (Lot #14) which is not contiguous with the rest of the subdivision but is required to be included under Maine State Subdivision Law. There is also an existing home on part of the land where it meets Ledgewood Drive (incorporated into Lot #13).

The Planning Board is being requested to review the application under Portland's Subdivision Ordinance.

Of the total site of 12.78 acres, just under an acre is located within the Town of Falmouth. Within the Falmouth portion of the subdivision, the proposals show part of the new drive, the intersection with Ledgewood Drive (a Falmouth street), most of the stormwater management area, and one house lot.

Under Maine State Law 30-MRSA Section 4403 there is a requirement for joint meetings between the Planning Boards of Portland and Falmouth where a project crosses municipal boundaries, unless the respective reviewing authorities waive this requirement in writing. Falmouth voted on August 7, 2012 to waive this requirement and the Portland Planning Board needs to vote (at a Hearing) whether to also waive this requirement.



Extract from applicant's submission; larger version in Att. Plan 2

A total of 63 notices were sent out to neighbors and interested parties within Portland, and the public notice appeared in the September 17<sup>th</sup> and 18<sup>th</sup>, 2012 editions of the *Portland Press-Herald*.

## II. PROJECT DATA

<i>DATA</i>	<i>Existing home at 1062 Ocean Avenue (Lot #14)</i>	<i>Proposed new 13 lot contiguous subdivision with part in Falmouth (Lots #1 to #13)</i>		<i>Totals for new 13 lot contiguous subdivision</i>
<b>Location</b>	Within Portland and fronts on Ocean Avenue	Within Portland and no existing street access	Within Falmouth and fronting on Ledgewood Drive, Falmouth	
<b>Existing Zoning</b>	R-3	R-3	R-3	R-3
<b>Existing Use</b>	Single family (non-conforming)	Vacant/undeveloped	Single family	
<b>Proposed Use</b>		Single family lots	Reconfigured lot, new drive & stormwater management	
<b>Areas</b>	.58 acre	11.29 acres	.91 acre	12.78 acres
<b>No of Lots</b>	1	12	1	4
<b>Lot sizes</b>	.58	Range from 20,000 sq ft to 54, 800 sq ft	22,480 sq ft	
<b>Street Frontage</b>	Information submitted which indicates the Preliminary Plan meets zoning minimum requirement			
<b>Total Disturbed Area</b>	Information not required for Preliminary Plan- will be part of final application			
<b>Existing impervious</b>				
<b>Proposed impervious</b>				
<b>Proposed new road (dead end)</b>	none	Approx. 570 linear ft	Approx. 100 linear ft & intersection w/ Ledgewood	Approx. 670 linear ft
<b>Area of existing wetland</b>	The Preliminary Plan shows the wetland area and stream but dimensions not included; the subdivision layout shows a significant portion of the wetland area is not within the proposed house lots. Also see Sweet Associates Wetland Delineation note (see <a href="#">Attachment B</a> )			
<b>Area of wetlands proposed to be filled</b>				
<b>Proposed open space</b>		152,100 sq ft (mostly wetland)	11,700 sq ft within Falmouth adj Ledgewood	163,800 sq ft

## III. EXISTING CONDITIONS (see Survey in Attachment Plan 1)

The Lot #14 comprises the existing vacant home at the corner of Ocean Avenue and Ledgewood Drive. See photo right.

The contiguous backland parcel is bounded on the north by six existing houses that front onto Ledgewood Drive, of which four are owned by other parties (see photo lower left).

To the west is open space owned by the Falmouth Land Trust and understood to be dedicated conservation land with public access and trails that link into the Portland owned open space (Quarry Run Dog Park and former landfill areas) to the west and south of the proposed subdivision. To the east is land in other ownerships except that there is a 50 foot wide easement connecting the bulk of the subdivision site to Ocean Avenue.



Homes on Ledgewood at Ocean Ave end, not in subdivision- but wetland area is immediately beyond them on left



Existing home on Lot #13, fronting Ledgewood and opposite Slocum Drive (photos constrained by road work)

The main new subdivision site is largely composed of wetland and trees, and the MDEP have confirmed there is an intermittent stream traversing the central part of the main parcel (Attachment B).

Curbs on both sides of Ledgewood Drive, and a sidewalk along the north side, were under construction by Falmouth at the time this Memo was prepared.

#### **IV. PROPOSED DEVELOPMENT**

The applicant has submitted a preliminary application with a sketch plan (Attachments 1 and Plan 3) and requested a preliminary review prior to developing the details of the subdivision. The applicant has already presented the project in “concept” form to the Falmouth Planning Board in association with their request for a waiver from the requirement for joint meetings (see section V below).

The applicant has confirmed that the existing structure and garage on the isolated Lot #14 at the eastern end in Portland (corner of Ocean and Ledgewood) is intended to be demolished and a new structure built at some time in the future (Attachment B). This work is not part of the main subdivision project, but this lot is included in the review as it was originally owned in conjunction with part of the land in the proposed subdivision area, and under State law it must be included in the review.

The proposed new subdivision (Lots #1 to 13) is located at the western end of the parcel to avoid the wetland areas and has been reduced (from the pre-application proposals) by one lot to minimize impacts on the intermittent stream.

A new drive totaling almost 700 linear feet is proposed to provide access to the new lots, with its entrance onto Ledgewood Drive (in Falmouth) located opposite Slocum Drive, and a crosswalk incorporated within the proposal to link to the sidewalk on the north side (currently under construction). Most of the drive (approximately 600 feet) is located within the City of Portland, with the last 100 feet and intersection with Ledgewood in Falmouth.

During the pre-application meetings with Portland staff and the “concept plan” discussions with Falmouth it has been assumed that the City of Portland would accept this street in due course as a public right of way and be responsible for plowing and trash collection. If this becomes a Portland street it raises a number of issues, which are discussed in detail in section V.

The proposed new lots will be served by a water main in Ledgewood Drive and will each have a private septic system because the nearest sewers are too far away to tie into. The lots must be at least 20,000 sq ft to meet the requirements for a private septic system.

A detailed stormwater analysis has not been undertaken as this is a preliminary review, but the proposals indicate two areas where stormwater management systems could be located.

The subdivision also includes substantial areas of “Open Space” which generally comprise the wetland/intermittent stream areas and areas designated for stormwater management. Future management and maintenance of these areas has not been discussed.

The applicant is proposing a sidewalk and esplanade on one side of the proposed access drive, with the sidewalk linking into the Falmouth Land Trust public open space at the dead end of the street. The applicant has requested a waiver (though not yet submitted an analysis in relation to the Portland waiver criteria) for the sidewalk on the other side of the access drive (Attachment B).

The applicant has indicated that they would work with the Falmouth Land Trust to ensure the sidewalk is linked to trails that connect to the Portland open space to the south of the site.

## **V. STATE LAW REGARDING JOINT MEETINGS WHERE PROJECT CROSSES MUNICIPAL BOUNDARIES**

The proposal requires review and approval from both Falmouth and Portland and ideally there would be one Subdivision Plat signed by both Boards. Under 30-MRSA Section 4403, Para 1-A the project requires all meetings of the relevant Boards to be held jointly unless both Boards have agreed, in writing, to waive this requirement.

Since the bulk of the project is located within Portland, the applicants requested a waiver from the Falmouth Planning Board first and held a “pre-application sketch plan review” discussion regarding the proposals on August 7, 2012. The Falmouth Planning Board voted to grant the applicant’s request to waive the joint meeting and hearing requirement under 30-MRSA Section 4403, as confirmed by the letter in Attachment 1a. However, the Falmouth Planning Board was concerned about several issues and requested their planners to coordinate with Portland planners to ensure these issues were addressed.

The Portland Planning Board needs to formally confirm that it is also willing to waive the joint meeting requirement and so the Board will be requested to vote on this waiver at the October 7<sup>th</sup> Planning Board hearing. A draft letter will be prepared by Corporation Counsel (incorporating any Board comments) if the Board indicates at this Workshop that it desires to waive the joint meeting requirement. In view of the number of Falmouth Board concerns and the range of legal and operational issues resulting from the location of the municipal boundary (re latter, see Section II Project Data), Staff recommends that the Board waive the joint meeting requirement with the proviso that the option for requesting a joint meeting remains available in the event there are issues that arise in the future that require joint consideration and resolution.

It should be noted that as required by Maine law, Portland and Falmouth Planning Board’s both need to approve this proposal. Consequently, both staffs are coordinating on this review. The Falmouth Senior Planner (Ethan Croce) has already outlined the key concerns of the Falmouth Board (see minutes of the Falmouth 8.7.2012 meeting in Attachment 1b, and the e-mail from the Ethan Croce which summarizes the Falmouth Board concerns, Attachment 1c):

- Concern re stormwater/drainage impacts to Falmouth properties and to Ledgewood Drive;
- Need for traffic safety/capacity analysis for the intersections related to Ledgewood Drive (including the Middle Road and Allen Ave intersections);
- Need for pedestrian connectivity to the adjacent Land Trust and/or Dog Park properties.

The Department of Public Services support in principle that the new drive becomes a Portland street; Attachment 5 refers to the need for the two municipalities to coordinate on snow removal, street maintenance and emergency responses and Portland staff has also already identified the following specific concerns regarding the location of the Falmouth/Portland boundary (Attachment 1c):

- The need to convey the fee ownership for the proposed ROW (now within Falmouth) to Portland;
- Which authority should pick up trash and provide emergency response to Lot #13 which is in Falmouth and already addressed in Falmouth as its drive is currently on Ledgewood, but is proposed to have its drive relocated onto the new access drive; (assuming the other 12 lots in Portland are provided with all services, including plowing, by Portland);
- Which authority should be the “back up” (ie in event of default by the Homeowners Association, which would have responsibility and be liable for costs) to the maintenance agreement for the stormwater management system and open space, some of which will be in Portland and some in Falmouth.

## **VI. STAFF REVIEW**

### **A. ZONING ASSESSMENT**

The proposed subdivision is within the R-3 Residential Zone.

Marge Schmuckal, Zoning Administrator, has reviewed the proposals and the final plans will need to address her comments (Attachment 7 and excerpted below):

*This is considered a 14 lot subdivision with 2 lots of "open space" that is not intended for development of residential structures. Should those two open space lots be counted in the number of subdivisions for 16 lots? One of the lots proposed for development is entirely in Falmouth. And the open space lot of 11,700 square feet is also located entirely in Falmouth. All the other lots to be developed, the existing developed lot at 1062 Ocean Avenue, and the large open space lot are located in a R-3 Zone. All such lots are meeting the minimum lot size, minimum street frontage, and lot width. Each lot has the potential to meet all of the other setback requirements, parking requirements, lot coverage requirements, and building height. Those requirements will be reviewed in full at the time of a separate building permit application. The Inspection Services will need to see the State Plumbing form #HHE 200 soil analysis reports to insure that the sizes of lot being proposed will be appropriate for the designed disposal systems.*

*The property is not located in Shoreland or Stream Protection areas. However, the subdivision is located in a Flood Plain area AE Zone as denoted on Panel # 2 of the FEMA FIRM maps. The developer shall indicate on the development plan where the Floodplain area is located within the development. There will need to be certificates of elevation for each of the buildings located within the designated flood zones.*

*Another minor detail concerns the envelopes shown on the subdivision plan. Particularly lot #2. Because of the angle of the lot to the street, the front setback is awkward. I suggest that the front setback is opposite the rear currently shown on their plans (adjacent to where the word "wetland" is spelled out on the abutting open space area. As always, when a building permit comes in, it must meet all the R-3 Zone requirements.*

## **B. SUBDIVISION STANDARDS**

### 14-496. Subdivision Plat Requirements

The final submissions need to address the requirements in the subdivision ordinance and DPS comments (Attachment 5).

### 14-497. Subdivision General Requirements (a) Review Criteria

#### ***Water, Air Pollution and Soil Erosion***

This will be reviewed at the final plan stage when additional information is available. The additional information should address the comments of the Fire Department (Attachment 6) where they have implications for the road design (eg installation of fire hydrants), lot and house layout, and addressing.

#### ***Traffic***

The proposal includes a proposed street that starts in Falmouth at a new intersection with Ledgewood Drive and dead ends with a hammerhead near the Falmouth boundary to the west. The intersection is located opposite Slocum Drive and includes a crosswalk to the north side of Ledgewood Drive to Slocum Drive and to an existing sidewalk along Ledgewood Drive (currently under construction).

The access drive has been designed to meet City of Portland standards with a paved travel way of 28 feet in width. The standard in Falmouth is 24 feet and although the Falmouth Board has indicated it would defer to the Portland standard since it is anticipated to be a Portland street (Attachment 1b). The applicant did ask at a pre-application meeting whether a 24 foot wide road could be approved, but the Fire Department has indicated that 28 feet is needed for emergency access.

The applicant submitted a Traffic Assessment (Attachment B) which projects 140 daily vehicle trips from the proposed subdivision access drive to/from Ledgewood Drive (70 enter, 70 exit) and reviewed safety data for Ledgewood Drive.

The City's Transportation Engineering Reviewer Tom Errico has commented ([Attachment 3](#)) :

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

Tom Errico has not identified the need for further traffic impact information although the Falmouth Planning Board have requested capacity and safety analysis of the traffic implications for the two nearest intersections. Further discussions with Falmouth staff are taking place and this issue will be updated at the Planning Board Workshop.

### *Connectivity*

The proposed subdivision parcel includes a 50 foot wide easement (see [Plan 1 Survey](#)) that connects the proposed 13 lot subdivision to Ocean Avenue along the south side of the parcel, which potentially would allow a vehicular or pedestrian access from the subdivision to Ocean Avenue. The Subdivision Ordinance (14-498) includes the following:

- *The proposed street layout shall be coordinated with the street system of the surrounding areas. All streets must provide for the continuation or appropriate projection of streets in surrounding areas and provide means of ingress and egress for surrounding acreage tracts.*
- *When connecting streets within residential neighborhoods, new streets shall contribute to a neighborhood street system characterized by a network of interconnected streets, which minimizes through-traffic in residential neighborhoods. The layout of subdivision lots, streets, and pedestrian ways shall promote multiple paths of travel to get to destinations within and between neighborhoods by foot and bicycle, as well as auto.*
- *The interconnection of new and existing streets is further subject to the following provisions to minimize and mitigate through-traffic in residential neighborhoods: [provisions to address traffic volumes and speed eg traffic calming]*

Staff do not consider that a connection here (ie to Ocean Avenue) would be of particular benefit to the subdivision nor help achieve improved access, while links to the adjacent Portland open space (south and southwest of the site- see [Plan 2](#)) are recommended.

The applicant has indicated ([Attachment D and Plan 3](#)) that they would create a pedestrian/trail connection linking the sidewalk at the hammerhead of the new drive to trails within the Falmouth Land Trust public open space; this would achieve a link into the Portland open space (Dog Park). A direct link from the proposed open space in the subdivision near into the Portland open space is technically a possibility, which the staff is recommending the applicant explore. It is noted that the Falmouth Planning Board indicated they would like to see connectivity with the Dog Park.

### *Sanitary Sewer/Soils*

The proposed new subdivision of 13 lots will have private septic systems, and the lot sizes appear to meet the required minimum lot size (20,000 sq ft), subject to soil analysis and review.

### *Storm water*

The Sketch Plan ([Attachment Plan 3](#)) identifies two areas as “stormwater management areas”; one within Lot #9 in Portland but near the western Falmouth boundary, and one adjacent to the beginning of the access drive within Falmouth (adjacent Ledgewood Drive). Staff requested further information on how the stormwater management system might be designed and received further information in [Attachment F](#).

The Site Plan ordinance for Preliminary Plans requires a “preliminary design of proposed stormwater management system...” and the submissions indicate that stormwater treatment is likely to be underdrained grass filters in the “stormwater management areas” and that flooding standards may be met with dry detention basin in these same areas. The stormwater analysis and final stormwater management plan would need to be part of the final site plan submissions.

The City’s Peer Engineering Review ([Attachment 4](#)) is general at this stage because the stormwater analysis has not yet been submitted. However, the reviewer has noted:

- *A stormwater management plan has not been submitted as part of this preliminary application. Woodard & Curran will perform a detailed review of the stormwater management plan when it is submitted as part of the final application. We request that the Applicant evaluate and provide comment on any anticipated impacts to abutting properties associated with stormwater runoff from the project (change in rate or volume of stormwater runoff).*
- *The Stormwater Management Plan should include a stormwater inspection and maintenance plan developed in accordance with and in reference to MaineDEP Chapter 500 guidelines and Chapter 32 of the City of Portland Code of Ordinances.*
- *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.*

### ***Scenic Beauty***

The ordinance requires a Preliminary Plan submission to include a “Preliminary Landscape Plan ...” and staff have advised the applicant that tree saves are generally sought for subdivisions in forested areas (as based on the comments of the City Arborist in [Attachment 2](#)).

The applicant has submitted further information on landscaping in [Attachment D](#) and also confirmed that the question of treesaves will be addressed at the Planning Board Workshop. When a more detailed landscape and treesave plan is prepared for the final submission, the subdivision requirement for two street-trees per lot would also need to be addressed. Treesave proposals should address the need for buffering between lots, both within the subdivision and between the subdivision and the surrounding existing homes.

The proposed subdivision includes a total of 163,800 sq ft of open space. The largest area is 152, 100 sq ft and made up primarily of wetlands, adjacent to properties with existing homes and to the City’s open space to the south. A separate small area (11,700 sq ft) of identified open space is located within Falmouth along Ledgewood Drive and is co-located with the larger of the two proposed “stormwater management areas”. The Zoning Administrator has asked whether these open space areas need to be identified as separate lots ([Attachment 7](#)).

The maintenance and management of these open space areas needs to be clarified in the context of the Subdivision Ordinance (14-498) (quoted below):

- (i) *Public open space:*
  1. *In all subdivisions open space may be provided for parks, recreational and other public areas. Where no public open space or recreational areas exist in close proximity to the subdivision, or where a lack of such areas in the subdivision would require its disapproval under section 14-497(a), general requirements, the Planning Board may require provision of land for park or recreational purposes. Such lands may be designated for public or private ownership in accordance with the conditions stated in this section, subject to the approval of the Planning Board.*

*If a tract or parcel is designed or intended to be owned and used in common for recreational or other public or semipublic purposes and such intent is so designated on the subdivision plat, appropriate documents in form approved by the corporation counsel shall be submitted to the Planning Board. Such documents shall clearly:*

- a. *Set forth the nature of the permanent organization under which common ownership is to be established, including its purpose; how it shall be governed and administered; the provisions made for permanent care and maintenance of the common property for its share of the cost of administering and maintaining such common property;*
- b. *Set forth the extent of common interest held by the owner of each individual parcel in the tract held in common with others.*

### ***Financial Capability***

The applicant will need to submit a letter confirming financial capability for the final plan review.

### ***Wetlands***

The Subdivision ordinance standard reads:

*14-497 a 11. Whenever situated, in whole or in part, within the watershed of any pond or lake or within two hundred fifty (250) feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water;*

The parcel contains extensive wetlands and an intermittent stream, as confirmed in an MDEP field report and Wetland Delineation Note (no plan) in Attachment B. The areas of wetlands within the site are shown in Plan 3, and the applicant has revised the layout to minimize impacts on the wetlands and stream. The wetlands on Plan 3 are not cross referenced to the wetlands described in the MDEP comments, so the location of required setbacks and impacts and potential fill is not clear. The final submissions should include details of the wetland areas; the relevant setbacks; potential areas of fill/bridging and evidence of the receipt of all relevant MDEP permits.

The Subdivision Plat will need to clarify the limits of wetland fill/disturbance and the areas of wetland to remain and the applicable setbacks, and include notes to address the DPS comment below (Attachment 5):

*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.*

### **14-498. Technical and Design Standards**

#### ***Sidewalk Requirements***

This section of the Subdivision Ordinance includes a number of provisions that the applicant will need to consider carefully as the final plans are being developed. The open space and connectivity requirements have been mentioned previously; two others of particular relevance are:

*14-498 8a. Sidewalks and curbs: Sidewalks shall be constructed on each side of each street in accordance with article III of chapter 25. Sidewalks to be used by pedestrians are to be so located as to minimize contacts with normal automotive traffic, with preference given to interior walks away from streets in common open space in block interiors.*

The Transportation Engineer and DPS have commented (Attachments 3 and 5) that the applicant needs to address the sidewalk waiver criteria both in respect of the access drive (13 lot new subdivision) and in respect of Lot #14 at the corner of Ocean Avenue and Ledgewood Drive (where a sidewalk exists on Ledgewood but not on Ocean).

*14-498 (d) Street and subdivision names:*

- 1. Street names for all subdivisions shall appear on the subdivision plat and be subject to approval by the Planning Board.*
- 2. Subdivision names for plats shall be subject to approval by the Planning Board and not duplicate the name of any plat already recorded.*



In view of the complexities of emergency access (such as where the new Portland street will be off of an existing Falmouth street, and one lot is located in Falmouth but will have a drive onto the new subdivision drive), it is suggested these issues should be resolved early in the review process. DPS have noted that the street name needs to be agreeable to both the City of Portland and Town of Falmouth (Attachment 5).

## **VII NEXT STEPS (PRIOR TO FINAL PLAN SUBMISSION)**

1. Resolve addressing and 911 issues as a priority
2. Clarify number of lots eg re open space areas as separate lots
3. Explore options and confirm connectivity proposals
4. Submit Stormwater analysis and Management Plan
5. Submit Landscape Plan to include treesaves and buffering to neighboring properties
6. Clarify maintenance and management of open space and stormwater systems
7. Submit letter of financial capability
8. Submit further information on wetland and stream impacts and mitigation
9. Submit sidewalk waiver addressing sidewalk waiver criteria
10. Submit additional traffic information as determined at the PB Workshop
11. Submit Neighborhood Meeting Certificate
12. Submit draft Subdivision Plat
13. Address ordinance requirements
14. Address the staff review, Memo and Planning Board comments

## **ATTACHMENTS:**

### **Attachments to Memorandum**

1. Documents re Falmouth Planning Board and State law requirements
  - a. Letter from Ethan Croce, Senior planner, Town of Falmouth 9.13.2012
  - b. Minutes of Falmouth Planning Board of August 7, 2012
  - c. E-mail from Ethan Croce confirming Falmouth Planning Board concerns 9.18.2012
2. City Arborist (Jeff Tarling) comments 9.13.2012
3. Transportation Engineering (Tom Errico) comments 9.14.2012
4. Peer Engineering Review comments (David Senus) 9.20.2012
5. DPS (David Margolis-Pineo) comments 9.21.2012
6. Fire Department (Chris Pirone) comments 9.21.2012
7. Zoning Administrator (Marge Schmuckal) comments 9.21.2012

### **Applicant's Submittal**

- A. Application dated 8.28.2012 (does not include data sheet)
- B. Letter from *Land Design Solutions* (Peter Biegel) incl Wetland Delineation & MDEP Field Report 8.22.2012
- C. Right, Title and Interest information
- D. Letter from *Land Design Solutions* (Peter Biegel) w/ Info on Landscaping & Trail Connection, dated 9.13.2012
- E. Neighborhood Meeting Invitation dated 9.14.2012
- F. Stormwater Management Information Letter from *Land Design Solutions* (Tom Saucier, PE) dated 9.18.2012

### **Plans**

1. Survey
2. Aerial photo with parcels annotated
3. Sketch Plan

## Town of Falmouth, Maine

September 13, 2012

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Portland Planning Board  
c/o Jean Fraser, Planner  
City of Portland  
389 Congress St.  
Portland, ME 04101

Dear Ms. Fraser,

At its August 7, 2012 meeting, the Falmouth Planning Board held a pre-application sketch plan review hearing relative to a proposed subdivision for applicant TPO Properties, LLC. Since portions of the proposed subdivision will be located in both the City of Portland and the Town of Falmouth, this project requires subdivision review and approval from both the Falmouth Planning Board and the Portland Planning Board.

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. TPO Properties, LLC had requested that the Falmouth Planning Board waive this requirement for joint meetings and hearings.

This letter serves to verify that the Falmouth Planning Board, at its August 7, 2012 meeting, voted unanimously in the affirmative to grant the applicant's request to waive the joint meeting and hearing requirement under 30-MRSA §4403, Paragraph 1-A.

Please contact me with any questions you may have regarding this matter.

Sincerely,



Ethan J. Croce  
Senior Planner  
Town of Falmouth

**FALMOUTH PLANNING BOARD MEETING MINUTES  
TUESDAY, AUGUST 7, 2012, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Bill Lunt (Chair), Becca Casey, Bernard Pender, Walter Arsenaault, Kermit Stanley, Jay Chace (Alternate), William Benzing (Alternate)

**MEMBERS ABSENT:** none

**STAFF PRESENT:** Amanda Stearns (Community Development Director)

The meeting started at 6:32 pm.

**1. Approval of minutes from the July 3, 2012 Planning Board meetings.**

Jay Chace moved to approve the minutes, Walter Arsenaault seconded. Motion carried 5-0 (Pender, Casey abstained).

**Administrative Action Items**

**2. David Hembre** – 44 Allen Ave. Ext. – Request for an amendment to the Lower Falls Subdivision for a lot line adjustment. Tax Sheet 471; Map-Lot U69-004. Zoned RA and RCZO.

**3. Carol Morrisette** – 50 Seaside Way – Request for an amendment to the Seaside Subdivision to alter grading on Lot 5. Tax Sheet 082; Map-lot U18-048-004. Zoned RA and RCZO.

Becca Casey moved to approve the administrative items; Bernie Pender seconded. Motion carried 5-0.

**Agenda Items**

**4. TPO Properties, LLC** – 26 Ledgewood Dr. – Request for sketch plan review of a proposed subdivision and request for waiver of requirement for joint meetings under 30-MRSA §4403. Tax Sheet 512; Map-lot R04-068-E. Zoned RA and RCZO.

Amanda Stearns explained that the applicant is looking for a waiver on the requirement for joint meetings with the city of Portland as the vast majority of the property, including all the new lots being developed, are in Portland. The Planning Board here will be primarily reviewing street design and traffic, as well as the one existing house lot that is in Falmouth.

Bill Lunt wondered if they have the right to discuss any drainage issues from the Portland property to the Falmouth property if they waive the requirement for joint meetings.

Amanda Stearns said they would have the right to discuss any issue that might impact property in Falmouth, even if they waive the joint meetings. Both boards will receive full sets of plans and can discuss any aspect of them. Another question is whether a traffic impact study will be required.

Bill Lunt said he is familiar with historical drainage issues in that area.

Becca Casey asked if they could make sure there was communication with the Portland Board, if they waive the requirement. She suggested a representative of the other town's board be present at each meeting on the project.

Amanda Stearns thought they could request correspondence, or even having a Portland member attend the Falmouth meetings while sending a Falmouth Board member to the Portland meetings. The applicant has chosen to approach the Falmouth Board first in regard to requesting the waiver, in recognition of the difficulty of getting two boards together at the same time. She thought this was a practical request as much as anything.

Bernie Pender asked how they could be sure that Falmouth's best interest would be looked at if they waive the requirement.

Bill Lunt felt they have some leverage, as the Falmouth Board will control approval of the subdivision road. He would feel differently if half of the lots were in Falmouth, for example, but in this case he thought they were okay.

The Board discussed whether to vote on the waiver tonight, versus at the preliminary approval stage. Bill Lunt asked about the proposed approval process: the applicant indicated they would come to Falmouth for preliminary approval first, and then go to the Portland Board. Bill Lunt was concerned that Falmouth would approve the plan, and then Portland would require changes that the Falmouth Board would not see. Amanda Stearns said that if there were changes to the plan approved by the Falmouth Board, the applicant would have to come back to the Board anyway. If there is a point where there is some conflict between the two boards, the applicant will have to come back to this Board for an amendment.

Jay Chace asked if both boards would sign the same plan. Amanda Stearns said in her experience both municipalities signed the same plan.

Tim O'Donovan, the property owner, spoke about the project. They hadn't thought that far ahead, but he thought it made sense to have one plan for both Portland and Falmouth to sign. He understood that he is taking on the risk of meeting the requirements of both towns. He discussed the location of the proposed subdivision. The parcel goes along the Falmouth/Portland town line at Ledgewood Drive. It is surrounded on three sides by open space. The location of the entrance they will be using is directly across from Slocum drive in Falmouth. The drive will bisect the existing house lot in Falmouth; the existing house will stay, but the driveway will be moved to come off the subdivision road, thereby improving its sight distance. The road is approximately 350 feet from the nearest curb cut. They have more land on Ledgewood, but couldn't bring the road across that piece, as it is primarily wetland. They are showing 13 new lots that are all in Portland. They have not yet applied for a hearing in Portland, as they wanted to present the proposed street to Falmouth first.

Peter Biegel of Land Design Solutions discussed the lot on the corner of Ledgewood owned by Mr. O'Donovan. It is vacant and has been for several years; they plan to demolish it and replace it. It isn't part of the development, but they are showing it because it is in the same ownership and adjacent to the proposed development. They plan to include a crosswalk across Ledgewood, as suggested by Public Works. They originally proposed a 24-foot wide road, but Portland wants to see a 28-foot wide road. The current plan shows a 28 foot wide road: two 14-foot paved travel lanes, a 6 foot wide grass esplanade and a 5 foot walk on one side. Portland may require a side walk on both sides. Each site will be served by private septic system and public water that will come off the Ledgewood Drive water main. They plan to enter discussion with the Land Trust and Portland Trails to connect to trails that come from the Ledges subdivision, along the stream and into the dog park.

Jay Chace asked about aligning the access drive with Slocum. Mr. Biegel said they have done that; they were initially trying to avoid buying a pole.

Jay Chace asked if the sidewalk has been aligned with the sidewalk on Slocum. Mr. Biegel said that yes, it has.

Jay Chace asked about the waiver on a traffic analysis study; he would like to understand what type of impact this would have at the intersections with Middle and Allen Ave. He asked how public services, i.e. trash, etc. would be taken care of, with the lots in Portland and the traffic entrance in Falmouth.

## Planning Board Minutes

August 7, 2012

Page 3 of 7

Mr. Biegel said that this will be a City of Portland public road, as Portland doesn't allow private roads. The City also requires a traffic study. Bill Eaton, the Traffic Engineer gave them the peak hour trips and identified 3 crashes in the last 4 years. They based their request for a waiver on that information.

Mr. O'Donovan said currently the four existing homes between Middle and Ledgewood are in Portland and their trash is picked up by Portland. Falmouth plows the road. He believed that Portland would plow the subdivision road.

Amanda Stearns said all streets in Falmouth start out as private, unless the Town Council accepts them, so this would require the applicant to grant Portland an easement over the Falmouth portion to access the Portland side. It would simplify things if they had a private agreement with Portland. That speaks to the importance of making sure that the road meets the same standard its entire length.

Bill Lunt said this Board will treat this as a private road.

Becca Casey thought it made sense to give Portland an easement over that section of road; she thought this Board would rather see a narrower road, if Portland was agreeable, but she thought if Portland was going to maintain it they might insist on a wider road. She wondered if they had looked at lighting the roadway, and the different requirements between Portland and Falmouth in that regard. She spoke about Falmouth's buffer requirements on conservation subdivisions; typically they would see a streetscape buffer.

Mr. Biegel spoke about using the lot in Falmouth for stormwater treatment and buffering. They haven't looked into it too much at this stage. He indicated the high point on the map. They haven't looked at lighting at all at this point.

Bill Lunt asked if there was a street light there on Ledgewood. Mr. O'Donovan said yes, there is a light there.

Bill Lunt was concerned about the storm water that will flow toward the Ledges; there is a brook there. Mr. Biegel thought there would be stormwater quality and detention there, as well as an easement.

Bill Lunt thought everything runs from this property to Ledgewood Drive.

Mr. Biegel said everything flows in to the wetland and then to Ledgewood. They will address this issue when they come back. He said lot 14, the lot in Falmouth, will still be a conforming lot after it is bisected by the road. The septic system will be relocated to the back, and the driveway will be relocated to the subdivision road.

Bill Lunt asked about the remaining land of lot 14, and who would own it. Mr. O'Donovan wasn't sure; he didn't see it staying it as part of lot 14 and it wouldn't be big enough to build on.

Bill Lunt asked if they are going to have a homeowners association since the road will be public. Mr. O'Donovan said he didn't want to, but would if he had too. He didn't see how else to do it; he didn't think the city would take over that property and it would be too small to build on.

Amanda Stearns thought they could deed the right of way of the street, as well as that remaining land from lot 14, to Portland; Portland is allowed to own property in Falmouth. This way Portland would take over maintenance of the storm water improvements as well. She asked about the process of naming the street, as they will have to make sure there was no conflict in either municipality with the name.

Becca Casey moved to authorize Planning Staff to sign an agreement to waive the joint meeting requirement under 30-MRSA §4403; Kermit Stanley seconded. Motion carried 5-0.

Public comment period opened; no public comment.

Bill Lunt requested a copy of the minutes from the Portland sketch plan to be provided to the Falmouth Board. He also requested that a meeting with the Planning staff from both Portland and Falmouth take place. He asked staff to evaluate the traffic impact study.

**Jean Fraser - RE: Falmouth Planning Board waiver of joint planning board meetings**

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**From:** Ethan Croce <ecroce@town.falmouth.me.us>  
**To:** 'Jean Fraser' <JF@portlandmaine.gov>  
**Date:** 9/18/2012 10:57 AM  
**Subject:** RE: Falmouth Planning Board waiver of joint planning board meetings

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Jean,

I think you've accurately captured the issues we discussed.

The Falmouth Board's main concerns raised at the sketch plan meeting dealt with stormwater/drainage impacts to Falmouth properties and to Ledgewood Drive, traffic safety/capacity analysis for the intersections related to Ledgewood Drive (including the Middle Road and Allen Ave intersections), and pedestrian connectivity to the adjacent Land Trust and/or Dog Park properties. Other issues may get raised at the hearing for preliminary approval but I wanted to at least convey to you the concerns raised by the Board to-date.

Thanks,  
Ethan

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**From:** Jean Fraser [mailto:JF@portlandmaine.gov]  
**Sent:** Thursday, September 13, 2012 4:56 PM  
**To:** Ethan Croce  
**Subject:** Re: Falmouth Planning Board waiver of joint planning board meetings

Ethan,

Thank you for attending to this so quickly; I am circulating the letter to colleagues and will get back to you if any issues.

Also, thank you for your time today filling me in on some of the background and issues so far identified regarding the Ledgewood Drive project. I have been able to confirm that Mr O'Donovan is 'correct' regarding the question of whether this could be a private street- while the City of Portland does allow private streets within residential and commercial condominium developments, the ordinance was recently revised to disallow a private street in the case of single family home developments (ie the buildings/dwellings need to be attached etc to have a private street).

So, as we discussed, it would be helpful to have attorneys from both authorities weigh in on:

- the question of whether the road length in Falmouth should be sold in fee to Portland or be subject to an easement (to allow all of it to be accepted as a Portland public street);
- the question of which authority would provide services (eg trash collection; emergency response) to the lot which is totally located in Falmouth but will have its driveway relocated to be off a Portland street and be part of a subdivision with 12 other similar lots all within and presumably served by Portland;
- what authority should have the rights to take action if the homeowners association does not undertake required maintenance etc of the common stormwater management system which is likely to be largely

within Falmouth but serving homes in Portland.

Please let me know if there are other similar issues which I may have missed, and we can follow up early next week.

Jean

*Jean Fraser, Planner  
City of Portland  
874 8728*

>>> Ethan Croce <[ecroce@town.falmouth.me.us](mailto:ecroce@town.falmouth.me.us)> 9/13/2012 4:00 PM >>>

Jean,

Please find the attached letter articulating the Falmouth Planning Board's August 7, 2012 action to waive the joint planning board meeting requirement for the TPO Properties, LLC subdivision application. Don't hesitate to contact me with any questions regarding this or other matters related to the application.

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)

## Jean Fraser - Ledgewood Subdivision

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**From:** Jeff Tarling  
**To:** Jean Fraser  
**Date:** 9/13/2012 3:40 PM  
**Subject:** Ledgewood Subdivision  
**CC:** David Margolis-Pineo

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Hi Jean -

The proposed Ledgewood Subdivision located on the Falmouth town line and adjacent to the City owned Ocean Avenue Recreational Area (former landfill) contains a number of mature trees. The project should prepare a 'tree save' plan showing the trees particularly in the rear setback area along the city property line. The City of Portland has existing chain link fence in places along the PL to control access from ATV's / motorized vehicles. There maybe locations along the proposed subdivision where the city would like to see additional fencing. This can be determined by field inspection as the project continues.

Jeff



Staff review comments

Attachment 3

**Jean Fraser - Ledgewood Residential Subdivision**

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**From:** Tom Errico <thomas.errico@tylin.com>  
**To:** Jean Fraser <JF@portlandmaine.gov>  
**Date:** 9/14/2012 2:26 PM  
**Subject:** Ledgewood Residential Subdivision  
**CC:** David Margolis-Pineo <DMP@portlandmaine.gov>, Katherine Earley <KAS@port...>

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Jean – I have reviewed the preliminary plans and offer the following 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).
- Acceptable sight distance will be provided at the proposed driveway location on Ledgewood Drive.

If you have any questions, please contact me.

Best regards,

Thomas A. Errico, PE  
Senior Associate  
Traffic Engineering Director  
**TYLIN** 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"  
Please consider the environment before printing.

*Staff review comment*

*Attachment 4.i*

## MEMORANDUM



**TO:** Jean Fraser, Planner  
**FROM:** David Senus, P.E. & Ashley Auger, E.I.T.  
**DATE:** September 19, 2012  
**RE:** 1062 Ocean Avenue, Preliminary Level III Site Plan Application

Woodard & Curran has reviewed the Preliminary Level III Site Plan Application for Ledgewood Drive Subdivision at 1062 Ocean Avenue in Portland, Maine. The project will include a 13-lot residential subdivision spanning between Falmouth and Portland, a 28-foot wide roadway, private septic systems, and public water.

### Documents Provided By Applicant

- Preliminary Level III Site Plan Application and attachments dated August 23, 2012, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Sketch Plan, Sheet S-101, revised August 23, 2012, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Additional Information Letter, dated September 13, 2012, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Falmouth Planning Board Meeting Minutes, dated August 7, 2012.
- Context Map, dated May, 2012, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Boundary Survey, dated August 27, 2011, prepared by Cullenberg Land Surveying, on behalf of Tim O'Donovan.

### Comments

- 1) The application is preliminary. As such, additional documents will need to be submitted for the final application as outlined in the City's Land Use Ordinance and Site Plan Checklist. Woodard & Curran will perform a detailed review of the final application upon receipt of those documents.
- 2) In accordance with Section 5 of the City of Portland Technical Manual, a Level III development project is required to submit a stormwater management plan pursuant to the regulations of Maine DEP Chapter 500 Stormwater Management Rules, including conformance with the Basic, General, and Flooding Standards. A stormwater management plan has not been submitted as part of this preliminary application. Woodard & Curran will perform a detailed review of the stormwater management plan when it is submitted as part of the final application. The following comments should be addressed as part of the final application:
  - a) Basic Standards: A plan, notes and details should be provided to address erosion and sediment control requirements, inspection and maintenance requirements, and good housekeeping practices in accordance with Appendix A, B, & C of MaineDEP Chapter 500.
  - b) General Standards: The Applicant will need to provide stormwater quality treatment in accordance with the General Standards for the applicable percentages of new developed and impervious areas of the site (percentages as described in Chapter 500).
  - c) Flooding Standard: The Applicant will need to demonstrate that flows from the post-development site for the 2-, 10-, and 25-year storm events will not exceed those in the pre-development condition at all discharge points in accordance with the Flooding Standard. We understand that there is concern about drainage impacts from the project onto adjacent properties. We request that the Applicant evaluate and provide comment on any anticipated impacts to abutting properties associated with stormwater runoff from the project (change in rate or volume of stormwater runoff).



- 3) The Stormwater Management Plan should include a stormwater inspection and maintenance plan developed in accordance with and in reference to MaineDEP Chapter 500 guidelines and Chapter 32 of the City of Portland Code of Ordinances.
- 4) 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.

Staff review comment

September 21, 2012

TO: Jean Fraser  
Barbara Barhydt  
FROM: David Margolis-Pineo  
Dept. of Public Services  
RE: Review Comments: 1062 Ocean Ave – Ledgewood Drive Subdivision

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.
2. A Stormwater Management Plan is required for this project.
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.
4. The proposed street will require a street name agreeable to the Town of Falmouth and City of Portland.
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.
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.
7. Note that Lot 13 will require an address off the Proposed Subdivision Drive with a Falmouth zip code.
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.
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.

A note to Falmouth/Portland Planning Staff that the two communities will need to coordinate on snow removal, street maintenance and emergency responses.

We have no further comments at this time.

**Jean Fraser - Re: urgent- need comments on Ledgewood Drvie Subdiv (1062 Ocean)**

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**From:** Chris Pirone  
**To:** David Margolis-Pineo; Jean Fraser; Marge Schmuckal  
**Date:** 9/20/2012 6:04 PM  
**Subject:** Re: urgent- need comments on Ledgewood Drvie Subdiv (1062 Ocean)

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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

>>> Jean Fraser 9/20/2012 1:59 PM >>>  
Hi

Please send me comments (by e-mail) to go into the PB Memo going out tomorrow lunchtime.

Thanks  
Jean

## Jean Fraser - Ledgewood Drive Subdivision

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**From:** Marge Schmuckal  
**To:** Jean Fraser  
**Date:** 9/21/2012 10:55 AM  
**Subject:** Ledgewood Drive Subdivision  
**CC:** Barbara Barhydt

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One Solution is not accepting any comments in that system yet - so by e-mail...

Ledgewood Drive Subdivision - 414-A-4, 415-A-1 & 17  
#2012-584 - R-3 Zone  
9/21/2012

This is considered a 14 lot subdivision with 2 lots of "open space" that is not intended for development of residential structures. Should those two open space lots be counted in the number of subdivisions for 16 lots? One of the lots proposed for development is entirely in Falmouth. And the open space lot of 11,700 square feet is also located entirely in Falmouth. All the other lots to be developed, the existing developed lot at 1062 Ocean Avenue, and the large open space lot are located in a R-3

Zone. All such lots are meeting the minimum lot size, minimum street frontage, and lot width. Each lot has the potential to meet all of the other setback requirements, parking requirements, lot coverage requirements, and building height. Those requirements will be reviewed in full at the time of a separate building permit application. The Inspection Services will need to see the State Plumbing form #HHE 200 soil analysis reports to insure that the sizes of lot being proposed will be appropriate for the designed disposal systems.

The property is not located in Shoreland or Stream Protection areas. However, the subdivision is located in a Flood Plain area AE Zone as denoted on Panel # 2 of the FEMA FIRM maps. The developer shall indicate on the development plan where the Floodplain area is located within the development. There will need to be certificates of elevation for each of the buildings located within the designated flood zones.

As a minor housekeeping item, there should be a name given to what will be an accepted City of Portland street after being built. It will help get the lots in our tracking system and able the staff to enter permits in the system.

Another minor detail concerns the envelopes shown on the subdivision plan. Particularly lot #2. Because of the angle of the lot to the street, the front setback is awkward. I suggest that the front setback is opposite the rear currently shown on their plans (adjacent to where the word "wetland" is spelled out on the abutting open space area. As always, when a building permit comes in, it must meet all the R-3 Zone requirements.

Marge Schmuckal  
Zoning Administrator  
Zoning Administrator