

PLANNING BOARD REPORT PORTLAND, MAINE



Old Barn Estates 16 Lot Subdivision
1062 Ocean Avenue (Ledgewood Drive)

Level III Subdivision Review

Tim O'Donovan, TPO Properties LLC, Applicant

Project ID #2012-584

CBL: 414-A-4 (Part within Town Of Falmouth)

Submitted to: Portland Planning Board: Public Hearing Date: February 26 th , 2013	Prepared by: Jean Fraser Date: February 22 nd , 2013 Planning Board Report Number: #13-13
--	---

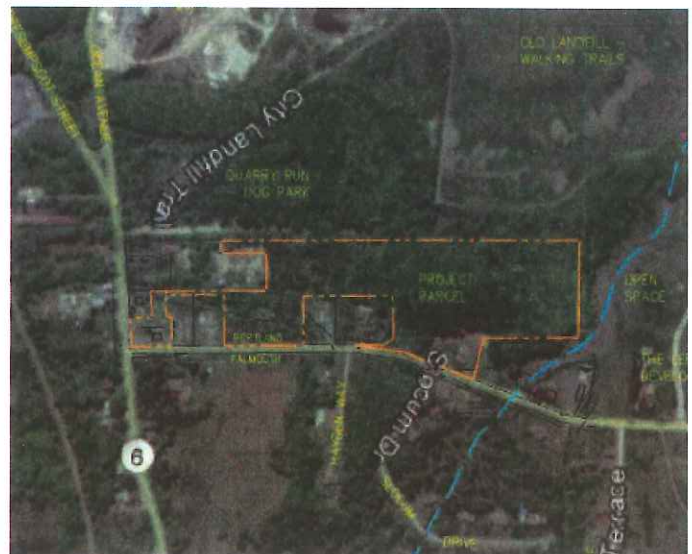
I. INTRODUCTION

Tim O'Donovan of TPO Properties LLC proposes a 16 lot subdivision on land between Ocean Avenue in Portland and Ledgewood Drive in Falmouth. 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), part of the stormwater management area, and one house lot.

The proposed subdivision comprises (see Plan 7):

- 2 existing lots already developed with residential structures (some vacant) (Lots 13 and 14); these are included as required by State Subdivision statutes as they are contiguous and in the same ownership;
- 14 new residential (single family) lots on a proposed new street, 760 linear feet in length with a turnaround at the dead end - proposed to be named Ice Pond Drive;
- 2 other lots called "open space" that are wetland/stormwater detention and to be managed in common by the owners of the 14 new lots.

Required reviews: The proposal is being reviewed by the Planning Board under the Land Use Code provision 14-497 (Subdivisions).



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 voted similarly on October 9th, 2012 (Att. 1.b)

The applicant has asked for waivers as listed below (Att. K) :

<i>Requested Waiver</i>	<i>Standard and any waiver provisions</i>
Sidewalk Waiver: for sidewalks along one side of the new street (Ice Pond Drive), along the frontage of Lot #14 (existing lot) and along Ledgewood Drive (Lots # 13 existing lot and #15 open space) as 2 criteria met in each case.	<i>Land Use Ordinance Section 14-506 (b) Sidewalks</i> sets out 6 criteria for waiving the installation of sidewalks, of which 2 must be met.
Curbing Waiver: for curbing along the south side of the proposed subdivision street; as criteria 1, 4 and 5 are met.	<i>Land Use Ordinance Section 14-506 (b) Curbing</i> sets out 5 criteria for waiving the requirement for curbing, of which 2 must be met.
Streetlighting waiver: for approx. 5- 6 street lights along the new street except at ends, to be consistent with nearby developments and to maintain the rural character of the area	<i>Technical Manual Section 10.2.1 requires street lights (14 ft Town and country pole and .4 min foot candle full cut off light) to be a maximum of 120 feet apart on one side of the new street (sidewalk side)</i>

II. PROJECT DATA

<i>DATA</i>	<i>Proposed new 12 lot contiguous subdivision (lots #1 to #12)</i>	<i>Existing home on Ledgewood Drive (Lot #13)</i>	<i>Existing home at 1062 Ocean Avenue (Lot #14)</i>	<i>Open Space (Lots #15 and #16)</i>
Location	Within Portland and frontage on proposed subdiv street	Within Falmouth - retain existing frontage on Ledgewood Drive	Within Portland and frontage on Ocean Avenue	Lot #15: Falmouth Lot #16; Portland
Existing Zoning	R-3	RAm (Falmouth)	R-3	R-3
Existing Use	Vacant/undeveloped	Single family	Single family (non-conforming)	Vacant/undeveloped
Proposed Use	Single family lots	Single family Reconfigured lot	Single family (retain existing garage but new home)	Lot #15: Stormwater management area Lot #16; Open Space (undisturbed wetlands)
Areas	7.53 acres	.91 acre	.58 acre	3.76 acres
No of Lots	12	1	1	2
Lot sizes	Range from 20,118 sq ft to 54, 824 sq ft	22,378 sq ft	25,427 sq ft	Lot #15: 11,369 sq ft Lot #16; 152,082 sq ft
Proposed new road (dead end)	Approx 760 linear ft	Retains existing frontage and drive on Ledgewood	No frontage	Lot #15 abuts new street and Ledgewood Drive
Area of existing wetland	7,958 sq ft	None	None	Lot #16: 103,533 sq ft
Area of wetlands proposed to be filled	Lot #2 driveway stream crossing: approx. 1,220 sq ft	None	None	None
Total Disturbed Area	Approx. 239,070 sq ft (assumes 15,000 sq ft per lot)	Approx 3,345 sq ft	Approx 18,860 sq ft	Lot #15: approx. 7,875 sq ft
Existing impervious	None	Approx 3,350 sq ft	Approx 5,092 sq ft	None
Proposed impervious	Lots: Approx 60,000 sq ft Street & sidewalk: Approx 28,870 sq ft	Approx 3,350 sq ft	Approx 4,570 sq ft	None

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

The site includes an existing (vacant) house at 1062 Ocean Avenue (Lot #14 - see photo right) which is linked by a narrow strip of land to the rest of the subdivision (all originally in same ownership). This lot is required to be included under Maine State Subdivision Law. The subdivision also includes an existing home on Lot #13, owned by the applicant and leased/occupied.

To the west is open space owned by the Falmouth Land Trust and 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. 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).

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 and Plans 5,6 and 7).



Ledgewood Drive is located within Falmouth and has a recently constructed sidewalk on the north side (opposite the development site) with curbs on both sides. It is understood there are no immediate plans for similar improvements in Ocean Ave/Middle Road.

IV. PROPOSED DEVELOPMENT

The applicant has submitted comprehensive application with a full plan set and background information such as the Stormwater Report and Sidewalk/Curbing Waiver requests (Attachments A-P & Plans 1 to 18).

The site is constrained by extensive existing wetlands and ledge, and the proposed new 12-lot subdivision is located at the western end of the parcel to avoid disturbing the wetland areas. The prevalence of ledge has constrained the location of the septic systems and resulted in some minor impacts to the stormwater buffers.

The proposal is to construct a new access drive of approximately 760 linear feet (Ice Pond Drive) lined with 12 single family house lots ranging from .46 to 1.26 acres, and to construct the associated drainage for the street and for the potential impervious surfaces of the house lots. In order to calculate the required stormwater measures and identify treesaves, the applicant has also developed detailed proposals for septic systems, tree/wetland protection and stormwater buffers.

The four other lots are proposed to be (see Plans 6 and 7):

- Lot #13: Existing house and drive onto Ledgewood Drive to remain, with lot reconfigured.
- Lot #14 at 1062 Ocean Ave: Plat in Plan 6 shows closing of 3 curb-cuts and revised driveway from Ocean Ave, demolition of existing non-conforming house, with a new house location to meet zoning setbacks and the existing garage to be retained;
- Lot #15: open space lot, primarily to provide stormwater retention and filtration;
- Lot #16: open space lot on common ownership to retain and protect existing wetlands.

The proposed access drive has been named Ice Pond Drive and starts in Falmouth on Ledgewood Drive located opposite Slocum Drive. About 100 feet of the proposed street is in Falmouth, and staff understand that the applicant will convey the fee in this section of the street to Portland and that the entire street (up to the intersection with Ledgewood Drive) will become an accepted street in the City of Portland.

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.

The proposed stormwater management plan (Attachment L.1) outlines a system with two grassed underdrained soil filters and the use of vegetated "no disturb" buffers for stormwater treatment to address the impacts of the full buildout of the subdivision.

The proposed access drive stops short of the site boundary by 63 feet and does not extend along the full frontages of Lots #8 and #9 to avoid impacts on the wetland buffer and the potential for connectivity does not exist as the adjoining property is held as conservation land by the Falmouth Land Trust. The applicant is proposing a gravel walkway connecting the sidewalk to the adjoining Falmouth Land Trust public open space/trails at the municipal boundary. The south side of the new street would be a vegetated swale with no curb nor sidewalk; the north side would include a curbed sidewalk and esplanade. The applicant has submitted waiver requests for sidewalk and curbing on one side of Ice Pond Drive and for sidewalks on Ledgewood and Ocean Avenue (Attachment K).

The applicant has been working with the Falmouth Land Trust to develop a public trail through the Falmouth land to the Portland open space to the south of the site, and this will also incorporate the walkway within the site, from the end of the ROW to the Falmouth boundary; a proposal has recently been agreed (Att. N).

V. PUBLIC COMMENT AND WORKSHOP SUMMARY

A total of 63 notices were sent out to neighbors and interested parties within Portland, and the public notice appeared in the February 18th and 19th, 2013 editions of the Portland Press-Herald. A neighborhood meeting was held on 9.27.2013 and the Certification is included in Attachment E. No written public comments have been received on this project.

Two Planning Board workshops and a brief hearing have been held on this project:

- September 24, 2012 workshop: Consideration of concept proposals and clarification of information required.
- October 9, 2012 hearing: Voted to confirm that the Portland Planning Board agreed to waive the joint meeting requirement (see below)
- January 22, 2012 workshop: Consideration of detailed proposals with general support subject to resolution of some technical stormwater issues and documentation.

VI. STATE LAW REGARDING JOINT MEETINGS WHERE PROJECT CROSSES MUNICIPAL BOUNDARIES

The proposal requires review and approval from both Falmouth and Portland and ideally there will 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.

The Falmouth Planning Board voted in August, 2012 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 voted on October 9th, 2012 to 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 (Att. 1.b).

It should be noted that as required by Maine law, Portland and Falmouth Planning Boards both need to approve this proposal. Both Boards have reviewed the project twice, and the comments of the Falmouth Board at their 2.5.2013 review meeting are attached at Att. 2 along with some Falmouth staff comments that have been addressed by the applicant. The Falmouth Planning Board were concerned about traffic impacts, stormwater and drainage impacts and trail connectivity and the plans were revised to address these concerns while also addressing Portland requirements.

VII. STAFF REVIEW

A. ZONING ASSESSMENT

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

Marge Schmuckal, Zoning Administrator, requested and received further information regarding the flood zone delineation (Att. 1) and also was concerned that *"Ice Pond Road is not meeting the requirements of 14-403 which requires streets to be put in from where ever pavement ends to the end of the lot(s) being developed. Ice Pond Road stops short approximately 65" from the end of both properties lot #8 & lot #9. The proposed City Street needs to be extended to the end of the lots being developed."* (Att. 8)

After discussions with Corporation Counsel, staff determined that in this case it would be possible to end the ROW where the paved street ends and include the land between the ROW and the Falmouth boundary in Lots #8 and 9. A public access easement of 20 feet (with the gravel walkway within this area) would extend from the ROW sidewalk within the site to the off-site trail network within the Falmouth Land Trust area to ensure public access connectivity (see *Connectivity* below for further discussion). This would avoid the 14-403 requirement for the developers of lots #8 and #9 to pave along the entirety of their frontage and encroach into the wetland buffer.

The Planning Board has the authority under 14-506 (a) to approve the proposal with this arrangement based on the unique circumstances where the subdivision street must dead-end to avoid encroaching on the wetland buffer near the Falmouth municipal boundary, and with Falmouth Land Trust Conservation land abutting at that location.

Sec. 14-506. Modifications.

(a) Except for the requirements set forth in sections 14-498 and 14-499 pertaining to the provision and construction of curbs and sidewalks, the Planning Board if it finds that extraordinary conditions exist or that undue hardship may result from strict compliance with these regulations may vary the regulations so that substantial justice may be done and the public interest secured; provided that such variation will not have the effect of nullifying the intent and purpose of the land development plan and the regulations of this article.

B. SUBDIVISION STANDARDS

14-496. Subdivision Plat Requirements

The draft Subdivision Plat is included as Plans 5 and 6. The graphic presentation is generally acceptable subject to some survey information notations/corrections (Att. 6), but a number of revisions will need to be made to address the following issues:

- To show and identify all easements, including for drainage, stormwater maintenance and public access;
- That the Town of Falmouth is not accepting Ice Pond Drive as a public street and shall have no obligation to repair, maintain, or plow Ice Pond Drive;
- That between the date that the new street is completed for practical purposes and the formal, legal acceptance of the street by the City of Portland, there shall be a pedestrian easement along it to allow the public to access the trail system that starts at the dead end of the street;
- Lot #14 - revise curb-cut radii and add note re sidewalk contribution and staff support for corner clearance and driveway spacing waivers;
- Final arrangements for material and maintenance of walkway between ROW and Falmouth boundary at west end of 12 lot subdivision;
- Reference to Stormwater Management Plan and associated requirements;
- Clarification that City of Portland/Town of Falmouth are not responsible for maintenance of stormwater facilities in Lot #15 and Lot #9, but will have access easements and rights;
- Clearer identification of treesave/stormwater/wetland buffer marker/sign locations and wording;
- Document MDEP permits as necessary;
- Clearer requirement re septic system locations;
- Approved waivers.

The applicant submitted the draft Homeowner Association bylaws in early February and the City's Corporation Counsel made some minor edits which are incorporated in the draft bylaws in Att. P. The bylaws discuss the maintenance of the stormwater system, trees and the easement area between the ROW and the Falmouth boundary and are generally acceptable (Att 10), subject to revisions to address the Falmouth concerns regarding interim maintenance and plowing of the new street (Att 2).

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

- (1) *Will not result in undue water or air pollution.*
- (2) *Has sufficient water available for the reasonably foreseeable needs of the subdivision;*
- (3) *Will not cause unreasonable burden on an existing water supply; and*
- (4) *Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;*

Plans, notes and details have been submitted that adequately address standards for the new road and other infrastructure (Plans 1-18). A letter confirming adequate water supply has been submitted (Att J.11).

- (5) *Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highway or public roads existing or proposed;*

Traffic impact on surrounding intersections

The applicant submitted a Traffic Assessment (Attachment B, as updated in Attachment H) 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. It was updated to address Falmouth Planning Board concerns about the impacts on the operation of nearby intersections and concludes that the impact on the capacity and level of service on the nearest intersections is minimal. The City's Traffic Engineering reviewer finds this evaluation acceptable (Att. 4).

Proposed subdivision street

The proposal includes a new street of 760 linear feet that starts in Falmouth at the intersection with Ledgewood Drive and dead ends with a turnaround 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.

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 2.h). 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.

Both Portland and Falmouth Traffic and Public Services staff have approved the design and radii size at the intersection of the new street (Ice Pond Drive) with Ledgewood Drive in Falmouth (Atts 2, 4, 6 and 7).

The proposed new street and ROW stops 63 feet short of site boundary and three boulders have been shown across the end (20 feet away) to stop cars but allow for snow storage. Lots #8 and #9 will own the land around the end of the dead-end and Lot #9 will have three areas designated for use by third parties;

- A public access walkway (linking the ROW sidewalk to the trail system in the abutting Falmouth Land Trust open space;
- ROW turnaround;
- Maintenance access drive for the stormwater system located in the rear yard (Plan 9).

The proposed street does not include street lighting in accordance with the City's Technical Standards. The applicant has requested a waiver (Att K.3) as they consider the rural character should be maintained and that the existing street light on Ledgewood, and the proposed new light near the turnaround, are adequate for safety (see discussion of waivers below).

The Concept Plan previously presented to the Board showed Lot #13 having a new driveway onto the proposed subdivision street. After discussions with staff of both municipalities and a review of the sight distances for the existing driveway, the applicant has decided to leave Lot #13 as existing and with its existing address as it is located within Falmouth and the home is occupied. This is acceptable to Portland staff (Att. 4).

It should be noted that the proposal has been discussed with the Fire Department, DPS trash collection, snowplow and addressing staff, and is acceptable. The 12 lot part of the subdivision will be the only new addresses and they will all be in Portland.

Connectivity

The applicant has confirmed that they, in conjunction with the Falmouth Land Trust and Portland Trails, would (1) create a pedestrian/trail connection linking the subdivision sidewalk to trails within the Falmouth Land Trust public open space which link into the Portland Open Space (Dog Park); and (2) Contribute to the creation of a trail within the Falmouth Land Trust open space that facilitates this link; and (3) make financial contributions to both the trail creation and future stewardship (Att N, letter of 2.20.2013 signed by both parties).

It is understood that the Falmouth Land Trust would take responsibility for the section within the site as well as the trails on their land so that the design, signage and maintenance etc would be integrated. The financial commitment and the final details of the materials/steps and maintenance agreements are the subject of a potential condition, and the Plats and Homeowners Association Documents would need to be revised to be consistent with this agreement.

The trail connection between the ROW sidewalk and the Falmouth boundary would be located within a 20 foot public access easement, which would be subject to review and approval by Corporation Counsel, DPS, and the Planning Authority prior to the release of the subdivision plat (included in potential condition iv.). It should be noted that the Falmouth Planning Board sought a trail connection at this location.

In view of the possible situation of the street being constructed but not yet accepted by the City of Portland, the applicant is being requested to provide a temporary pedestrian access easement along the street from the Ledgewood Drive ROW to the easement across lots # 8 and #9 so that public access to the Falmouth Land Trust trails is ensured as soon as the street is constructed. The Town of Falmouth (Att. 2.) have requested that the Homeowner's Association documents clarify that during this interim period the Homeowner's Association is responsible for repair, maintenance, plowing etc.

The applicant has proposed a crosswalk across Ledgewood Drive from the proposed sidewalk to the existing sidewalk on Ledgewood. The Traffic Engineering Reviewer has requested crosswalk warning signs be installed (Attachment 4) but the final plans do not address this request. A potential condition of approval has been included to require the appropriate crosswalk signage.

Lot #14 access

The applicant has shown an indicative layout for the existing lot #14 (corner Ledgewood and Ocean) that closes 3 curb-cuts and creates a new driveway onto Ocean Avenue. Att.J – pg 2 sets out the reasons for the new curb cut being proposed for Ocean Avenue. The Traffic Engineering Reviewer has commented:

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 (Att. 4).

A potential condition of approval documents the status of Lot #14 so that when a single family building permit is reviewed, its conformance with the subdivision can be assessed.

- (6) *Will provide for adequate sanitary waste and storm water disposal and will not cause an unreasonable burden on municipal services if they are utilized;*

A wastewater capacity letter is not required as the new 12 lot subdivision will have private septic systems, and the lot sizes meet the required minimum lot size (20,000 sq ft). The Plan 7 shows the disposal field locations as located by Sweet Associates of Falmouth as they are limited by shallow ledge and shallow water table.

The septic system leach fields unavoidably encroach within the wetlands/stream setback as shown on Plan 8. The applicant has confirmed that the State Wastewater Rules do allow these to be within wetland setbacks without further MDEP approvals.

Storm water

The *Stormwater Management Report* has been revised and submitted (Attachment L.1) to address review comments (Att. 5) and Falmouth Planning staff and Board comments (Att. 2). The system comprises two grassed underdrained soil filters and the use of vegetated “no disturb” buffers for stormwater treatment. The supporting calculations assume the full buildout of the subdivision, including homes (5000 sq ft impervious).

The septic systems also impact the stormwater buffers as the areas around the septic systems need some regrading as shown in Plan 8. The applicant has discussed this with staff and it was agreed that the note 16 and proposed revegetation as shown on Plan 7 confirms that the identified areas of clearance will replanted after the septic system is installed and this is acceptable to reviewers (Att. 5).

The Peer Engineering Reviewer has confirmed that his concerns have been addressed, except for the final language for the maintenance easements and deeds (Att. 5). Draft deed wording was submitted (Att.O) but reviewers suggest that the language should more closely follow MDEP guidance.

The underdrained filter facilities on Lots #9 and #15 are proposed to be maintained by the Homeowner's Association. The drainage facilities in the new street would ultimately be the responsibility of the City of Portland once the street was accepted. It is understood that the Falmouth engineer requested a drainage

maintenance easement at the east end of the site as shown on the Plat (Plan 6). Such easements are included in the potential condition requiring the submission, review and approval of a number of easements, and they also need to be identified/referenced more clearly on the Subdivision Plat.

- (7) *Will not cause an unreasonable burden on the ability of the city to dispose of solid waste and sewage if municipal services are to be utilized;*

See above.

- (8) *Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the department of inland fisheries and wildlife or by the city, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.*

Street trees

The applicant has provided a narrative explaining the approach to street trees in Attachment G item 20. Staff suggest that the 2 trees/lot standard should apply only to the 14 residential lots (ie excluding the two open space lots) which would mean a requirement of 28 trees. The proposals show 30 trees but these are evenly spaced and don't strictly result in 2 trees on each lot. Lots #13 and #14 have no proposed street trees.

The City Arborist had requested revisions to the plant list (Att. 3) and the applicant has revised Plan 7 accordingly. The comments of the City Arborist will be circulated at the Planning Board hearing.

Treesaves

The narrative in Attachment G item 6 describes the basis for proposing treesaves and notes that all of Lot #16 is a treesave area and that the stormwater buffer areas will also preserve trees.

The plans (Plans 6 and 7) show a 25 feet wide treesave zone along the south side of the seven lots # 2 through #8 which abut the City's open space. This area is largely red oaks and maple trees. These treesave areas would provide screening between the home lots and the public park. On the north side the stormwater buffer areas will effectively preserve trees and the applicant has added buffer planting as recommended by the City Arborist (Att. 3)

The stormwater "No Disturb buffers" are also shown on Plans 6 & 7 and augment the treesave areas. Staff recommended that markers and signs be installed to delineate the edge of the "no disturb/treesave" areas nearest to the homes to ensure their protection. The applicant has indicated signs and rebar markers on Plans 6 and 7, but reviewers consider that these need to be more clearly called out, described and located on both plans (Att. 5).

Open Space

The proposed subdivision includes a total of approximately 163,400 sq ft of open space. The largest area is 152, 082 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 (11,369 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". These have been identified as Lots #16 and #15 respectively and the applicant has addressed the question of maintenance in the Homeowners Association Bylaws (Att. P.)

- (9) *Is in conformance with the land development plan or its successor;*

The project is compatible with Comprehensive Plan housing goals and policies.

- (10) *The subdivider has adequate financial and technical capacity to meet the standards of this section;*

The applicant has submitted a letter dated 1.11.2013 from Bath Savings Institution (Att. J10).

- (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;*
- (12) *Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater;*
- (13) *Is or is not in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant.*
- (14) *All potential wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of those wetlands.*
- (15) *Any river, stream or brook within or abutting the proposed subdivision shall be identified on any maps submitted as part of the application.*

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. Most of the wetland is within Lot #16 which is not proposed to be developed.

A 75 foot setback from the wetlands is required and has largely been met with the exception of the leach field locations on Lots #3 and #4, which are allowable as discussed above. A NRPA permit is required for the small amount of filling (1220 sq ft) required for the access drive to the home on Lot #2 and this has been submitted in Att. M. A potential condition of approval requires evidence of MDEP approval, as recommended by DPS (Att. 9).

The applicant has confirmed that the wetland buffer will be delineated on the ground in the same way as the treesaves and stormwater buffers (Att. J), and these similarly need to be shown more clearly on the Subdivision Plat and Lot Development Plan, as incorporated in the potential condition of approval # vi.

14-498. Technical and Design Standards

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; three others of particular relevance are:

Sidewalk and Curbing Requirements

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 applicant has submitted a waiver request (Attachment J, as amplified in Attachment K. 1 and K.2) for:

- Sidewalks and curbing on the south side of the proposed new subdivision street
- Sidewalks and curbing on the south side of Ledgewood Drive where the site abuts
- Sidewalks and curbing on the west side of Ocean Avenue along the frontage of Lot #14.

DPS/Traffic engineering reviewer have confirmed they support the first two requests, but would require a contribution of \$7500 in lieu of sidewalk/curbing along the Ocean Avenue frontage of the existing lot #14 (which will be redeveloped) (Att 4 and 6).

Street Lighting

The applicant has requested a waiver from the *Technical Manual* requirements for street lighting in order to maintain the rural character of the area and be consistent with nearby subdivision developments (in Falmouth) (Atts. J and K.3.) The proposal is for one new streetlight near the turnaround at the dead-end, with illumination at the Ledgewood Drive end provided by an existing light on Ledgewood Drive. The *Technical Manual* Section 10.2.1 requires street lights (14 ft Town and Country pole and .4 min foot candle full cut off light) to be a maximum of 120 feet apart, normally on one side of the new street.

In this case staff consider that the required streetlights should be installed in accordance with the Technical standard (Att. 6). The requirement would be 5-6 streetlights to be installed along the sidewalk side of Ice Pond Drive to illuminate the sidewalk in the winter and at night.

The Falmouth Planning Board indicated support for the applicant's proposal as it is consistent with other Falmouth subdivisions (Att. 2). If the Board wish to consider a waiver of streetlighting, they may want to consider a partial waiver to allow for greater spacing of the streetlights but retain some illumination to benefit the sidewalk.

Street names

In accordance with 14-498 (d) Street and subdivision names the applicant has chosen Ice pond Drive as the name for the new street and this is acceptable to staff who have checked whether there any other streets of the same name in Portland or Falmouth. The name would be approved by the Planning Board as part of the Subdivision Plat approval.

Underground Utilities

The Subdivision ordinance 14-498 also requires that all utility lines shall be placed underground unless otherwise approved by the Planning Board. The submissions confirm this requirement has been met (Att. 6).

VIII STAFF RECOMMENDATION

Staff recommends approval to the proposed subdivision subject to the suggested conditions. Staff have liaised with Falmouth planning and engineering staff through-out the review and confirm that there are no areas of potential disagreement.

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 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
- iii. That the applicant shall submit copies of the required permits from the MDEP prior to the release of the signed Subdivision Plat; 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.

ATTACHMENTS:

1. Documents re Falmouth Planning Board and State law requirements
 - a. Letter from Ethan Croce, Senior planner, Town of Falmouth 9.13.2012
 - b. Portland PB letter to Falmouth
2. Falmouth Staff comments on final plans and associated issues
3. City Arborist (Jeff Tarling) comments for hearing not received; 1.9.2013; and 9.13.2012
4. Traffic Engineering (Tom Errico) comments 2.21.2013
5. Peer Engineering Review comments (David Senus) 2.20.2013; 1.16.2012; 9.20.2012
6. DPS (David Margolis-Pineo) comments 2.4.2013; 1.17.2012 9.21.2012
7. Fire Department (Chris Pirone) comments 9.21.2012
8. Zoning Administrator (Marge Schmuckal) comments 2.21.2013; 1.16.2013; 9.21.2012
9. DPS (Doug Roncarati) comments 1.30.2013
10. Corporation Counsel comments 2.14.2013

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 Certification 9.30.2012
- F. Stormwater Management Information Letter from *Land Design Solutions* (Tom Saucier, PE) dated 9.18.2012
- G. Letter from *Land Design Solutions* (Peter Biegel) responding to Workshop comments 1.1.2013 (atts below)
- H. Traffic Assessment, Eaton Traffic Engineering 1.1.2013
- I. Flood Maps

Submitted for Hearing

- J. Letter from *Land Design Solutions* (Peter Biegel) re revisions, incl revised data sheet, turning radii sketch; financial capability; and Portland Water District capacity letter
- K. Waiver Requests
 - 1. Sidewalk Request with map 1.2.2013
 - 2. Curb Waiver Request 1.25.2013
 - 3. Street Lighting Waiver Request 2.8.2013
- L. Stormwater Management Information
 - 1. Stormwater Management Report Rev 1 2.8.2013 (extracts)
 - 2. Peter Biegel responses to review comments 2.20.2013; 2.8.2013; and 2.1.2013
 - 3. Falmouth sign off (Cumberland County Soil & Water Conservation District Engineer)
- M. NRPA Permit by Rule notification to MDEP 2.4.2013
- N. Falmouth land Trust letters/plans re proposed off site trail 2.6.2013 and 1.4.2013
- O. Draft deed language 2.15.2013
- P. Homeowners Association Bylaws 2.21.2013

Plans

- 1. Survey
- 2. Aerial photo with parcels annotated
- 3. Sketch Plan
- 4. Cover sheet (Old Barn Estates)
- 5. Subdivision Plan #1
- 6. Subdivision Plan #2 (S-101 Rev F)
- 7. Lot Development and Landscape Plan (C-101 Rev D)
- 8. Leach Field Fill Slope Diagram 2.1.2013
- 9. Grading, Drainage and Erosion Control Plan (C-201 Rev D)
- 10. Profiles (new street) (C-202 Rev D)
- 11. Erosion and Sedimentation Notes and Details (C-300 Rev D)
- 12. Site Details (C-301 Rev C)
- 13. Site Details (C-302 Rev D)
- 14. Site Details (C-303 Rev D)
- 15. Site Details (C-304 Rev A)
- 16. Pre-Development Drainage Plan (D-100 Rev C)
- 17. Off-Site Subcatchment Plan (D-101 Rev C)
- 18. Post Development Drainage Plan (D-102 Rev C)

Attachment 1a

Town of Falmouth, Maine

September 13, 2012

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

CITY OF PORTLAND, MAINE
PLANNING BOARD

Carol Morrissette, Chair
Stuart O'Brien, Vice Chair
Timothy Dean
Bill Hall
David Silk
Patrick Venne

October 11th, 2012

Falmouth Planning Board
c/o Ethan J Croce, Senior Planner
Town of Falmouth
271 Falmouth Road
Falmouth, ME 04105

Re: Proposed Subdivision: TPO Properties LLC (Tim O'Donovan) applicant; Ledgewood Drive

Dear Mr. Croce and Members of the Falmouth Planning Board:

As you know, under 30-A M.R.S.A. section 4403(1-A) the above project requires all review meetings and hearings of the relevant Boards to be held jointly unless both Boards agree, in writing, to waive this requirement.

The Portland Planning Board (the "Board") held an informational workshop on September 24th, 2012, where the Board discussed the project and considered the several issues raised as a result of the its location within both the City of Portland and Town of Falmouth. The Board requested that Portland staff coordinate with Falmouth staff regarding all aspects of the review and we anticipate that detailed issues, including those raised by the Falmouth Planning Board at its pre-application sketch plan review on August 2012, will need to be reviewed and resolved.

This letter confirms that on October 9th, 2012, the Portland Planning Board voted 5-0 (Dean absent) to waive the joint meeting requirement in section 4403(1-A), with the proviso that the option for requesting a joint meeting remains available to the Board in the event there are issues that arise that require joint consideration and resolution.

Please contact Jean Fraser at (207) 874 8728 if you have any questions.

Sincerely,



Carol Morrissette, Chair
Portland Planning Board

Cc:
Jeff Levine, AICP, Director of Planning and Urban Development
Alexander Jaegerman, FAICP, Planning Division Director
Barbara Barhydt, Development Review Services Manager
Jean Fraser, Planner
Michael Bobinsky, Public Services Director
Katherine Earley, Engineering Services Manager, Public Services
Eric Labelle, Assistant Director- Operations, Public Services
David Margolis-Pineo, Deputy City Engineer, Public Services

Doug Roncarati, Stormwater Coordinator, Public Services
Michelle Sweeney, Associate Engineer, Public Services
Jeff Tarling, City Arborist, Public Services
Jeremiah Bartlett, Public Services
Captain Chris Pirone, Fire Department
Thomas Errico, P.E., TY Lin Associates
David Senus, P.E., Woodard and Curran
Applicant

Jean Fraser - FW: Old Barn Estates Subdivision - Street acceptance legal issue

From: "Peter Biegel" <pbiegel@landdesignsolutions.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
Date: 2/21/2013 10:07 AM
Subject: FW: Old Barn Estates Subdivision - Street acceptance legal issue
CC: "Tim O'Donovan" <ocpminc@maine.rr.com>

Hi Jean,

The Town of Falmouth Attorney has requested that we add the note below to the Plat Plan does the City have an issue with that?

"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."

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

From: Ethan Croce [<mailto:ecroce@town.falmouth.me.us>]
Sent: Wednesday, February 20, 2013 4:02 PM
To: 'Peter Biegel' (pbiegel@landdesignsolutions.com); ocpminc@maine.rr.com
Subject: Old Barn Estates Subdivision - Street acceptance legal issue

Peter,

The Town Attorney has said that he sees no legal problems with the proposal to convey the fee interest in Ice Pond Drive to the City of Portland. He did suggest, however, that Falmouth either require something definitive in writing from the City of Portland indicating that the City will be accepting the street or, alternatively, drafting the homeowners documents to mandate that the homeowners association be responsible for the repair, maintenance, plowing, etc. of the street until such time as the City of Portland accepts the street as a public street. Finally, the Town Attorney recommended that notes be added to the recording plat(s) stating something along the lines of *"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."*

Regards,
Ethan

From: Ethan Croce <ecroce@town.falmouth.me.us>
To: 'Jean Fraser' <JF@portlandmaine.gov>
Date: 2/12/2013 11:37 AM
Subject: RE: Update RE: Old Barn Estates Subdivision
Attachments: TPO Properties_Feb 2013.pdf; The Ledges_Subdivision Plan_2008.pdf

26

Jean,

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

2 c

From: Ethan Croce <ecroce@town.falmouth.me.us>
To: 'Jean Fraser' <JF@portlandmaine.gov>
Date: 2/7/2013 10:53 PM
Subject: RE: Update RE: Old Barn Estates Subdivision

Jean,

My apologies for the lateness of this email. I have been out of the office much of the past two days. The Planning Board granted preliminary approval to the project Tuesday night with few outstanding issues raised other than the following:

Regarding Stormwater calculations – The Board will require the analysis for the 100 year storm to be shown with the next submission. The Board also requested an opinion from the Town Engineer as to whether the applicant should add a point of analysis at the subdivision boundary at the northern corner of the subdivision adjacent to the large impounded wetland on the abutting “Icehouse” apartment property.

Regarding icing on the street - The Town Engineer met on-site with the applicant and his land use consultant to study the potential icing issue. The Town Engineer informed me that they reach an agreement whereby the applicant agreed to add a catch basin to the non-curbed side of the roadway and slide the catch basin on the curbed side of the roadway down slightly toward Ledgewood Drive. The Town Engineer confirmed with me that he is comfortable with this approach pending seeing the revised plans.

Regarding the request to waive the full traffic study – The Board would like to obtain an opinion from Tom Errico (who typically does our peer reviews) on the traffic concerns previously raised for the two Ledgewood Drive intersections (Allen Ave and Middle Road/Ocean Ave). I spoke to Tom about this today and given his previous analysis of this project and his favorable reviews I do not anticipate that this will be an issue, but I will defer to Tom.

Let me know if I left anything unanswered or if you have any questions.

Thanks,
Ethan

2.d.1

From: Ethan Croce <ecroce@town.falmouth.me.us>
To: 'Jean Fraser' <JF@portlandmaine.gov>
Date: 2/4/2013 4:30 PM
Subject: RE: Update RE: Old Barn Estates Subdivision

Jean,

Thank you for the update. Here is a summary of some of the issues the Falmouth Board will be addressing tomorrow evening:

1. Consideration of a waiver for a traffic study.
2. Street lighting.
3. Location, design standards, and tree clearing necessary for the connecting pedestrian trail on land within Falmouth.
4. Addition of pedestrian crosswalk signs across Ledgewood Drive.
5. Possible tree save opportunities for Open Space Lot 15 and possible supplemental buffering for same.
6. Clarification for how the "no disturb stormwater buffers" will be identified on the ground to prevent clearing abuses by future lot owners.
7. Revised stormwater management plan needs to show the pre- and post-development peak runoff rates for the 100 year storm.
8. Consider moving CB #1 down station towards Ledgewood Drive and eliminate the two proposed 45° pipe angles. The Town Engineer would like to catch as much water as possible before it runs down the street to Ledgewood Drive to avoid icing issues.
9. On the non-curbed side of the roadway, consider providing for a drainage structure to catch water running down Ice Pond Drive. The concern is during the winter the snow will act like a curb and allow water to run down the roadway and into Ledgewood Drive creating icing conditions.
10. Allow for a drainage easement to the Town of Falmouth for the maintenance of the swale that follows the Eastern edge of Lot 16 from Ledgewood Drive to Lot 14.
11. 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 will need to 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.
12. Modify Lot 13 building envelope. 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 (the municipal boundary). Only a 20 foot setback is

*note 2.5.13
date of Falmouth
Pl. Bd.
review of this
project*

2.d.2

required from the easterly lot line abutting the Ice Pond Drive right of way.

Feel free to give me a call with any questions. For what it's worth, under your item #4 below, Falmouth would support the direction you outline. That is, Falmouth would require a "paper street" connection off the end of the street ROW extending to the property line in the event, however unlikely, that a connection to the abutting property would ever be needed/desired in the future.

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>

2.e

Jean Fraser - RE: Old Barn Estates - Drive Entrance Radii

From: Ethan Croce <ecroce@town.falmouth.me.us>
To: 'Peter Biegel' <pbiegel@landdesignsolutions.com>
Date: 1/31/2013 9:22 AM
Subject: RE: Old Barn Estates - Drive Entrance Radii
CC: 'Tim O'Donovan' <ocpminc@maine.rr.com>, 'Jean Fraser' <JF@portlandmaine....>

Peter,

I had thought previously that Ice Pond Drive was intersecting Ledgewood at 90 degrees, so that is what I had based my prior comment on. You are correct in that a 30 foot radius is the ordinance standard for intersections between 60 and 90 degrees.

Thanks,
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

From: Peter Biegel [mailto:pbiegel@landdesignsolutions.com]
Sent: Thursday, January 31, 2013 9:19 AM
To: Ethan Croce
Cc: 'Tim O'Donovan'; 'Jean Fraser'
Subject: Old Barn Estates - Drive Entrance Radii

Hi Ethan,

The City has had some concern with our street entrance at Ledgewood Drive and asked for a confirmation of the radius size and sketch showing vehicle turning radii. The plans to date show a 30 ft. edge of pavement/curb radius based on the attached page from the Falmouth Ordinance (our drive does not intersect Ledgewood at 90 degrees) Per Jean's comment below I would like to confirm that the 30 ft. radius is correct, and not the 15' which is required for 90 degree intersections.

Thank you,
Peter

Peter Biegel, ASLA, LEED AP
Maine Licensed Landscape Architect
Land Design Solutions
P.O. Box 316

2.f.

Jean Fraser - RE: Old Barn Estates Subdivision

From: Ethan Croce <ecroce@town.falmouth.me.us>
To: 'Jean Fraser' <jf@portlandmaine.gov>
Date: 1/29/2013 4:27 PM
Subject: RE: Old Barn Estates Subdivision

Jean,

Thank you for the quick response. I would have been concerned if the Town and Country lights were not required to be full cut offs, but I think the Falmouth Board will be OK with either less lighting or the 140 foot spacing with full cut offs. 2

Best,
 Ethan

From: Jean Fraser [mailto:jf@portlandmaine.gov]
Sent: Tuesday, January 29, 2013 3:36 PM
To: Ethan Croce
Subject: Re: Old Barn Estates Subdivision

Ethan

The City's standard is to have street lights every 120 feet on one side of the street, with 14' high Town & Country poles, with full cutoff lights. Our DPS are required to make a recommendation regarding any waiver of this standard and its currently under discussion.

The initial staff view is that streetlights should be required on the sidewalk side of the new street; the Planning Board may be more sympathetic to the applicant's argument and can over-rule the staff on this.

I have asked the DPS for their determination in writing before your Board meeting so you will know the comments of Portland staff.

I will let you know once I get something more definitive.

thank you
 Jean

>>> Ethan Croce <ecroce@town.falmouth.me.us> 1/29/2013 3:05 PM >>>
 Jean,

I noticed that the applicant for the Old Barn Estates project was asking for a waiver from Portland's design standards for street lighting, but I couldn't discern what the Portland standard is which they are asking relief from. Since street lighting might be an issue the Falmouth Board will chime in on next week, could you help me understand what Portland requires and the status of the developer's waiver request with Portland?

Thank you,

From: Jean Fraser
To: Peter Biegel
CC: 'Tim O'Donovan'; Ethan Croce
Date: 10/4/2012 3:40 PM
Subject: Ledgewood Drive Subdivision , 1062 Ocean

Attachment 29.1
for 2nd Workshop

Peter

Further to the e-mail of 9.28.2012 I am writing to clarify the City of Portland Staff thinking on several of the issues that have been raised and are fundamental to the design/layout of the final plans. I am copying this e-mail to Ethan Croce at Falmouth and will be following up with a conversation with him to see whether any of the comments below raise concerns from the Falmouth staff viewpoint.

reflected in
Falmouth
Bd
Comments

1. I confirm that the Planning Board will be voting on the joint meeting waiver on Tuesday Oct 9th and a short report on this will be on the City's website tomorrow afternoon.
2. Lot #13: We understand this lot already has a Falmouth address on Ledgewood Drive and is located within the Town of Falmouth. Therefore the emergency response for this lot should remain with Falmouth with no change to the address. However, the drive does not need to be on the same street as the address and we support the proposal you already indicated to the Falmouth and Portland Planning Boards ie that the drive be relocated to connect into the proposed new subdivision street (with the drive on Ledgewood closed). This means there will be no increase to the number of access points along this section of Ledgewood and is safer in view of the minimal distance between the existing drive and proposed new street.
3. Lot #13: Trash and plowing: The occupier of Lot #13 will have a choice re trash- they can put a Falmouth bag on Ledgewood or a Portland bag on the new street. Plowing of Ledgewood is Falmouth and plowing of the new street will be Portland.
4. Other 12 lots on new street: I confirm that the City of Portland would expect to accept the street as a Portland public street once built to City standards and accepted by the City Council; so plowing and trash collection and emergency response would be by Portland.
5. Addressing: Please propose a name for the new street that is not similar to any other street in either of the municipalities.
6. Lot #14:
There is no legal reason why a site plan for a new structure on this lot can not be submitted now. However, it is likely that the City of Portland would want the drive for that structure to be relocated onto Ledgewood Drive (as Ocean Ave is a more heavily trafficked road so it would be safer assuming distance of the drive from the corner is OK). This raises more strategic issues (including whether a sidewalk is required) which might best be resolved within the subdivision review process so that liaison with Falmouth is facilitated;
I suggest you show the proposed house footprint and proposed drive location for Lot #14 on the final subdivision plans and if (early in the review of those) it appears there are no major issues then it may be possible for you to start the site plan review process and technically a site plan approval could be issued subject to conditions that tie it into the Subdivision requirements;
Please note that any additional impervious area over existing needs to be treated, but you could take a "credit" from another part of the subdivision site;
Please also note that we would need an HHE200 to show that any septic system on this small site is acceptable.

8.12.2012 2.9.2

7. Links to trails in Falmouth: I think the Portland Planning Board will want to know how these will be secured as they are off site - and what the fall back proposal would be if they are not able to be secured - ie a link into the Portland open space directly on the south boundary, maybe from the open space areas proposed within the Subdivision.

8. Fencing: Just to highlight the City Arborist comments in the PB Memo (Att 2) re fencing; I understand that there may be a local issue re ATV "trespass" in this area and I suggest you talk to Jeff Tarling (874 8820) about the options for ensuring this is addressed by the design of this subdivision and fencing within or around parts of this subdivision.

I think this (taken together with the 9.28.2012 e-mail) covers the key issues so far identified.

Please do not hesitate to call me if there is anything else that needs to be clarified at this point in order for you to finalize the subdivision details.

Jean

*Jean Fraser, Planner
City of Portland
874 8728*

**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 Arsenault, 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 Arsenault 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 Morrissette – 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.

2.12.12

Planning Board Minutes

August 7, 2012

Page 2 of 7

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.

2.6 iii

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: Ledgewood SubDiv Site plan 2nd wkshop

From: Jeff Tarling <JST@portlandmaine.gov> (Jeff Tarling)
To: Jean Fraser
Date: 1/9/2013 1:43 PM
Subject: Re: Ledgewood SubDiv Site plan
CC: David Margolis-Pineo

not updated
for hearing

Hi Jean -

I have reviewed the recent Ledgewood Subdivision Plan and offer the following Conditions:

- a) Street trees - the street trees MUST use tree varieties from our City of Portland Recommended list only, my recommendations for this more natural site would be to use Red Maple cultivars such as 'Karpick', 'Red Point', 'Red Sunset' Red Maples, Swamp White Oak, American Hornbeam, River Birch, Tupelo, Yellowwood. No planting of Pears or Ash species.
- b) Buffer trees - trees planted in these areas must meet the standard size, 1.75" caliper for ornamental trees, 2" for shade trees and 5-6' height for conifers. Additional buffer trees are needed on lots 10, 11, 12 & 13. These lots should have three additional 'buffer' trees per lot spaced along the back property line. The buffer tree list should include those already on the list: Red Oak, White Oak, River Birch, Red Maple, Sugar Maple along with Red Pine, White Pine, White Spruce, White Cedar, Red Cedar, Hop-Hornbeam, White Birch, Yellow Birch.
- c) Tree Saves / Stormwater No Disturb Buffers - These areas need to be identified prior to construction and placed on the individual deeds so that future land owners will be able to follow the intent of the subdivision 'tree save' / 'stormwater no disturb buffers'. The standard limit of work areas posted prior to site work. Native plant vegetation, such as understory plants, shrubs, ferns etc should be included in these areas vs established lawns. Invasive and non native plants could be removed.

The Ledgewood Subdivision Landscape Plan with these conditions / recommendations would be acceptable.

Thanks,

Jeff Tarling
City Arborist

*Staff review comments**Attachment**3b***Jean Fraser - Ledgewood Subdivision***1st workshop*

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

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

Jean Fraser - Old Barn Estates - Final Traffic Comments

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

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:

- 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.
- 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.

- **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.**
 - **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

TYLIN INTERNATIONAL

12 Northbrook Drive
Falmouth, ME 04105
207.347.4354 direct
207.400.0719 mobile
207.781.4753 fax

thomas.errico@tylin.com
Visit us online at www.tylin.com

"One Vision, One Company"
Please consider the environment before printing.

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

for Hearing

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.

Appendix D

Templates for Deed Restrictions & Conservation Easements

1. FORESTED BUFFER, LIMITED DISTURBANCE

DECLARATION OF RESTRICTIONS (Forested Buffer, Limited Disturbance)

THIS DECLARATION OF RESTRICTIONS is made this _____ day of _____, 20____, by _____, (name)

_____, _____, (street address) _____, _____, (city or town)

_____ County, Maine, _____, (herein referred to as the "Declarant"), (county) _____ (zipcode)

pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near

_____, _____, (road name) _____, _____, (known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____, (town)

Maine described in a deed from _____ to _____, (name) _____, (name of Declarant)

dated _____, 20____, and recorded in Book ____ Page ____ at the _____ County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer area location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the accept-

ance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.
 - a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material may be placed, stored or dumped on the Restricted Buffer Area, nor may the topography of the area be altered or manipulated in any way;
 - b. Any removal of trees or other vegetation within the Restricted Buffer Area must be limited to the following:
 - (i) No purposefully cleared openings may be created and an evenly distributed stand of trees and other vegetation must be maintained. An "evenly distributed stand of trees " is defined as maintaining a minimum rating score of 24 points in any 25 foot by 50 foot square (2500 square feet) area, as determined by the following rating scheme:

Diameter of tree at 4 1/2 feet above ground level	Points
2-4 inches	1
4-8 inches	2
8-12 inches	4
>12 inches	8

Where existing trees and other vegetation result in a rating score less than 24 points, no trees may be cut or sprayed with biocides except for the normal maintenance of dead, wind-blown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree's canopy is maintained;

- (ii) No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;
 - c. No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or fence;
 - d. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;

- e. Any level lip spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.
3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.
4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.
5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.
6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

STATE OF MAINE

_____ County, _____, 20__.
 (County) (date)

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

 Notary Public

S.6

2. FORESTED BUFFER, NO DISTURBANCE

DECLARATION OF RESTRICTIONS

(Forested Buffer, No Disturbance)

THIS DECLARATION OF RESTRICTIONS is made this _____ day of _____, 20____, by _____,

(name)

(street address)

_____, _____ County, Maine, _____, (herein referred to as the _____ (city or town) _____ (county) _____ (zipcode)

"Declarant", pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near

_____.

(road name)

(known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____, Maine (town)

described in a deed from _____ to _____, (name) (name of Declarant)

dated _____, 20____, and recorded in Book ____ Page ____ at the _____ County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. **Restrictions on Restricted Buffer Area.** Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.
 - a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer Area, nor shall the topography of the area be altered or manipulated in any way;
 - b. No trees may be cut or sprayed with biocides except for the normal maintenance of dead, wind-blown or damaged trees and for pruning of tree branches below a height of 12 feet provided two thirds of the tree's canopy is maintained;
 - c. No undergrowth, ground cover vegetation, leaf litter, organic duff layer or mineral soil may be disturbed except that one winding path, that is no wider than six feet and that does not provide a downhill channel for runoff, is allowed through the area;
 - d. No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or fence;
 - e. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area;
 - f. Any level lip spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. **Enforcement.** The MDEP may enforce any of the Restrictions set forth in Section 1 above.
3. **Binding Effect.** The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.
4. **Amendment.** Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.
5. **Effective Provisions of Declaration.** Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be

deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.

- 6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
- 7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

STATE OF MAINE, _____ County, dated _____, 20__.
(County)

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

Notary Public

3. MEADOW BUFFER

DECLARATION OF RESTRICTIONS (Non-Wooded Meadow Buffer)

THIS DECLARATION OF RESTRICTIONS is made this _____ day of _____, 20____, by

_____, _____
(name) (street address)
_____, _____ County, Maine, _____, (herein referred to as the
(city or town) (county) (zipcode)

"Declarant"), pursuant to a permit received from the Maine Department of Environmental Protection under the Stormwater Management Law, to preserve a buffer area on a parcel of land near

_____, _____
(road name) (known feature and/or town)

WHEREAS, the Declarant holds title to certain real property situated in _____,
(town)

Maine described in a deed from _____ to _____,
(name) (name of Declarant)

dated _____, 20____, and recorded in Book ____ Page ____ at the
_____ County Registry of Deeds, herein referred to as the "property"; and

WHEREAS, Declarant desires to place certain restrictions, under the terms and conditions herein, over a portion of said real property (hereinafter referred to as the "Restricted Buffer") described as follows: (Note: Insert description of restricted buffer location here)

WHEREAS, pursuant to the Stormwater Management Law, 38 M.R.S.A. Section 420-D and Chapter 500 of rules promulgated by the Maine Board of Environmental Protection ("Stormwater Management Rules"), Declarant has agreed to impose certain restrictions on the Restricted Buffer Area as more particularly set forth herein and has agreed that these restrictions may be enforced by the Maine Department of Environmental Protection or any successor (hereinafter the "MDEP"),

NOW, THEREFORE, the Declarant hereby declares that the Restricted Buffer Area is and shall forever be held, transferred, sold, conveyed, occupied and maintained subject to the conditions and restrictions set forth herein. The Restrictions shall run with the Restricted Buffer Area and shall be binding on all parties having any right, title or interest in and to the Restricted Buffer Area, or any portion thereof, and their heirs, personal representatives, successors, and assigns. Any present or future owner or occupant of the Restricted Buffer Area or any portion thereof, by the acceptance of a deed of conveyance of all or part of the Covenant Area or an instrument conveying any interest therein, whether or not the deed or instrument shall so express, shall be deemed to have accepted the Restricted Buffer Area subject to the Restrictions and shall agree to be bound by, to comply with and to be subject to each and every one of the Restrictions hereinafter set forth.

1. Restrictions on Restricted Buffer Area. Unless the owner of the Restricted Buffer Area, or any successors or assigns, obtains the prior written approval of the MDEP, the Restricted Buffer Area must remain undeveloped in perpetuity. To maintain the ability of the Restricted Buffer Area to filter and absorb stormwater, and to maintain compliance with the Stormwater Management Law and the permit issued thereunder to the Declarant, the use of the Restricted Buffer Area is hereinafter limited as follows.
 - a. No soil, loam, peat, sand, gravel, concrete, rock or other mineral substance, refuse, trash, vehicle bodies or parts, rubbish, debris, junk waste, pollutants or other fill material will be placed, stored or dumped on the Restricted Buffer Area, nor may the topography or the natural mineral soil of the area be altered or manipulated in any way;
 - b. A dense cover of grassy vegetation must be maintained over the Restricted Buffer Area, except that shrubs, trees and other woody vegetation may also be planted or allowed to grow in the area. The Restricted Buffer Area may not be maintained as a lawn or used as a pasture. If vegetation in the Restricted Buffer Area is mowed, it may be mown no more than two times per year.
 - c. No building or other temporary or permanent structure may be constructed, placed or permitted to remain on the Restricted Buffer Area, except for a sign, utility pole or fence;
 - d. No trucks, cars, dirt bikes, ATVs, bulldozers, backhoes, or other motorized vehicles or mechanical equipment may be permitted on the Restricted Buffer Area, except for vehicles used in mowing;
 - e. Any level lip spreader directing flow to the Restricted Buffer Area must be regularly inspected and adequately maintained to preserve the function of the level spreader.

Any activity on or use of the Restricted Buffer Area inconsistent with the purpose of these Restrictions is prohibited. Any future alterations or changes in use of the Restricted Buffer Area must receive prior approval in writing from the MDEP. The MDEP may approve such alterations and changes in use if such alterations and uses do not impede the stormwater control and treatment capability of the Restricted Buffer Area or if adequate and appropriate alternative means of stormwater control and treatment are provided.

2. Enforcement. The MDEP may enforce any of the Restrictions set forth in Section 1 above.
3. Binding Effect. The restrictions set forth herein shall be binding on any present or future owner of the Restricted Buffer Area. If the Restricted Buffer Area is at any time owned by more than one owner, each owner shall be bound by the foregoing restrictions to the extent that any of the Restricted Buffer Area is included within such owner's property.
4. Amendment. Any provision contained in this Declaration may be amended or revoked only by the recording of a written instrument or instruments specifying the amendment or the revocation signed by the owner or owners of the Restricted Buffer Area and by the MDEP.
5. Effective Provisions of Declaration. Each provision of this Declaration, and any agreement, promise, covenant and undertaking to comply with each provision of this Declaration, shall be deemed a land use restriction running with the land as a burden and upon the title to the Restricted Buffer Area.

5.11

- 6. Severability. Invalidity or unenforceability of any provision of this Declaration in whole or in part shall not affect the validity or enforceability of any other provision or any valid and enforceable part of a provision of this Declaration.
- 7. Governing Law. This Declaration shall be governed by and interpreted in accordance with the laws of the State of Maine.

(NAME)

STATE OF MAINE, _____, County, dated _____, 20__ .
(County)

Personally appeared before me the above named _____, who swore to the truth of the foregoing to the best of (his/her) knowledge, information and belief and acknowledged the foregoing instrument to be (his/her) free act and deed.

Notary Public

S.A

From: "David Senus" <dsenus@woodardcurran.com>
To: "Jean Fraser" <JF@portlandmaine.gov>
CC: "Barbara Barhydt" <BAB@portlandmaine.gov>, "David Margolis-Pineo" <DMP@p...>
Date: 2/21/2013 6:21 PM
Subject: RE: Old Barn Estates Final Comments

Hi Jean.

for hearing

I never noted that specifically in a memo, but per this email correspondence, the plan the Applicant has presented is an acceptable approach for work within, and re-vegetation of the stormwater buffer areas.

Thanks
Dave

David Senus, PE (Maine), Project Manager
Woodard & Curran, Inc.
41 Hutchins Drive
Portland, ME 04102
Phone: (800) 426-4262 x3241
Fax: (207) 774-6635

Woodard & Curran
www.woodardcurran.com
Commitment & Integrity Drive Results

-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Thursday, February 21, 2013 5:35 PM
To: David Senus
Cc: Barbara Barhydt; David Margolis-Pineo; Ashley Auger
Subject: Re: Old Barn Estates Final Comments

Dave

I don't think I have anything from you that confirms that it is OK for them to clear and then revegetate the buffer slopes where necessary....maybe I have it and just can't find it- could you help?

thanks
Jean

>>> "David Senus" <dsenus@woodardcurran.com> 2/20/2013 5:40 PM >>>
Hi Jean.

Per our discussion, attached is our review memo for the latest Old Barn Estates response to comments submittal. I have also included the sample language from MaineDEP as a reference for the Applicant as they draft the deed restriction language for the stormwater buffers.

Please don't hesitate to call if you have any questions.

Thanks

**COMMITMENT & INTEGRITY
DRIVE RESULTS**

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

Attachment

T 800.426.4262
T 207.774.2112
F 207.774.6635

S. b. 1

MEMORANDUM

TO: Jean Fraser, Planner
FROM: David Senus, P.E. & Ashley Auger, E.I.T.
DATE: January 16, 2013
RE: Final Level III Site Plan Application – Old Barn Estates, Ledgewood Drive off Ocean Ave

old wkshop
these have been
addressed by applicant
where details



Woodard & Curran has reviewed the Final Level III Site Plan Application for Old Barn Estates Subdivision off of Ledgewood Drive on the Falmouth/Portland line. The project will include 12 new residential house lots spanning between Falmouth and Portland, a 28-foot wide roadway named Ice Pond Drive, stormwater management systems, private septic systems, and public water.

Documents Provided By Applicant

- Cover Letter, dated January 1, 2013, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Stormwater Management Report dated January 2013, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Engineering Plans, Sheet S-101, C-101, C-201, C-202, C-300 to C-303, & D-100 to D-102, revised January 1, 2012, prepared by Land Design Solutions, on behalf of TPO Properties, LLC.
- Subdivision Plat Plan, dated December 27, 2012, prepared by Cullenberg Land Surveying, on behalf of Tim O'Donovan.

Comments

- 1) 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. In addition, Chapter 32 of the City of Portland Code of Ordinances outlines specific requirements related to inspection, maintenance, and reporting for stormwater management systems.
 - a) Basic Standards:
 - i) Plans, notes, and details have been provided that adequately address erosion and sediment control requirements during construction of the roadway and the stormwater management features.
 - ii) The Stormwater Management Report includes an Inspection and Maintenance Plan for the project. The Inspection and Maintenance Plan should include a section specific to inspection and maintenance of the proposed forested buffers and dripline filters, and these features should be included in the "Sample Inspection Report" worksheet that is appended to the Plan. Also, the plan should identify the inspection and reporting requirements outlined in Chapter 32 of the City of Portland Code of Ordinances.
 - b) General Standards: The Applicant has proposed vegetated buffers, grassed underdrained soil filters, and underdrained dripline filters to provide stormwater quality treatment in accordance with the General Standards.
 - i) Underdrained Soil Filters: Per Section 7.1 of Volume III of the MaineDEP Stormwater BMP Manual:
 - (1) No test pit or soil exploration information has been provided with the submittal. One test pit should be excavated in the area of each filter bed to identify the depth to groundwater and bedrock.
 - (2) The area of the filter must be no less than the sum of 5% of the impervious area and 2% of the landscaped area draining to the filter. Filter T1 appears to have an insufficient filter area to meet this requirement.
 - (3) The Grassed Underdrained Soil Filter detail on C-302 should include a geotextile fabric between natural soils and constructed media.



Att.

5.b.2

- (4) The Applicant has proposed maintenance easements for the proposed soil filter systems. A copy of the easement language associated with the access and maintenance of these systems should be forwarded for review.
- ii) Vegetated Buffers: Per Section 5.0 of Volume III of the MaineDEP Stormwater BMP Manual:
 - (1) Use of buffers may be limited by location of suitable septic areas, building sites, roads, and driveways. Lots 3, 4, 5 and 11 appear to show a proposed location for a septic system leach field within the limits of the proposed buffers. The septic system leach fields must be located outside of the buffer areas.
 - (2) Areas designated as buffers must be protected from disturbance by deed restrictions and covenants. Deed restrictions and conservation easements for the proposed buffers should be forwarded for review. In addition, we recommend requiring that permanent posts or markers be set along the edge of each buffer to ensure that future homeowners are aware of the buffer locations. We also recommend that basic language associated with any restricted activities in these buffer areas be included as a note on the Subdivision Plan.
- iii) Dripline Filters: To meet the requirements of the General Standards, the Applicant has proposed the use of Dripline Filters for the future house structures on Lots 7, 8 & 9. We recommend noting the requirement for Dripline Filters on these lots on the Subdivision Recording Plan and the Grading, Drainage, and Erosion Control Plan, and including a detail on the Site Detail Sheets with a note referencing the applicable house lots.
- c) Flooding Standard: The City of Portland requires conformance with the MaineDEP Chapter 500 Flooding Standard, which requires the applicant to evaluate pre-development and post-development flow from the 2, 10 and 25 year, 24-hour storm events. The Applicant has included this information in the package, in addition to providing data on the 50 year storm event. It should be noted that the Town of Falmouth also requires an evaluation of the 100-year storm event, and therefore the Applicant may be asked by the Town of Falmouth to evaluate this storm event.
 - i) It appears that the post-development HydroCAD model is approximately 20,000 SF smaller than the pre-development model. The area evaluated in the post-development condition should match the area evaluated in the pre-development condition.
 - ii) The Applicant has demonstrated that flows from the post-development site for the 2-, 10-, and 25-year storm events do not exceed those in the pre-development condition at two out of the three study points, and are only fractionally higher at the 60" culvert crossing on Ledgewood Drive (Study Point AP1). The projected increase in flow at AP1 is minor (0.1 CFS), and as such, the project would be considered in general conformance with the Flooding Standard; however, we request further review of the projected flow information once the post development area is adjusted to match the pre development area.
- 2) 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. It appears that the septic system leach fields for lots 3 & 4 encroach into the 75-foot setback area. The Applicant has noted that MaineDEP NRPA Permit-by-Rule Applications will be filed for a proposed stream crossing, and for activity within 75-feet of wetlands on Lot #9 for the construction of a proposed underdrained soil filter. The Applicant should verify with MaineDEP that the septic system leach field locations are acceptable as proposed. Once filed, the permit notifications should be forwarded to the City for the project record.
- 3) On Sheet C-201, the Applicant proposes a 12" HDPE pipe with shallow cover (approx. 1.5') and two 45 degree bends between CB 1 and an outfall on the south side of the roadway. HDPE is not an acceptable pipe material within the City of Portland Right-of-Way (refer to Technical Manual Section 2.5.2 for a list of acceptable pipe materials; applies to all proposed underdrain/stormdrain pipe greater than 6" within ROW). In addition, a manhole is required at any change in direction, and the amount of cover over the pipe should be increased to ensure the pipe is a least below the roadway subbase elevation.
- 4) Sheet C-201 should depict a more defined swale from the outlet of the storm drain pipe to underdrained soil filter T2.
- 5) Sheet C-201 includes a call-out for an "interception swale" on the north side of Lot 8. It appears that this features is a berm, not a swale; please clarify.

Attachment 6.1

September 21, 2012

January 17, 2013

February 4, 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.
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
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. We are not aware that a waive exist for 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.

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 at this time.

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

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 Drive Subdiv (1062 Ocean)

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

Attachment 8.a
Hearing

MEMORANDUM

To: FILE

From:

Subject: Application ID: 2012-584

Date: 2/21/2013

Comments Submitted by: Marge Schmuckal/Zoning on 2/1/2013

On 1/14/2013 the applicant submitted data showing where the AE Flood Zone is located in the project area. It does not appear that any structures will be located in that area and certificates of flood elevation will not be required.

The matter of the extension of what is now called Ice Pond Road is currently waiting for the applicant to meet the waiver criteria to extend the street to the end of the properties being developed. It appears that both lots at the end of this road will still be able to meet the 50 foot minimum street frontage requirement. I am still waiting to see how this finalizes before my final sign off.

Marge Schmuckal

Jean Fraser - Old Barn Estates - Ice Pond Road 2nd workshop

From: Marge Schmuckal
To: Jean Fraser
Date: 1/16/2013 2:43 PM
Subject: Old Barn Estates - Ice Pond Road

Hi Jean,
Here are my comments on the revised plans.

I have not seen a requested delineation of the AE Flood Zone as requested in my 9/21/2012 comments. I still am requesting to see that delineation.

I am also noting that Ice Pond Road is not meeting the requirements of 14-403 which requires streets to be put in from where ever pavement ends to the end of the lot(s) being developed. Ice Pond Road stops short approximately 65" from the end of both properties lot #8 & lot #9. The proposed City Street needs to be extended to the end of the lots being developed.

Marge Schmuckal
Zoning Administrator

Staff Review Comment Attachment 8.c

Jean Fraser - Ledgewood Drive Subdivision

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

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

Jean Fraser - Re: Fwd: Old Barn Estates - Subsurface Wastewater Disposal Rules

From: Doug Roncarati
To: DSenus@woodardcurran.com; David Margolis-Pineo; Jean Fraser
Date: 1/30/2013 7:52 AM
Subject: Re: Fwd: Old Barn Estates - Subsurface Wastewater Disposal Rules

As part of our due diligence we should at least get a copy of their PBR application to DEP and any response or comments from DEP. The PBR application will include an erosion and sedimentation control plan to protect the stream during construction. The applicant is also responsible for submitting a follow-up report showing that the site has been permanently stabilized and re-vegetated (probably grass in this case).

>>> Jean Fraser 1/29/2013 5:27 PM >>>

fyi- its in e-plan too; i had asked him for an MDEP confirmation too but maybe thats not needed?

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 1/29/2013 5:24 PM >>>

Hi Jean,

I have attached the Maine Subsurface Wastewater Rules for your information. I have clouded the sections that apply to the question concerning our project and the lots with leach fields located within 75 ft. of the intermittent stream (minor waterbodies/courses).

See clouded paragraphs D4, H1 and H7.

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: Fwd: Old Barn Estates - Homeowner's Documents

From: Danielle West-Chuhta (Danielle West-Chuhta)
To: Jean Fraser
Date: 2/14/2013 2:04 PM
Subject: Re: Fwd: Old Barn Estates - Homeowner's Documents
Attachments: OLD BARN ESTATES HOMEOWNERS ASSOC BYLAWS 2-12-13.doc

I have made a couple of changes. See attached. Since the City is going to accept the street I do not think that there is any reason to reference trash pick up. I would note that the Bylaws do discuss maintenance of the stormwater system, trees, and the stairs/path/easement area we were discussing yesterday.

Thanks,

Danielle

>>> Jean Fraser 2/13/2013 2:51 PM >>>

Danielle,

As just discussed with you and Barbara, please find the Homeowner's Assoc. docs that go with the submitted plats (the plat has 2 plans, as attached- I only left you the paper copy of the first plan; the 2nd plan has the notes).

Comments needed early next week if poss, thanks. (PBH 2.26.2013)

Thanks
Jean

>>> "Peter Biegel" <pbiegel@landdesignsolutions.com> 2/12/2013 7:40 PM >>>

Hi Jean,

I have attached a draft copy of the Homeowners Association Documents 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