

Final Meeting Notes
CDC/CPAC Natural Resources Review Meeting
Thursday, April 10, 2008
Falmouth Town Hall, Large Conference Room

Attendance

CDC: Councilor Joe Wrobleski, Councilor Bonny Rodden
CPAC: Hugh Coxe, Hugh Smith, David Chase, Lissa Robinson
Consultant: Jeff Simmons, Beth Della Valle
Town Staff: Theo Holtwijk, Amanda Stearns

Materials Submitted:

1. April 3, 2008 Parking Lot Issues
2. April 3, 2008 Draft Meeting Notes
3. Policy Choices for Mitigation
4. April 3, 2008 Summary of Vernal Pools
5. April 3, 2008 Summary of Wetlands

J. Wrobleski opened the meeting at approximately 7:10. B. DellaValle reviewed the materials for the meeting and suggested that the first item, mitigation for vernal pools be reviewed with a view toward mirroring the wetlands policy as might be appropriate.

1. Consider mitigation questions for vernal pools
 - **Should Falmouth allow mitigation for impacts on vernal pools?** – J. Wrobleski asked what impacts would be allowed. Road crossings were mentioned. Would we allow impact to significant pools and their 100 foot adjacent area. Should we start with breeding pools? B. DellaValle suggested the committee could either discuss alteration allowed or focus on the mitigation and then discuss how and when it would be required. D. Chase suggested that in the case of access, alteration be allowed for the resource and 100 foot buffer and mitigation be required. J. Simmons suggested that allowances could be developed provided BDPs were used and the most critical habitat area and separation of habitat were avoided. J. Wrobleski wondered how to allow impact? D. Chase suggested for small projects such as septic systems and foundation drains that they be exempt. H. Coxe offered that the development allowance in the commercial districts is a perfect place to allow and require mitigation.

J. Simmons explained that mitigation covers everything from avoidance to creating new pools to compensation by protecting other pools. Creation of pools can be difficult and typically the state and feds allow preservation both on and off site. B. DellaValle added that depending on the project there might be a range of response, creation, restoration, restoration of habitat, enhancement and preservation. L. Robinson asked where else is mitigation being required. J. Simmons replied that most mitigation is for wetlands, DEP is starting to look for compensation for uplands to vernal pools but no standards yet. It seems to be an acceptable practice to preserve lands but

there are trade offs. The state ratios are 8:1 for preservation and 2:1 for restoration or creation for either pool or upland habitat. With the town asking for preservation it can provide protection in areas that have been identified. J. Wroblewski supports allowing impact and requiring mitigation off-site in commercial districts for any use. B. DellaValle suggested comparing the policies set for wetlands and see what parallels can be drawn to make the two policies as consistent as possible.

- If so, should mitigation be required to take place in certain areas?
- What is the appropriate threshold for Falmouth? Should it vary by location in town or by value of vernal pool?

The group discussed mitigation on and off site. This discussion also included where and when to allow alteration. Areas mentioned were commercial districts, those “exempt” individual lots (three categories) where mitigation would not be required, and access to parcels. D. Chase suggested that maybe flexibility in all areas should be considered as no disturbance might not allow for trade-offs in preserving other equally valuable resources. H. Smith is in favor of allowing alteration in new conservation subdivisions provided proper review is completed. L. Robinson expressed concern for broadening of disturbance allowances. J. Wroblewski supported alteration in subdivisions in the right situations and with mitigation. B. Rodden also agreed with this direction.

The group discussed if alteration should be treated differently depending on the type of pool and the specific area of concern (resource, within 100 feet, between 100 and 250 feet, and between 250 and 750 feet). J. Wroblewski suggested why not treat the impacts the same. The group also discussed the different pool types, significant and breeding and realized that the dividing point could literally be one egg mass. J. Wroblewski suggested that since the ability to alter the area of concern was already different depending on the type of pool except for the resource and the first 100 feet, that for mitigation it would make sense to treat all areas the same.

State regulation and the ability to alter the resource. Requiring all permit applications to be submitted was mentioned. Consideration should be made for having the same mitigation policy for administrative simplicity.

T. Holtwijk suggested that one consideration could be that any portion of the area altered would require “in-kind” or like mitigation. The committee agreed with this concept. The group also agreed that mitigation should be determined by the permitting authority.

- What ratios of alteration to mitigation should guide mitigation requirements? B. DellaValle suggested placing the ratios in the parking lot for now.
- Where should mitigation take place? It was a consensus of the group that the following order should apply: On the same parcel, Within Falmouth in the same watershed, Within the same watershed.

- Should mitigation thresholds be the same for all types of activities or should some types of activities be exempt? The group discussed the relative area of the different areas of concern and whether an absolute number should be used or a percentage of the total resource of area of concern.

The group agreed that wherever policies were transferable between wetlands and vernal pools they should be consistent.

- How should selection of mitigation sites be coordinated with the Town Ombudsman and/or Conservation Commission? Should mitigation locations be tied to specific documents such as the Town's *Open Space Plan* or *Mitigation Properties Available in the Town of Falmouth*? This was set aside for now.
2. Consider how treatment of vernal pools and wetlands play out in conservation subdivisions – run scenarios/use graphics on maps drafted by staff – T. Holtwijk handed out a sketch of a concept subdivision and noted that with the protections already in place large portions of land will already be set aside and most likely include the areas of vernal pools and their adjacent habitat as they are defined as Primary Conservation Areas. He also handed out some concept setback sheets showing different scenarios for a structure for different types of pools and different setbacks.

3. Consider clarifying questions about Summaries of Draft Vernal Pool and Draft Wetlands

Summary of Draft Vernal Pool Discussion

- a. To reduce burden for those who propose small projects, should Town revise vernal pools map to provide alternative to site assessment by qualified professional? The discussion continued about the impact to the home owner and smaller projects. Most agreed that it would be fair to have resources available to individual property owners to assist in the process. A great deal of discussion focused on the minimal impact issue and how to address. The group asked for a map to show the extent of the resource and the area of concern as it relates to parcels and existing building setbacks. Staff will prepare these maps for the next meeting.
- b. Should altered areas between resource and 100' count toward 25% limit in 100-250' area? Yes, it should count. If altered for existing stormwater facilities, should it count toward 25% limit? Yes it should count.
- c. Should restoration of previously altered area be allowed to meet 25% standard? Maybe, if the Planning Board has flexibility they could negotiate this. May applicant improve previously altered habitat located in "no alteration areas"? Yes
- d. In off-site impacts section, Committee indicated that Town may allow temporary alterations if area "is returned to a condition with the same drainage patterns and the same, or improved, cover type that existed prior to the alteration." Should this provision be extended to *areas of concern*? Yes. Should statement be qualified to prevent frivolous alterations and/or

elimination of resources that can't be readily replaced, like 100 year-old trees?
Yes.

- e. In applying "flexibility," can Town require reduction in number of lots or square footage or require taller buildings with a smaller footprint to avoid/reduce impact? No
 - f. Should there be a limit on amount of expansion of an existing developed property? No
 - g. Development proposed in commercial zone must undertake an alternatives analysis to guide flexibility. Exempted uses/lots must try to avoid or minimize impacts on factors described in alternatives analysis; but formal analysis is not required. Would alternatives analysis be required for exempted an use/lot in commercial zone? These would be reviewed by the Planning Board.
 - h. For off-site vernal pools, is review limited to adjacent properties or to all lots within *area of concern*? Should apply to all lots.
- Summary of Draft Wetlands Pool Discussion (some of the questions regarding vernal pools, may also apply to wetlands);
- i. Committee previously decided that new regs shouldn't apply to Tidewater. Should they apply to Open Space Residential Districts? No, they should not apply to special pre-negotiated districts approved by the Council
 - j. What in-house resources will Town use to guide assessment of off-site wetlands? Staff to determine this.
- 4. Next Steps for the Workshop with Town Council/Public Outreach Efforts – Need to address date. H. Smith, K. Farber and D. Chase do not believe the committee is ready to go to a public workshop.
 - 5. Approval of minutes from January 23, 2008; February 13, 2008; February 20, 2008, March 6, 2008, March 19, 2008, and April 3, 2008 – postponed to the next meeting.
 - 6. Next meeting agenda, date, and time – Wednesday, April 16, 2008
 - 7. Adjourned – 10:20 p.m.

Draft minutes prepared by A. Stearns, April 16, 2008
Rev. April 18, 2008 Theo Holtwijk
Rev. April 25, 2008 Theo Holtwijk