

**FALMOUTH PLANNING BOARD MEETING MINUTES  
TUESDAY, FEBRUARY 5, 2013, 6:30 P.M.  
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

**MEMBERS PRESENT:** Bill Lunt (Chair), Kermit Stanley, Jay Chace, William Benzing (Alternate), Rudy Israel (Alternate)

**MEMBERS ABSENT:** Bernard Pender, Becca Casey

**STAFF PRESENT:** Ethan Croce, Senior Planner

The meeting was called to order at 6:33 pm.

William Benzing and Rudy Israel were appointed voting members.

**1. Approval of minutes from the January 8, 2013 Planning Board meetings.**

Jay Chace moved to approve the minutes; Kermit Stanley seconded. Motion carried 5-0.

**Administrative Action Items**

**2. Sign Design, Inc.** – 46 Gray Road - Request for approval of a new 48 sq. ft. wall sign. Tax Sheet 452; Map-Lot R05-046. Zoned MUC, LR & RP (Shoreland) and Route 100 Corridor Overlay.

**3. Sweet Fern, LLC** – Sweet Fern Lane – Request for a private way amendment to allow for overhead utilities. Tax Sheet 471; Map-Lot R04-082-J, R04-082-K, R04-082-L. Zoned RA and RCZO.

Jay Chace moved to approve the Administrative Action Items; Kermit Stanley seconded. Motion carried 5-0.

**Agenda Items**

**4. Kyle Noyes** – 234 Middle Road - Request for approval of an 18 sq. ft. wall sign for Farr Horizons. Tax Sheet 234; Map-Lot U23-002. Zoned MRSD.

Ethan Croce explained that this application was before the Board in December; it was tabled at that time due to concerns with the colors and verbiage of the sign, each of which conflicted with the design guidelines. The applicant has submitted a revised sign design which conforms to the guidelines in terms of colors, though it still contains 47 letters and 15 bits of information, exceeding the guidelines limitations of 30 characters/7 bits of information. There are also outstanding peer review bills from the property's redevelopment in 2009; payment of those should be a condition of this approval.

Kyle Noyes of Sign Design said his client doesn't feel she should be penalized for the length of her business' name. She feels it is necessary to describe her services on the sign. There are several cases of other signs in town that describe services. It is unfair to small business to prevent them from advertising services in their signs; they don't have the advertising budget to get the word out about what they do. He submitted photos to the Board of other signs in town. Decorum Lighting, located in the same building as this applicant, has a sign that includes advertising of services.

Bill Lunt said the Board has been dealing with the issue for a long time. There is a lot of lettering on the sign in this application. There are many ways that this could be reduced to fit the guidelines. He cannot support the sign as presented.

Mr. Noyes argued that all the sign has is the business name and two services, both of which have a lot of letters. He asked why they permitted the signs in the photos he submitted.

Bill Lunt didn't think the Board had permitted those signs.

Jay Chace felt the guidelines allow the Board flexibility. The goal was to reduce clutter and allow drivers to read signs quickly while they drive by. He was fine with the sign as submitted.

Bill Benzing felt it is an improvement from the last design submitted in terms of colors, size and shape. It doesn't fit in with the building. There are too many letters and bits, but he didn't think there was a way around that. He was tempted to allow this sign. He didn't think this Board had approved the signs in the photos.

Kermit Stanley felt it was an improvement from the last submission. He agreed with Bill Benzing; he was leaning toward making an exception in this case.

Rudy Israel agreed; he felt they had flexibility in this case and allowing the types of services on this sign was appropriate, though he felt people who go to this site would already know what services were offered.

Public comment period opened; no public comment.

Ethan Croce said the only conditions would be payment of the outstanding peer review bills and that the applicant must receive the necessary permits.

Mr. Noyes said the applicant was not aware that the bills would become a condition on this approval. Ownership of this building changed hands very recently, and those bills were the responsibility of the previous owner. They are currently negotiating payment of those.

Bill Lunt said those bills are not tied to the owner but to the approval of the property. They really need to tie those to this approval, and it is up to the applicant to deal with the issue.

Jay Chace felt it was a small claims issue with the prior owner. He wondered what those bills were for.

Ethan Croce said when the property came to the Board in 2009 for site plan approval, it underwent architectural peer review. The peer review bills from that approval, which the Town tried to collect from the previous owner, are still outstanding.

Mr. Noyes said those bills were outstanding before this application was submitted and before she took ownership of the building. He didn't think those should be tied to this approval.

Bill Lunt felt that was irrelevant; the debt is tied to the property. Kermit Stanley and Rudy Israel agreed.

Jay Chace moved to approve the application, with the condition that prior to installation of the sign the outstanding peer review bills shall be paid; Kermit Stanley seconded. Motion carried 4-1 (Lunt).

**5. (Item Tabled) David Chase** – 50 Gray Road – Request for sketch plan review of a proposed self-storage facility. Tax Sheet 451; Map-lot R05-045. Zoned MUC, LR & RP (Shoreland) and Route 100 Corridor Overlay.

**6. Andrew Berube** – 4 Ledge Rock Circle – Request for sketch plan review of a proposed amendment to add one new lot to the Foreside Arbors II Subdivision. Tax Sheet 83; Map-lot U60-014-W. Zoned RA and RCZO.

Ethan Croce said this application will trigger conservation zoning, which will require the creation of an open space system and trail connections. The subdivision ordinance requires that side lot lines be substantially at right angles to street lines; there are difficulties meeting that requirement with the steep slopes on this lot. The driveway on the site is at a 15% grade, the limit of what was allowed by the Board in 2006. The Board should determine whether the lot configuration complies with the ordinance provision. A Master Development Plan is required for any lot with less than 125 feet of street frontage; that should be submitted for this application in the future along with documentation of the 4 step design process. Staff have discussed with the applicant the potential of providing more open space at the back to the lot, abutting land owned by the Falmouth Land Trust. Identification of trees of a caliper greater than 15 inches will be required. There are a couple of opportunities here for trail, pedestrian and bicycle connections: one to the Land Trust property, and another along a pedestrian easement to Johnson Road. There is a requirement for a landscape architect to be attached to this project, unless a waiver is requested. There is some question as to whether an amended DEP approval will be required. Updated stormwater calculations will be necessary for the additional impervious surface. This application is showing the common driveway traveling through the 50 foot wide, no-disturb buffer strip required by the Conservation Zoning Overlay.

Rick Licht of Licht Environmental Design, representing Andy Berube, explained the location of the property. The lot is 2.85 acres and is undeveloped. They are looking at splitting it into two house lots to offset the cost of building the driveway. There is a long, landlocked strip that belongs to the Falmouth Land Trust that abuts this property. There is a 12 foot pedestrian easement that crosses from Johnson Road to the corner of this lot. There is an existing rough drive that was created in 2006 during the creation of the rest of the subdivision; they did it then because they wanted to blast it while they were blasting everything else. It is not drivable. The lot is almost entirely ledge. They discussed the application of the RCZO to this project. This is only one lot and the RCZO is meant to apply to larger subdivisions. This complicates this project. The property has 125 feet of frontage on the cul-de-sac; the Board can reduce that to 62.5 feet under the RCZO. With 2.85 acres they need 1.54 acres of total open space to meet the open space requirements. Because of the steep slopes, they ended up using the buffer of the property to constitute the open space. What remains after taking out the open space is these two, odd shaped lots which, at 29,000 and 30,000 sq. feet, exceed the minimum requirements. He agreed that lot lines are supposed to be 90 degrees to the street; in this case they did the best they could. The lot width for these two lots narrows to 30-50 feet further into the property. They understand that they need to do an individual site development plan for each lot as well as the Master Development Plan. He spoke about the open space configuration; they do have a trail connection at the very back to the property. They approached the Land Trust to see if they were interested in acquiring some of the back of the lot; the Land Trust felt it was a good opportunity to have a connection from the parcel to the street system in the Arbors. Unfortunately it would be difficult to provide trail access to Ledge Rock Circle due to the topography. The other option is for the trail to go across the 12 foot wide easement to Johnson Road. The driveway does go into the 50 foot buffer; the ordinance gives the Board flexibility as to the treatment of the buffer. They would agree to additional plantings in the buffer along the driveway. They would ask for a waiver on the tree identification; the wooded areas are where they are on the site. The second waiver was for a landscape architect; they feel they can do the evaluation with the team they have. They would likely hire a landscape architect for the plantings. The project drains to a wet pond; they have talked with the DEP and this project will trigger a minor amendment to the previous DEP permit. This project was done prior to the new standards. A lot for one house was already approved; all they would be looking for would be the addition of one house. They would put in any treatment standards that were required on the

lot. He showed some photos of the site to the Board and discussed some of the features of the site. It is a very wooded lot, surrounded by wooded buffers.

Jay Chace asked if the roughed in driveway is in the location showed on the previously approved plan, or on the submitted sketch plan.

Mr. Licht said the drive shown on the sketch is the current location of the drive; they had a survey of the site.

Bill Lunt asked about connectivity of the open space. He wondered why they couldn't use the driveway for the connectivity.

Mr. Licht said it was difficult selling point for the lot to allow someone's private driveway to also serve as a trail connection. The other side of the lot has a very steep slope and is unsuitable for a trail. The other option is to allow the existing 12 foot easement to Johnson Road to be a trail connection.

Bill Lunt thought the roughed in drive is contrary to the original plan. Relocating it to conform to the original plan is not a good idea. H was willing to leave it where it is, but since it is located in the open space, he thought it could be used as a trail connection as a compromise.

Mr. Licht said they hoped the open space could be either a covenant on the lot, or added to the homeowners association. It says in the ordinance that the open space parcel can't be part of the lots. If the Land Trust does not want to acquire the land, he asked how the open space would be deeded out. He wondered if the lot owners could have exclusive interest deeded to them.

Ethan Croce confirmed that it has to be a common open space lot, and cannot be part of the underlying lots in fee. The Land Trust, the Town, or the homeowners association are all options. This is a non-waiverable provision.

Bill Lunt asked the Board to address the request for a waiver on a landscape architect. Jay Chace felt the concern was in regards to buffering the driveway from the southerly abutters. Relocating the drive would be more detrimental than reclaiming that area, so he felt it was important to include a landscape architect. If they want to waive that, they should show that they are planning some standard of buffering along the drive. Rudy Israel and Kermit Stanley agreed.

Bill Lunt asked the Board to discuss the configuration of the lots. He felt if they have the ability to allow the changes, he was willing to look at it. He agreed that the RCZO was not designed for a lot as small as this. He didn't have a problem with it. He asked how the driveways would access the houses.

Mr. Licht said the shared drive ends at the top of the hill. There would be an easement to the benefit of lot 10 over lot 11 to allow underground utilities and driveway access. There would also be a maintenance agreement.

Bill Benzing didn't think they had any choice with the design, if they were going to have two buildable lots in there. His biggest concerns were the easements and the maintenance agreement.

Mr. Licht said this will require an amendment to the homeowners association.

Rudy Israel would like to get a better sense of the driveway the Board approved in 2006 versus what they are proposing.

Mr. Licht showed the approved subdivision plan updated to reflect current conditions. Note 19 on the plat references the driveway plan that shows driveway grades of 15% or less, and the provisions for the driveway. They would accept those same provisions for the development of these lots. The drive that was blasted conformed to what was approved except for its location, which was moved due to site conditions. The only deviation from the approved plan was the location of the drive and that was due to the location of the ledge face.

Jay Chace pointed out that the driveway was not shown on the subdivision plan.

Mr. Licht said the plat did not have the driveway; the plan did and included the note.

Jay Chace said the note referred to having a blasting plan and the location approved by the Town Planner; he asked if that was done or are they asking the Board to approve something that was blasted without the necessary approvals.

Mr. Licht clarified that this is not a final driveway, and no building permit has been issued; all that has been done is the blasting on the site.

Andy Berube, applicant, explained that when the subdivision was approved in 2006 the drive was not approved for a particular location; the location was a concept to show that they could get a 15% grade. Before he built on the adjoining lots, he had a surveyor go out to evaluate the best location of the drive because he was going to have to present that to the Town. They ended up blasting the area where the grades would be closer to 12% instead of 15%. This happened in 2007; he didn't want to blast after putting in foundations on the other lots. He didn't mean to do it illegitimately; he felt it was better to have less of a grade.

Bill Lunt pointed out that it wasn't done with a plan, as required by the Board in the approval.

Mr. Berube thought he had to present everything before he got a building permit.

Bill Lunt felt they needed clarification on this issue, and a lot more information as to why it was done. Since that land was disturbed, and not according to the approved plan, they will need good information regarding buffering along that property line; that may require a landscape architect.

Mr. Licht said if they are going to do plantings, they will be done by a landscape architect. The ordinance requires a landscape architect to do the site analysis; his team is qualified to do that analysis themselves. He withdrew the request for the waiver.

Bill Lunt asked the Board to discuss the waiver on the identification of trees of a caliper greater than 15 inches. He asked Ethan Croce what benefit they would get from the identification.

Ethan Croce said it is a requirement; the applicant should justify why the waiver should be granted.

Bill Lunt felt this identification could be handled easily if they have a landscape architect.

Public comment period opened.

David Gooch of Johnson Road said when the lot was clear-cut the water flowing off the lot increased to the point that the Town had to install a catch basin on his lot. He didn't hear anything about stormwater containment or a drain line running down the drive. The drive is on the escarpment; it is not a ledge face but a quarry and it is a straight vertical drop off the side of the drive. That is going to create a waterfall and increase runoff onto his lot. He understood they didn't want pedestrians walking along the driveway, but the 12 foot easement they are talking about is his neighbor's driveway. He felt the Board should do a site walk to evaluate that driveway before they approve it, and there will need to be stormwater containment or it will wash out his property.

Public comment period closed.

**7. Portland North Partners, LLC** – 60 Gray Road – Request for sketch plan review for a 3,905 sq. ft. drive-thru restaurant. Tax Sheet 451; Map-lot R05-045-B. Zoned MUC and Route 100 Corridor Overlay.

Ethan Croce said this is a sketch plan for a 68 seat McDonald's restaurant. Siting of this building would require the removal of one of the three buildings on the site. Modifications to the traffic circulation on the whole site opens up full evaluation of the site. The applicant as requested a waiver on the requirement that

all off-street parking be located outside the front setback; they are showing 4 spaces within that setback. Their second waiver request is on the 200 foot separation distance between curb cuts because they are proposing a right turn slip lane. This lane would also need a waiver from the requirement that access to a drive-thru must be off internal drives. The design guidelines encourage internal and external pedestrian/bicycle connections, and the Bicycle and Pedestrian Master Plan requires sidewalks along the Route 100 frontage. Options for providing that sidewalk include across the property's frontage, or across the street to connect to the sidewalk on the east side of the Presumpscot Bridge as suggested by Town Engineer Jamie Mason. The Board should evaluate the parking needs for all three commercial buildings. The applicant initiated a peer review for traffic, and Mr. Errico the town's traffic Peer Reviewer has raised a number of issues, though he has taken no position on the waivers for the proposed right hand slip lane. He has asked for further information from the applicant's traffic engineer before weighing in on that item. The Exit 10 design standards for architecture will apply to this project; the applicant has submitted a design concept for the building and has been informed that an architectural peer review will be required for the project.

David Latulippe, representing Portland North Park, explained the history and location of the site. The proposed restaurant fits well within the site and would be an improvement over the older, cinder block building currently on the corner of the site. He discussed the proposed slip lane, which would lead into the one-way traffic circulation around the building. They are locating the drive-thru internal to the site, in recognition of the zoning. There is a lot of green buffering at the front of the property, due to the MDOT land at the interchange. There is no real curb cut for this lot; it gets its access off a private 50 foot right-of-way. There is a median that would prevent left-hand turns from the other lane of Route 100. The slip lane meets the 200 feet separation distance from the turnpike, but not from the right-of-way. Taking left turns out of the right-of-way might create a stacking condition; the benefit of the slip lane would be to allow people to take a left turn while traffic is taking the right into that lane. The slip lane is a critical component for the potential tenant. The 4 spaces in the front setback would typically be considered side parking, due to their location related to the building; they are only in the front setback due to the unique configuration of the lot. They would add internal sidewalks on the site, as well as try to get a pedestrian connection to the Park & Ride spaces on MDOT's property. They are willing to put the sidewalk where the community would like it, though they are concerned with putting it across the street due to the slope. That sidewalk would also end at the Hannaford access drive, and there is no sidewalk there. They felt that would be unsafe. He pointed out that there are right slip lanes at the Hannaford and Irving's locations further down the street.

Tom Gorrill, of Gorrill Palmer, discussed the slip lane. With the median it would be hard to do anything other than a right only lane. They felt they would get 1 car per minute using that lane at peak times. It is a small speed differential in that area. A right into the private right-of-way would complicate the left turning out of the right-of-way. This conflict would be removed with the slip lane. They were concerned with the 2 through lanes at the entrance to the turnpike. Watching the lane uses showed that most traffic is in the lane adjacent to the median in that location. He felt this slip lane would operate safely. When the upgrades were being done, the Town requested an additional lane on the bridge in consideration of traffic into this site, but they were not able to get that additional lane. Long-term for the site they would like a roundabout in Route 100 to make all turns right hand turns. The developer is planning to reserve the land so that a roundabout could be done at a later date. They can do updated traffic counts if the Town requires it, but they did traffic counts in 2012 at this site, and in 2010 at the turnpike entrance. There is room to go around a car coming from Portland turning left into the site.

Bill Lunt was concerned about the conflict with the acceleration lane out of the turnpike and the slip lane. Those cars are starting to accelerate, and they would have cars braking to enter that lane.

Mr. Gorrill said that was a concern they addressed. What they observed is that people are coming into the inner lane rather than the outer lane when they leave the turnpike. There is a wide right turn radius that addresses the speed differential.

Mr. Latulippe said they spent a lot of time observing traffic out there at different times of the day, to address that concern.

Mr. Gorrill said they can do more recent traffic counts; the numbers between the two studies they did in 2010 and 2012 are fairly consistent with each other.

Bill Lunt wanted justification for the slip lane; he didn't want to approve something that would complicate the right-of-way intersection and potential future roundabout. He wanted to see something on the current conditions and the future conditions. He didn't want there to be unintended consequences.

Jay Chace agreed; he felt the Town sees this becoming a more commercial area in the future. He wanted them to demonstrate that this slip lane is going to benefit the intersection. He pointed out that the installation of the roundabout might address the issues the slip lane is meant to address; he wondered if that roundabout would make this slip lane unnecessary.

Bill Benzing agreed with the assessment that people turning off the turnpike do not enter the rightmost lane. He asked about traffic exiting from the right-of-way onto Route 100; there is a lot of stacking that happens on that drive.

Mr. Gorrill said there is no need for a traffic signal at that intersection at this point. One of the benefits of the slip lane would be taking those right turns off that drive, providing a break for the people taking a left-turn out. The low level of service for the left turn out would not warrant a traffic light. A roundabout would ultimately take care of it.

Mr. Latulippe said the drive-thru traffic is self-limiting; the restaurant would only have people leaving every 2-3 minutes instead of all at once.

Bill Benzing wondered about the sidewalk; he thought they had to look at where it would go to help accessibility.

Mr. Latulippe said they are going to do a lot internally; they don't see people walking here from Hannaford. This isn't a very walkable area.

Bill Lunt said the zone requires the sidewalks; the ultimate plan is for it to connect. He felt they had to continue looking at it. He would be interested how much footage is required by the ordinance on their side of the street, and where it would end up on the other side of the street. He was very concerned with the slip lane and would like more information on it.

Jay Chace would like to see the applicant come back with information on sidewalks on the other side of the street. He wondered what the parking spaces on MDOT land are used for; a pedestrian connection to that area might encourage people to park there for the restaurant and he wanted to see more details on how that might work.

Joe Cooper, property owner, discussed the history of the roundabout suggestion. When the bridge was being done they approached MDOT about a left turn lane into the property, but it was too expensive. In looking at how to develop this area, the roundabout was proposed. They discussed it with the Town and he was open to donating the land to install it. The tenant has said the right slip lane is essential; there would be no need for the roundabout if this development does not happen. They are bordered by the turnpike and the river; there is 40 acres of property to develop overall. This development is the first step to bring this area up to where it will need that roundabout.

Public comment period opened.

David Chase, owner of the adjacent property, discussed his experience of using Route 100 to access this site. He has almost never had anyone cut him off as they exit the turnpike and he is always turning right into the property. He thought they could install a stop sign at the slip lane off the turnpike. He would rather see the slip lane going into the site and he didn't think it would be an issue. He asked if they could get three lanes at the right-of-way entrance, so they could get a right turn out lane so people could get out headed to Portland without waiting for the left turning traffic. He supported the project.

David Libby, owner of the adjacent property, owns the right-of-way with David Chase. He felt the slip lane was common sense. There is only one lane of traffic going onto the bridge. He has owned this property for 36 years. Filtering off the McDonald's traffic at the slip lane would reduce the amount of traffic heading towards the bridge and using the right-of-way. He felt McDonald's knows what they are doing. He felt they would be an asset to the Town. They will make a nice-looking entrance.

Jonathan Berry, president of Falmouth Economic Development Committee (FEDC), spoke for the FEDC in support of this application. He pointed out that the Town's focus is on Route 1, while the business owners of Route 100 are waiting. This project is the start of something better. They can't legislate for speed demons on the road that are breaking the law. The Town needs economic development.

David Banks, of Re/Max by the Bay, said he is not representing the application but spoke of development in West Falmouth. He uses the right hand turn for the McDonald's in Windham and thought the Board could look at that. He felt it would benefit the homeowners of Falmouth to have more commercial development on Route 100.

Public comment period closed.

Mr. Latulippe spoke about the architecture. They forwarded the design standards to McDonald's Corporation; the concept provided is not standard for McDonald's but is what they call New England, with the brick work and fenestration. This is their first attempt, knowing there would be Board comments.

Jay Chace said he has focused on the site design; he would await the peer review comments.

Bill Benzing felt this was consistent with other locations in the greater area; there is one like this in Bridgton. This is a newer, modern McDonald's. He wasn't sure how this fit with the Route 100 guidelines. He liked how they are trying to hide all the rooftop elements.

Bill Lunt said they have addressed this issue before, with the Wendy's on Route 1. That building doesn't match a traditional Wendy's but is more suited to the guidelines. This building doesn't meet the guidelines in quite a few areas. He suggested they start with discussions with the peer reviewer. They can do more to meet those guidelines, even though they may not like all of them. He felt they would be able to work in some of the design elements outlined in the guidelines.

John Cusick, representing McDonalds, asked for clarification on building materials, color schemes, materials, raising parapets and cornices. They cannot do a peaked roof. They have addressed similar issues with other communities looking for colonial architecture.

Bill Lunt said one of the big ones is to avoid long, flat roofs. He suggested they try to break that up.

Jay Chace pointed out that they are trying to further development along Route 100; this property is a gateway to the community from both Portland and the turnpike. He encouraged them to continue the tone set by the shopping center and the daycare. All the guidelines are important. He would need to hear why the peaked roof would not work. McDonald's has their branding, but Falmouth has its branding as well, which is laid out in the guidelines.

Bill Lunt referred them to the guidelines for questions about materials; the goal is not to make it look like the building next door, but compatible with the building next door. He pointed out that design features can break up the long expanses.



Mr. Latulippe complimented the property owner; the discussion of the roundabout came from the Town Council and Mr. Cooper has spent his own money to research this issue along with Mr. Chase and Mr. Libby.

**8. (Item Tabled) Paul & Janis Walsh** – 227 Foreside Road - Request for Shoreland Zone approval for a permanent stairway and pier and temporary ramp and float. Tax Sheet 162; Map-lot U16-087 & U16-088. Zoned RA, LR (Shoreland), RCZO and WVOD.

**9. TPO Properties, LLC** – 26 Ledgewood Drive - Request for preliminary subdivision approval for the 14-lot Old Barn Estates Subdivision. Tax Sheet 512; Map-Lot R04-068-E. Zoned RA and RCZO.

Ethan Croce said this property crosses municipal boundaries, so they are looking for approval from both Falmouth and Portland. They are tentatively scheduled for approval in Portland at the end of February. Staff have been in touch with Planning staff in Portland in regards to this project. The Falmouth Board is concerned with those elements of the subdivision that impact land in Falmouth. The applicant requested a waiver on the joint municipal review process; this waiver was granted by Falmouth in August and by Portland in October, though Portland kept the possibility of holding a joint meeting open. The applicant has requested a waiver on a full traffic study. The Board requested that a traffic engineer assess the impacts at the intersection of the subdivision as well as at the intersections of Ledgewood and Middle and Ledgewood and Allen; the applicant's traffic engineer indicated that there are no current problems at either intersection and they don't expect any as a result of this development. The applicant is also requesting a waiver on street lighting; they want to use the existing light at the intersection of Slocum and Ledgewood instead of installing a new light. They are proposing a new street light at the hammerhead. The applicant has been in touch with the Land Trust to discuss a connection to the Portland dog park trails. The ordinance speaks to the preservation of mature tree stock and buffering along the streetscape of Ledgewood Drive. Staff has asked the applicant whether there was an opportunity to maintain any of the existing trees on the open space parcel, as it will be mostly clear-cut to install the stormwater management structure. Staff has also asked how the no-disturb stormwater buffers will be marked in the field. The stormwater report did not include an analysis for the 100 year storm. Town Engineer Jamie Mason has made comments regarding shifting drainage and catch basins to prevent possible icing issues. The setbacks for the building window for lot 13, the only building lot within Falmouth, should be amended to reflect the front setback off Ledgewood Drive.

Peter Biegel of Land Design solutions, representing the applicant, showed a plan detailing the parcel and its location in relations to abutting properties. The road entrance would be directly across from Slocum Drive. The house lot located in Falmouth already has a house on it, which will remain. They are cutting that lot in half with the subdivision road. He discussed the approval process between the two municipalities. They didn't want the road to go all the way to the property line in the back, since it leads to the Land Trust property and there is therefore little chance of a connection there. Each end lot now incorporates the road's right of way to the property line. The plan originally had a section of road that extended in the other direction; it was discovered that it would impact a stream, and the cost associated with building it to Portland standards made it cost-prohibitive without lots on both sides. Tom Errico has reviewed the traffic for Portland and has raised no issues. Portland has been satisfied with it. They are still requesting the waiver on a full traffic study.

Ethan Croce confirmed those statements regarding Ton Errico's review of the project.

Jay Chace asked if Ethan Croce has had discussions with Mr. Errico. He wondered if Mr. Errico has considered the traffic impacts from Falmouth's standpoint, as well as Portland's.

Ethan Croce said Mr. Errico determined that Portland should not require a full traffic study. Ethan Croce said he has read two reports Mr. Errico sent to Portland. He couldn't say that the analysis looked at the intersections.

Mr. Biegel said they submitted Mr. Eaton's reports to the City, so they were passed on to Mr. Errico. He can't say whether he reviewed those intersections. He thought looking at a subdivision's traffic was mandated by state statute.

Jay Chace was not quite comfortable with the waiver; he felt it wasn't a big stretch for them to submit what they have to Falmouth for review.

Rudy Israel agreed; without some assurance that a traffic engineer has looked at the impacts on the intersections he would be uncomfortable granting a waiver.

Mr. Biegel said the last paragraph of Mr. Eaton's letter speaks to the number of peak hour trips and states that it would have no impact. It goes on to state that he has spoken with Mr. Errico about this issue.

Jay Chace would like to see something from Mr. Errico on Falmouth's behalf. He felt there was enough information in Mr. Eaton's report for Mr. Errico to review.

The Board requested that Mr. Errico review the traffic for the Town.

Mr. Biegel said they approached Portland about a narrower street, but Portland was not in favor of that. They have requested a waiver for the sidewalk on one side.

Bill Lunt felt the design of the road is on Portland, since they are going to own it in fee. His prime concern was the drainage issues.

Jay Chace asked if the proposed sidewalk will line up with the sidewalk on Slocum. Mr. Biegel said yes, and there will be a crosswalk across Ledgewood.

Mr. Biegel said there is a trail off the end of the road, which will link up to the trails at the dog park. When the Land Trust finalizes agreements on building and maintenance of the trail, they will have those documents for final approval. Their only involvement is paying for the trail.

Bill Lunt asked if there is an easement for the trail that extends from the sidewalk to the property line. That crosses private property. Mr. Biegel said there is an easement for that.

Jay Chace was concerned with that arrangement; he wondered if they had explored deeding that small strip to the land trust, to ensure that it will be maintained in perpetuity. The maintenance of a pedestrian easement across private property could be problematic.

Mr. Biegel said there is an outlet from the catch basins in that area and there is an easement along the length of the property line. That trail is probably going to be a blazed trail. The homeowners association is going to maintain the stormwater in that area anyway. There will be a work being done all through there so he didn't think it would be a problem to maintain the trail as well. They are going to extend the paved sidewalk all the way to the property line.

Mr. Tim O'Donovan, applicant, said there is a detention basin that the homeowners association will have to maintain, and there will be a gravel path that leads to it. The association documents are very specific as to what has to be maintained.

Ethan Croce asked if it is true that the city doesn't allow paper street connection to abutting properties.

Mr. Biegel said they would not allow the right-of-way to extend to the property line without it being paved.

Bill Lunt felt the chances of it getting closed off are slim, with a deeded easement and the paved sidewalk. He was comfortable with it.

Mr. Biegel said they would install pedestrian crossing signage at Ledgewood. He spoke about buffering the open space parcel that will contain the stormwater facility; it is an underdrain basin. They don't have room to move it, as it is located in the lowest area on the property. They will end up clearing a good portion of it, but they may be able to avoid one area of it. It is very rocky, ledge filled land. They would be glad to do more buffering if there is the opportunity. They aren't going to cut any more than they have to. Likely they will plant more than they are showing. He showed the tree save areas on the plan as well as no-disturb buffers. Those areas will be pinned so they are clear to lot owners. They will supplement some of the buffer in an area that is not as heavily wooded, in order to further the buffer on Ledgewood. He indicated the location of catch basins. They will add an additional catch basin as suggested by Mr. Mason.

Bill Lunt asked where the road water goes; Mr. Biegel said it goes to Ledgewood and follows the curb.

Mr. O'Donovan said half of it goes to the ditch on the left side of Ledgewood. They will meet with Mr. Mason again about that.

Mr. Biegel explained that they used the culvert as their analysis point as it was the most downstream point. The property line is in a wetland and there is nothing there.

Ethan Croce said the ordinance requires them to look at pre- vs. post-development peak flows at the property line of the subdivision but analysis at the culvert would have to be done anyway. It is up to the Board whether they want to grant a waiver on this requirement. Peak flows from this development are going to reach that culvert well before the flows from upstream. It is a technical requirement of the ordinance that they look at it at the property line.

Mr. Biegel said they have not discussed this with Mr. Mason.

Bill Lunt would be more comfortable granting a waiver on the analysis at the property line, but he wanted to hear from Mr. Mason on the issue. He needed justification for any waiver on this issue.

Mr. O'Donovan said that Portland stormwater standards are more demanding than both Falmouth and the DEP.

Mr. Biegel said they had thought they would need a stream crossing permit-by-rule, another permit-by-rule for two septic leech fields within 75 feet of the stream and a permit-by-rule for the disturbance within 75 feet of the wetland. He has since discovered that they don't need a permit-by-rule for either the septic systems or the culvert at the wetland, because the wetland is impounded. They submitted the stream crossing notification to DEP today. They will revise the setbacks for lot 13; the lot will still work with that revision. They have not heard back from the City regarding street lighting; it is a technical standard and he thought staff would recommend that they follow their standards, though the Board can overrule them. He said the applicant will request that the City approve the lighting plan they have submitted.

Bill Lunt asked if they need right, title and interest for the land in Falmouth that the City will own. Ethan Croce said no. He would ask the Town Attorney to review the proposed solution for the right-of-way. Mr. O'Donovan said they are simply giving the City the fee for the right-of-way, not changing the town boundary.

Ethan Croce said Mr. Mason suggested a drainage easement for maintenance of a swale.

Mr. O'Donovan said the water from the reconstruction runs along the side and then the back of the property. They have no issue with either a right-of-way or an easement; it is all common open space in that area.

The Board indicated agreement with the lighting plan as proposed; it is compatible with what they typically do for subdivision in Falmouth. They also supported the request for a waiver from Portland.

Planning Board Minutes

February 5, 2013

Page **12** of **12**

Mr. O'Donovan said they are now proposing that the existing lot in Falmouth retain its frontage on Ledgewood. This way the lot will retain its Falmouth address, which it has had for 15 years, and will not be part of the homeowners association. The traffic engineer and the City are fine with this proposal.

Ethan Croce read draft conditions into the record.

Jay Chace asked that they add language to the association documents regarding maintenance of the sidewalk from the end of the road to the trails.

Jay Chace moved to approve the application, which the conditions as read by staff; Kermit Stanley seconded.

Public comment period opened; no members of the public were present.

Motion carried 5-0.

Meeting adjourned at 10:02 pm.

Respectfully submitted,

Melissa Tryon  
Recording Secretary