**Wetlands and Vernal Pools**
**Summary of Draft Policy Discussion**
**for presentation at the May ~~8~~27~~,~~ 2008 ~~Public~~ Town Council Workshop**

The Community Development and Comprehensive Plan Advisory committees have prepared the following draft policies for consideration by the Town. The committees used the following principles to guide their recommendations.

**Guiding Principles –**

- **start with scientific principles and best management practices;**
- **inform ourselves about state, federal, and local regulations;**
- **maximize protection of resources while minimizing impacts on land owners;**
- **strive to be consistent with smart growth principles**

Vernal pools are a specific type of wetlands and are particularly important because they provide critical breeding habitat for several native amphibian species that, in turn, sustain many other forms of woodland wildlife. These amphibian species are rapidly vanishing as the pools and habitat they rely upon is developed or otherwise compromised. As the number and variety of vernal pools are compromised or destroyed, the number and variety of amphibians declines as do the animals that prey on them. With the disappearance of species of animals and plants, we unravel that very fabric which also sustains us, and the abundance and diversity of wildlife in the forest is diminished.[1]

In order to provide the appropriate level of protection for wetlands and vernal pools and to build in flexibility to minimize undue impacts on land owners, the following draft policies were prepared based on scientific principles and with reference to state and federal requirements and best management practices. In doing so, these draft policies focus on protecting the functions and values provided by Falmouth's wetlands, vernal pools, and the adjacent associated upland habitats. The proposed policies are intended to protect wetlands and associated surface waters, and to support breeding populations of amphibian species that utilize vernal pool habitats in town.

As proposed ordinance language is prepared to implement these proposed policies, it is the group's intention to consider and include, where appropriate, incentives[2] to encourage protection of the resources, particularly in cases where a flexible approach is proposed in the following draft policies.

> *To aid you in reviewing this summary, please note that the general approach is laid out first, followed by the exceptions, which are generally small projects.*

[1] Taken from the Falmouth Conservation Commission's "Falmouth Vernal Pools: A Heritage to Protect and Preserve". April 2005.

[2] Possibly including density bonuses and/or relaxation of standards like minimum structural setbacks, maximum road lengths, building envelope, etc.

# I. WETLANDS

## A. Wetlands Definitions

The committees' recommendations seek to bring key definitions more in line with state definitions in the Natural Resource Protections Act.

1. Wetlands of Special Significance: replace current definition of *wetlands* in Zoning and Site Plan Review ordinances with definition of *wetlands of special significance* in state's Natural Resource Protections Act as follows: "all coastal wetlands and great ponds are considered wetlands of special significance. In addition, certain freshwater wetlands are considered wetlands of special significance. A *freshwater wetland of special significance (FWSS)* has one or more of the following characteristics.
   a. *Critically imperiled or imperiled community.* The freshwater wetland contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the [state's] Natural Areas Program.
   b. *Significant wildlife habitat.* The freshwater wetland contains significant wildlife habitat as defined by 38 MRSA §§ 480-B(10).
   c. *Location near coastal wetland.* The freshwater wetland area is located within 250 feet of a coastal wetland.
   d. *Location near [a] GPA[3] great pond.* The freshwater wetland is located within 250 feet of the normal high water line, and within the same watershed, of any lake or pond classified as GPA under 38 §§ MRSA 465-A.
   e. *Aquatic vegetation, emergent marsh vegetation, or open water.* The freshwater wetland contains, under normal circumstances, at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation, or open water, unless the 20,000 or more square foot area is the result of an artificial pond or impoundment.
   f. *Wetlands subject to flooding.* The freshwater wetland area is inundated with floodwater during a 100-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency (FEMA) or other site- specific information.
   g. *Peatlands.* The freshwater wetland is or contains peatlands, except that the department may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.
   h. *River, stream, or brook.* The freshwater wetland area is located within 25 feet of a river, stream, or brook."

2. Coastal Wetlands: replace current definition of *wetlands* in Zoning and Site Plan Review ordinances with definition of *coastal wetlands* in state's Natural Resource Protection Act as follows: "all tidal and subtidal lands; all areas below any identifiable debris line left by tidal action; all areas with vegetation present that is tolerant of salt water and occurs primarily in a salt water or estuarine habitat; and any swamp, marsh, bog, beach, flat or other contiguous lowland which is subject to tidal action during the maximum spring tide level as identified in

[3] A great pond of high water quality is also known as a GPA.

tide tables, published by the National Ocean Service. *Coastal wetlands* may include portions of coastal sand dunes."

3. Freshwater Wetlands: replace current definition of *wetlands* in Zoning and Site Plan Review ordinances with definition of *freshwater wetlands* in state's Natural Resource Protections Act as follows: "freshwater swamps, marshes, bogs and similar areas that are inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and [are] not considered part of a great pond, coastal wetland, river, stream, or brook."

4. Alteration: create a new definition of *natural resource alteration* in Zoning and Site Plan Review Ordinance beyond current, exclusive focus on modification of structures to include disturbance of site and land cover, similar to the definition of alteration that is included in the state's Natural Resource Protections Act, including but not limited to dredging; bulldozing; removing or displacing soil, sand, vegetation or other materials; draining or dewatering; and filling.

5. Alternatives analysis: an analysis and report completed by a qualified professional, such as a wetland scientist or ecologist, to assess anticipated impacts to wetlands, vernal pools, and/or their *areas of concern* that assesses whether there is a less environmentally damaging alternative to the proposed alteration, which meets the project purpose.

## B. Wetlands Regulatory Changes

1. Wetlands of Special Significance and Coastal Wetlands: Generally, no alterations will be permitted to a delineated *wetland of special significance* or a *coastal wetland* (the "*resource*") itself, and the area within 100 feet from these wetlands are to be left unaltered. Alterations will be allowed between 100 and 250 feet from the wetland, but developers must (1) obtain any required state Natural Resource Protections Act and federal permits and (2) follow guidelines intended to minimize the impacts of alterations on the wetland. (See definition of alternatives analysis).

> *The State provides a higher level of review and regulation for wetlands of special significance, including coastal wetlands. Currently, Falmouth's ordinances protect "high value" wetlands, which include some features of freshwater wetlands of special significance, but do not provide for protection of important resources within wetlands recognized by the State's permitting program, such as rare plants/communities, significant wildlife habitat, or peatlands. Falmouth's existing ordinance requires a 50 foot buffer from high value wetlands, and a 75 foot setback for structures.*

2. Freshwater Wetlands: other than *wetlands of special significance* and *coastal wetlands*. Generally, no alteration will be permitted to a delineated *freshwater wetland* itself, there will be a setback of 50 feet for all structures and developers must follow guidelines intended to minimize the impacts of alterations within the 75 foot *area of concern*. (See definition of

alternatives analysis.) Ordinances that implement this policy shall be drafted so that the permitting authority[4] will require greater protection of wetlands that are of higher value.

*Currently, the State regulates activities within freshwater wetlands, and areas within 75 feet of the wetland edge. Falmouth's ordinances currently protect "low value wetlands" with a 50 foot setback for structures for those wetlands greater than 4,000 square feet in total area.*

3. Permit By Rule: The Town will require developers of projects, which qualify for a state permit by rule, to submit a copy of their permit by rule application and permit[5]. The Town will follow its own standards of approval in permitting the project.

4. Temporary Alterations: The permitting authority may allow the applicant to temporarily alter an *area of concern* if the proposed alteration is not "frivolous" (for example, the proposed alteration is necessary to the design of the project), alterations do not impact resources that cannot be readily replaced (for example, a 100-year old tree), guidelines intended to minimize the impacts of alterations on the wetland are followed, and the area is returned to a condition with the same drainage patterns and the same, or improved, cover type that existed prior to the alteration.

5. Finger wetlands: a colloquial phrase that generally refers to non-natural swales or channels that meet the technical criteria to be considered a wetland. For those wetland areas that are not *wetlands of special significance* and that primarily function as drainage swales in upland areas, developers generally must only follow guidelines intended to minimize the impacts of alterations on the wetland. (See definition of alternatives analysis). No compensation will be required for alteration of *finger wetlands.*

*Current state and federal regulations do not define "finger wetlands", and do not differentiate these wetland types from others.[6] Falmouth's current ordinance provides that low value wetlands, averaging 30 feet or less in width as determined by measuring the width of five evenly spaced sections and that function primarily as drainage swales in upland areas are exempt from regulation.*

[4] Falmouth Planning Board, Planning staff, Code Enforcement Officer, etc.

[5] Activities adjacent to natural resources; intake pipes and water monitoring devices; replacement of structures; movement of rocks or vegetation; outfall pipes; shoreline stabilization; crossings (utilities, pipes, cables); stream crossings (bridges, culverts, fords); state transportation facilities; restoration of natural areas; habitat creation or enhancement and water quality improvement projects; public boat launches; activities in coastal sand dunes; transfer and permit extensions; maintenance dredging permit renewal; activities in, on, or over high or moderate value inland water fowl and wading bird habitat, or shorebird nesting, feeding, and staging areas.

[6] Note that both the state and federal regulators may elect not to assert jurisdiction over areas that meet the technical criteria to be a jurisdictional wetland (i.e., dominance by a wetland plant community, presence of hydric soils, and positive indicators of wetland hydrology), but that are not naturally occurring, and are located in uplands. Thus, some "finger wetlands" are not regulated as wetlands under existing state and federal regulations and procedures. Because Falmouth is utilizing the same technical criteria in determining jurisdiction, it is anticipated that the areas that do not qualify for state and federal regulatory jurisdiction, would also not be regulated by the Falmouth.

**Wetlands on Abutting Properties**

If there is reason to believe that a *wetland of special significance* is on a property abutting a proposed development, the developer shall seek permission from the abutter to allow a qualified professional, such as a wetland scientist or ecologist, to conduct an assessment of the wetland. If it is verified to be a *wetland of special significance*, then the standards to protect the *resource* and *area of concern* outlined above apply to the proposed development. If the abutter(s) refuses to allow the developer's qualified professional on the property to conduct the assessment, the permitting authority shall not regulate the potential *area of concern* on the developer's property.

The permitting authority shall seek to ensure that proposed developed areas are contiguous to existing nearby developed areas to minimize fragmentation of important habitat.

## C. Mitigation/Compensation for Alteration of Wetlands

Assuming that the developer first attempts to avoid and minimize project-related wetland impacts, the permitting authority may permit ~~wetland~~ alteration~~s~~ of wetlands and required buffers that exceed certain thresholds if wetlands impacts are compensated.

1. Mitigation Process: Generally, compensation shall be located first, on the same parcel, second, somewhere in Falmouth within the same watershed where impacts occur, third, somewhere within the same watershed, and four, elsewhere. When possible, compensation shall be directed to *wetlands of special significance*.

2. Threshold for impacts to wetlands: If a developer impacts wetlands beyond the following thresholds and/or impacts to required buffers, s/he will be required to compensate for those impacts as follows:
   a. In Highland Lake – compensation shall be required if alterations impact more than 1,000 square feet of wetlands.
   b. In all other areas – compensation shall be required if alterations impact between 4,300 and 15,000 square feet of wetlands.
   c. If impacts of alterations are greater than 15,000 square feet of wetlands, compensation shall be coordinated with the Maine Department of Environmental Protection.

3. Impact/Compensation Ratios: Falmouth shall use the same ratios of impact to compensation as those specified in the state Natural Resource Protections Act.

4. Selection of Compensation Sites: The permitting authority is encouraged to identify sites consistent with appropriate studies (i.e., Falmouth Open Space Plan, Mitigation Properties Available in the Town of Falmouth, among others) and investigations of individuals/groups like the Town Ombudsmen, Conservation Commission, Falmouth Conservation Trust, and others.

## D. Stormwater Management Facilities Near Wetlands

No stormwater facilities will be permitted within the 100 foot no alteration area, with the following exceptions:

1. Existing stormwater management facilities

2. In the case of demonstrated need (and consideration of developers ability to avoid, minimize, and compensate), new stormwater treatment facilities may be permitted to provide for improved stormwater quality if best management practices are followed.

*Falmouth's existing ordinance exempts stormwater management facilities from buffer and setback requirements*

*Note*: it is not the intent of these recommendations to regulate existing roadside ditches or small non-natural areas that are part of a broader drainage system.

## E. Exceptions to Wetlands Policies

Uses, special circumstances, and conditions where the general rules explained above would not apply include the following:

1. Agriculture and timber harvesting[7]: Non-natural swales, ditches and impoundments associated with farming

2. Small alterations, including filling, that cumulatively impact less the 4,300 square feet of wetlands that are not of special significance.

3. Crossing and alteration of wetlands when necessary to provide access to proposed development (continue to use recently adopted standards in §5.38.5B). State regulation of *wetlands of special significance* will continue to apply.

4. In Commercial Zones (BP, SB1, Exit 10, VMU, MUC), as they may be expanded or adjusted from time to time: developers shall avoid, minimize, follow guidelines intended to minimize the impacts of alterations, and compensate for impacts to wetlands. (See definition of alternatives analysis). State regulation of *wetlands of special significance* shall continue to apply.

5. Existing Developed Properties: When a land owner seeks a building permit for proposed accessory buildings or uses, expansions, septic system replacements or upgrades, tear down and replacement of existing structures, or disturbance or alteration of land cover on properties where development has already occurred, the land owner will be apprised of potential impacts on wetlands and will be asked to minimize impacts on the *resources* and

[7] This exception is intended for active agriculture and timber harvesting, not for abandoned farms and timber harvesting activities.

*areas of concern*. Land owners must obtain any required state Natural Resource Protections Act and federal permits. Compensation of impacts will not be required.

6. Development of Lots That Do Not Require Planning Board Approval: When a land owner seeks a building permit to develop a lot[8], created prior to the adoption of ordinance revisions that implement these recommendations, which does not require planning board approval, the land owner will be apprised of potential impacts on wetlands and will be asked to minimize impacts on *the resources* and *areas of concern*. Land owners must obtain any required state Natural Resource Protections Act and federal permits. Compensation of impacts will not be required.

7. Lots Previously Approved by the Planning Board and Recorded at the Registry of Deeds: Developers will be apprised of potential impacts on wetlands and asked to minimize impacts on the *resources* and *areas of concern*. Compensation of impacts will not be required.

8. Negotiated Districts: Tidewater and West Falmouth.

## II. VERNAL POOLS

### A. Vernal Pools Definitions

The recommendations seek to bring key definitions more in line with state definitions in the Natural Resource Protection Act.

1. Significant Vernal Pool:
   a. Create a new definition of *significant vernal pool* in Zoning and Site Plan Review ordinances as follows: a natural, temporary or permanent, body of water which may have a permanent inlet or outlet, and which meets the following criteria, as documented by a qualified professional at the appropriate time of year[9], and an abundance of either of the following:
      i. Fairy Shrimp – mere presence, or
      ii. Blue Spotted salamanders – 10 or more egg masses, or
      iii. Spotted Salamanders – 20 or more egg masses, or
      iv. Wood frogs – 40 or more egg masses or
      v. Presence of other State listed rare, endangered or threatened species that commonly require a vernal pool such as spotted turtles, Blandings turtles, bog haunter dragonflies, ribbon snakes, wood turtles, or swamp darner or comet darner dragonflies.

[8] Including lots splits and frontage splits.

[9] It is the committees' intention to reflect state regulations and guidelines about the required timing and number of field investigations.

b. The permitting authority may determine that the vernal pool habitat is not a *significant vernal pool,* if, based on winter, spring and early summer precipitation, the vernal pool dries out after spring filling before July 15th.[10]

2. Vernal Pool:
   a. Replace current definition of *vernal* pool in Zoning and Site Plan Review ordinances as follows: a natural, temporary or permanent, body of water which may have a permanent inlet or outlet, and which meets the following criteria, as documented by a qualified professional at the appropriate time of year, and an abundance of either of the following:
      i. Blue Spotted salamanders – at least one, but less than ten egg masses, or
      ii. Spotted Salamanders – at least one, but less than 20 egg masses, or
      iii. Wood frogs – at least one but less than 40 egg masses; and
   b. The permitting authority may determine that the vernal pool habitat is not a *vernal pool,* if, based on winter, spring and early summer precipitation, the vernal pool dries out after spring filling before July 15th.

3. Potential Vernal Pool: create a new definition of potential vernal pool in Zoning and Site Plan Review ordinances as follows: a natural body of water which meets criteria for a vernal pool, except that it is devoid of the above mentioned evidence of wildlife breeding activity or use.

## B. **Vernal Pools Regulatory Changes**

1. Significant Vernal Pools: Generally, no alterations will be permitted to a *significant vernal pool* itself, and the area within 100 feet of the pool. In the area between 100 and 250 feet from the pool, up to 25% of the area may be altered. In the area between 250 and 750 feet from the pool:
   a. Alterations will be permitted, but developers must follow guidelines intended to minimize the impacts of alterations on the habitat. (See definition of alternatives analysis.)
   b. The 25% area includes pre-existing alterations anywhere within the area between the pool and ~~750~~ 250 feet from the high water mark of the pool, including stormwater facilities.
   c. The permitting authority may allow more than 25% alteration of the area between 100 and 250 feet of the pool, if the developer restores previously altered areas between the pool and 750 feet in a manner that protects the pool and the *area of concern*

*The State regulates activities within 250 feet of naturally occurring significant vernal pools. The State may allow alteration of up to 25% of the area within 250 feet of a significant pool. Falmouth's current ordinances require a 50 foot buffer and prohibit locating a structure within 75 feet of a "mapped" vernal pool.*

Note: Recently published Best Development Practices, titled *Best Development Practices: Conserving Pool Breeding Amphibians and Commercial Developments in the Northeastern United States* (Calhoun and Klemens 2002) recommend protection of habitat within 100 feet of a vernal pool.

[10] It is the committees' intention to reflect state regulations and guidelines about evaluating winter, spring, and summer precipitation and drying out of pools.

2. Vernal Pools: Generally, no alterations will be permitted to a *vernal pool* itself, and the area within 100 feet of the pool. In the area between 100 and 750 feet from the pool, alterations will be permitted, but developers must follow guidelines intended to minimize the impacts of alterations on the habitat. (See definition of alternatives analysis.)

   *The State does not regulate these pools as significant wildlife habitat under the Natural Resource Protection Act. Falmouth currently prohibits locating structures within 75 feet of a "mapped" vernal pool. Note that many of these vernal pools qualify as wetlands, and therefore do receive some level of protection, but not the same as a significant vernal pool.*

3. Potential Vernal Pools: If located within the *area of concern* of a *significant vernal pool* or a *vernal pool*, alterations will be permitted, but developers must follow guidelines intended to minimize the impacts of alterations on the pool. (See definition of alternatives analysis.)

4. Temporary Alterations: The permitting authority may allow the applicant to temporarily alter an *area of concern* if the proposed alteration is not "frivolous" (for example, the proposed alteration is necessary to the design of the project), alterations do not impact resources that cannot be readily replaced (for example, an 100-year old tree), guidelines intended to minimize the impacts of alterations on the pool are followed, and the area is returned to a condition with the same drainage patterns and the same, or improved, cover type that existed prior to the alteration.

## C. Significant Vernal Pools on Nearby Properties

If there is reason to believe that a *significant vernal pool* is on property near a proposed development, the developer shall seek permission from the abutter to allow a qualified professional, such as a wetlands scientist or ecologist, to conduct an assessment of the pool. If it is verified to be a *significant vernal pool*, then the standards to protect the *resource* and *area of concern* outlined above apply to the proposed development. If the abutter(s) refuses to allow the developer's qualified professional on the property to conduct the assessment, the permitting authority shall not regulate the potential *area of concern* on the developer's property.

The permitting authority shall seek to ensure that proposed developed areas are contiguous to existing nearby developed areas to minimize fragmentation of important habitat.

## D. Mitigation/Compensation for Alteration of Vernal Pools

Assuming that the developer first attempts to avoid and minimize project-related alteration of *significant vernal pools, vernal pools,* and their *areas of concern*, the permitting authority may permit alterations that exceed certain thresholds in commercial zones (BP, SB1, Exit 10, VMU, MUC) and places where conservation zoning is allowed, if alterations are compensated.

1. Mitigation Process: Generally, compensation shall be located first, on the same parcel, second, somewhere in Falmouth within the same watershed where the alteration occurs,

third, somewhere within the same watershed, and four, elsewhere. When possible, compensation shall be directed to *significant vernal pools*.

Though the permitting authority may accept compensation in alternative locations, to the greatest extent possible, alterations of *significant vernal pools, vernal pools,* and their *areas of concern* shall be compensated with like areas as follows:

a. if altering a pool, compensate with a pool,
b. if altering within 100 feet of a pool, compensate within 100 feet of a pool,
c. if altering within 100 to 250 feet of a pool, compensate within 100 to 250 feet of a pool.

2. Threshold for impacts to vernal pools: If a developer impacts a *significant vernal pool*, a *vernal pool*, or their *areas of concern* beyond the following thresholds, s/he will be required to compensate for those impacts as follows:
   a. In conservation zoning – compensation shall be required if more than 2000 square feet is altered.
   b. In commercial zones (BP, SB1, Exit 10, VMU, MUC) – compensation shall be required if more than ___ square feet is altered (the threshold shall be higher than in areas of conservation zoning).
   c. If impacts of alterations are greater than ___ square feet of *significant vernal pools*, *vernal pools*, or their *areas of concern*, compensation shall be coordinated with the Maine Department of Environmental Protection.

3. Impact/Compensation Ratios: Alterations of *significant vernal pools*, *vernal pools*, and within 100 feet of a pool shall require a higher ratio of compensation than alterations within 100 to 250 feet of a pool.

4. Selection of Compensation Sites: The permitting authority is encouraged to identify sites consistent with appropriate studies (i.e., Falmouth Open Space Plan, Mitigation Properties Available in the Town of Falmouth, among others) and investigations of individuals/groups like the Town Ombudsmen, Conservation Commission, Falmouth Conservation Trust, and others.

## E. **Stormwater Management Facilities Near Vernal Pools**

No stormwater facilities will be permitted within the 100 foot no alteration area, with the following exceptions:

1. Existing stormwater management facilities

2. In the case of demonstrated need (and consideration of developers ability to avoid, minimize, and compensate), new stormwater treatment facilities may be permitted to provide for improved stormwater quality, if best management practices are followed.

## F. **Exceptions to Vernal Pools Policies**

Uses, special circumstances, and conditions where the general rules explained above would not apply include the following:

1. Crossing and alteration of significant vernal pools, vernal pools, and *areas of concern* when necessary to provide access to proposed development (continue to use recently adopted standards in §5.38.5B). State regulation of *significant vernal pools* will continue to apply.

2. In conservation zoning: Developers shall avoid, minimize, follow guidelines intended to minimize the impacts of alterations and continue to use recently adopted standards in §5.38.5B. State regulation of *significant vernal pools* will continue to apply.

3. In Commercial Zones (BP, SB1, Exit 10, VMU, MUC), as they may be expanded or adjusted from time to time: Generally, alteration of significant vernal pools, vernal pools, and their *areas of concern* will be permitted, but developers shall avoid, minimize, follow guidelines intended to minimize alterations of the pools and habitat, and compensate for alterations. (See definition of alternatives analysis). State regulation of *significant vernal pools* shall continue to apply.

4. Existing Developed Properties: ~~For p~~Proposed accessory buildings or uses, expansions, septic system replacements or upgrades, tear down and replacement of existing structures, or disturbance or alteration of land cover on properties where development has already occurred if~~,~~ a delineated *significant vernal pool, vernal pools*~~,~~ and 100 feet from these pools ~~shall be~~are left unaltered. Alterations will be allowed beyond 100 feet from the pool, but developers must obtain any required state Natural Resource Protection Act and federal permits. Projects that cannot meet this standard shall ~~either~~ be ~~delegated to staff or~~ designated as a conditional use to allow for review by the Zoning Board of Appeals to minimize impacts on the *resources* and *areas of concern*. Compensation of impacts will not be required.

   *Falmouth's current ordinance exempts those buildings in existence before the effective date of that ordinance. Lots created before the effective date of Falmouth's current ordinance, and private ways, are currently exempt.*

5. Development of Lots That Do Not Require Planning Board Approval: When a land owner seeks a building permit to develop a lot[11], created prior to the adoption of ordinance revisions that implement these recommendations, which does not require planning board approval, a delineated *significant vernal pool, vernal pool*, and 100 feet from these pools shall be left unaltered. Alterations will be allowed beyond 100 feet from the pool, but developers must obtain required state and federal permits. Projects that cannot meet this standard shall either be delegated to staff or designated as a conditional use to allow for review to minimize impacts on the *resources* and *areas of concern*. Compensation of impacts will not be required.

[11] Including lots splits and frontage splits.

*Falmouth's current ordinance exempts lots created before the effective date of, that ordinance. Private ways are also currently exempt.*

6. Lots Previously Approved by the Planning Board and Recorded at the Registry of Deeds: Developers will be apprised of potential impacts on vernal pools and asked to minimize impacts on the *resources* and *areas of concern*. Compensation of impacts will not be required.

7. Negotiated Districts: Tidewater and West Falmouth.