

The following report was submitted to Ellen Planer, Town Clerk to convey the comments from the Planning Board regarding the proposed amendments to the Falmouth Zoning and Site Plan Ordinance and the Subdivision Ordinance. The hearing was held on April 13, 2010.

Ellen,

At its April 13, 2010 meeting, the Planning Board, acting as the Town's designated Municipal Reviewing Authority, held a public hearing for proposed amendments to the Subdivision Ordinance and the Zoning and Site Plan Review Ordinance relative to the protection of natural resources.

There was no public comment received at the public hearing.

The Planning Board voted 6-0 to recommend that the proposed amendments not be approved as currently drafted due to concerns regarding lack of administrative clarity. (NOTE: The Planning Board discussed, at some length, whether or not it could table, or postpone, voting on the proposed ordinance amendments until such time as the interpretive issues raised by Board members at the meeting could be addressed. Ultimately, however, the Board determined that it was required under its Rules of Procedure to issue a recommendation to the Council and that it was important for the Council to have the Planning Board's feedback prior to the upcoming order on this item scheduled for April 26.)

Some specific concerns voiced by the Planning Board included the following:

- Definition of Primary Conservation Area – Change wording under # 9 to read: “*vernal pool or significant vernal pool and the area **within** one hundred (100) feet from their upland edges*”.
- Definition of Significant Wildlife Habitat – Makes reference to “areas of concern”. This is problematic since the term “areas of concern” is not defined in the ordinance.
- Section 4.8.5 – It should be clarified what the intent of the second sentence of the opening paragraph is.
- Section 5.38.1.1 – The term “natural plant communities” is not defined in the ordinance.
- Section 5.38.4.B.2 – There was confusion regarding when, if ever, this paragraph could apply. (e.g. How would someone submit conclusive evidence that a vernal pool does not support breeding populations of the relevant species without conducting a survey of the vernal pool during the optimal time periods identified by MDEP?)
- Section 5.38.5.1.B - No setbacks are specified for Wetlands of Special Significance.
- Section 5.38.5.2.B – No setbacks are specified for Significant Vernal Pools.
- Section 5.38.7.C – The ordinance should specify at what point in time a property owner/developer is required to compensate for the alteration of natural resources. (e.g. Prior to site disturbance? Prior to the issuance of building permits? Prior to the release of a recording mylar in instances of private way or subdivision approvals?)
- Section 5.38.9.B – Reference is made to Section 5.38.12, but there is no Section 5.38.12 in the ordinance.

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