

**FALMOUTH PLANNING BOARD
TUESDAY, JUNE 2, 2015
MINUTES**

Members Present: Jay Chace (Chair), Bill Benzing (Co-Chair), Tom McKeon, Rudy Israel, Chris Hickey

Staff Present: Ethan Croce-Senior Planner; Lisa Sangillo-Recording Secretary

The meeting was called to order at 6:32 pm.

Item 1 Approval of minutes from the May 5, 2015 Planning Board meeting.

Mr. McKeon moved to approve the May 5, 2015 minutes. Mr. Benzing seconded. Motion passed 5-0.

REGULAR AGENDA ITEMS:

Item 2 Public Hearing relative to a proposed amendment to the Zoning and Site Plan Review Ordinance to create a special overlay district for 60 Gray Road to allow parking in the front setback.

Tom Greer of Pinkham & Greer gave an overview of their request for a zoning ordinance amendment, where they are looking to be less internally focused and more externally focused with parking along Route 100 in the setback; the front setback is 50'. The typical right-of-way for Route 100 was originally 60' wide. He stated that the Maine DOT has widened out the right-of-way, and due to this widening, they have lost some of the open space along that right of way. They are asking for consideration of the highway right-of-way takings. They feel they can maintain the landscaping required under the Route 100 buffer standards. He stated that staff felt the best way to do this was to focus strictly on this parcel and the only parcel that benefits from the change in zoning. They are looking for a positive recommendation from the Planning Board to get the zone changed. He stated that several tenants have walked away from leasing the building because they want the front of the building and the front door to be on the Route 100 side.

PUBLIC COMMENTS: No public comments.
PUBLIC COMMENTS CLOSED.

Mr. Hickey stated that it appeared some of the parking is already in the setback. Mr. Greer confirmed there was and this piece would be grandfathered for parking. Mr. Hickey asked whether it was MTA or MDOT who took the right-of-way. Mr. Greer stated MTA took the triangular piece and then transferred it to DOT. DOT has taken the right of way along the front. Mr. Hickey asked if this taking and transfer was before or after the

parking was installed originally. Mr. Greer stated yes; then stated the MTA piece was taken around the same time the parking was built and did receive Planning Board approval.

Mr. Hickey asked what the basis was for quadrupling the number of spots as opposed to doubling. Mr. Greer stated that the higher and better uses are looking for more parking spaces at the front door. He gave an example of a hardware store that was shown the proposed parking with the zoning change and felt that was adequate for their business. Mr. Hickey feels they could create additional parking in a conforming way today. Mr. Greer stated they could not and explained why.

Mr. Cooper approached the podium and stated that they only have 5 parallel parking conforming spaces out front. He stated that he cannot have diagonal parking as there isn't enough room. Mr. Hickey asked if they had estimated the number of spaces they would need; Mr. Greer stated yes. Mr. Hickey stated that the change would be to allow the parking in the front setback; and asked the Board members about changing the setback as opposed to changing the ordinance. Mr. Greer stated they spoke with staff and found that they still needed the landscaping buffer.

Mr. Benzing asked Mr. Croce if the applicant could go through the Board of Zoning Appeals to apply for a change in the setback. Mr. Croce stated that they could apply for variance with the BZA. Mr. Benzing stated that the Board was concerned mostly about spot-zoning and feels it's more setback issues and variances issues.

Mr. Israel asked if any other properties have been adversely impacted by the taking of property by MTA. Mr. Greer stated not that they know of; the only one that they know of, has plenty of parking where they are and isn't impacted very much. Mr. Israel asked how much of an increase in parking they were looking at. Mr. Greer stated that it would be whatever the tenant is looking for or approximately 20 spaces, but it's tenant driven.

Mr. Israel understands what they are trying to do, but feels changing the ordinance is precedent setting.

Mr. Chace feels that this is a variance issue rather than creating special zoning. His feelings haven't changed since the last meeting.

Mr. McKeon stated he was torn between the spot-zoning and variance issue expressed by other Board members and wasn't sure what his recommendation would be at this time.

Mr. Cooper stated that they originally suggested a change to the zone. He

stated that it was taken away from the general MUC by staff to a zoning change. He asked if they took the spot-zoning away and made it an MUC issue would be better. Mr. Chace stated that the charge before the Planning Board is to look at the zoning change.

Mr. Benzing motioned to recommend approving the zoning ordinance change. Mr. McKeon seconded. Mr. McKeon stated he would vote to recommend it, but he hopes the council considers the sentiments regarding spot-zoning. Motion passed 4-1 (Mr. Chace opposed).

Item 3 Andrew & Shannon Hagerty – 212 Middle Road - Request for Resource Conservation Zoning Overlay Lot Division. Tax Sheet 310. Map-lot U25-028. Zoned RB; RCZO.

Mr. Croce gave an overview to the Planning Board of the ordinances affected by this application in which the applicant is requesting Planning Board approval to create two Resource Conservation Zoning Overlay house lots.

David Titcomb, Titcomb Associates, gave an overview of the project for the Planning Board where the Hagertys had a private way approved, Emerald Pond, on the abutting property off Falmouth Road. Ms. Hagerty bought the abutting property on 212 Middle Road. They then sold their house, retaining part of the parcel to add to the parcel at 212 Middle Road. They could have put in a private way for both lots, but it didn't make a lot of sense in this case. There are now two lots proposed with reduced frontages on Middle Road with the existing house on Lot 2 being demolished.

Mr. Chace asked for points of clarification from the Board. Mr. Hickey asked staff if the reasons it wasn't considered a subdivision was because the lot had not been split within the last 5 years. Mr. Croce stated that was the essence of the legal opinion included in the packets. Mr. Hickey asked if the proposed changes by the Long-range Planning and Advisory Committee (LPAC) would change whether or not the applicants would have to go before the Planning Board. Mr. Croce stated the applicants would still be required to obtain approval from the Board

PUBLIC COMMENTS: No public comments.
PUBLIC COMMENTS CLOSED.

No further questions from the Board. Mr. Benzing and Mr. McKeon had no concerns. Mr. Israel asked for clarification of the buildings and what the intent is. The buildings are being limited to 2800 s.f. in size and will be

oriented such that the long axis will be perpendicular to the road and shared driveways so there will be less exposure to the road. Mr. Israel asked if there would be a building constructed within the footprint of the building being demolished. Mr. Titcomb stated no; the building window would be 135' from Middle Road.

Mr. McKeon moved to approve the application as presented. Mr. Hickey seconded. Mr. Chase asked Mr. Croce to read the conditions as prepared into the record before the vote was taken. Motioned passed 5-0.

Item 4 **Doten Properties, Inc.** – Tidewater Village Lot 4 – Request for Sketch Plan Review for a restaurant with outdoor dining on Lot TV-4 in Tidewater Village. Tax Sheet 320. Map-lot U52-006-001, Zoned TMPDD.

The applicant is requesting a second sketch plan review to solicit additional feedback from Board members on the site design to incorporate into future submissions. There have been some changes to the building design since the sketch plan meeting. In April, the building was proposed to be two stories, have a 4,000 square foot footprint with 7,336 square feet of floor area above grade and a 2,080 square foot basement. The proposal has now been downsized to a one-story building with a 4,596 square foot footprint and a 2,263 square foot basement. Mr. Croce gave an overview of the standards pertaining to this project.

Mr. Chace asked the applicant if they had any specific questions for the Board that were not addressed at the last meeting. Mr. Cudlitz gave an overview of the updated project. It is now a one-story building and not a 2-story building. The need for parking spaces is down to 52. Maximum indoor seating has been reduced to 125-130 with 32 outdoor seats on the patio. There are 24 onsite spaces, 20 dedicated spaces in TV3, an additional 20 shared spaces in TV3 parking lot, and 9 on street parallel parking spaces. The façade of the building around the cooler end of the building and the recycling spaces will be enclosed in the same siding as the rest of the building.

Mr. Cudlitz went over the other site design changes. They have moved the parking lot (keeping the same design) to the east to align it with the building and eliminated a parking space in the northwest corner near the residences. The crosswalks along Hat Trick will be almost directly in line with the curb line due to Town and owner discussions. Lighting will change as they have taken on the responsibility of building the sidewalk. They will add more street lighting along Hat Trick near Family Ice. They moved the transformer as Central Maine Power wanted it only 20 feet from the pole. The transformer

will be smaller (similar to those used in subdivisions).

They will need a waiver on driveway separation as their exit will only be 50' apart from the Family Ice service drive. The driveway will be low volume, low use and not an entrance road that is used frequently.

Charlotte Maloney, the landscape architect, gave a presentation on the landscaping that will be done spending extra time on Farm Gate/Marigold area. They will be saving 3 large oak trees by reducing the parking spaces by 1. They will have a line of evergreens. They have placed tall evergreens to block out the loading dock. The transformer will be hidden by fast growing evergreens as well as perennials. They've matched the landscape design on both sides of the front of the building. They have mimicked the same architecture across the street at the northwest end of the parking lot.

Mr. Chase asked for board comments.

PUBLIC COMMENTS:

Joshua Filler of 34 Farm Gate Road was concerned about the traffic on Farm Gate Road and spoke for some of the neighbors in the area. He feels the traffic is dangerous. He feels the addition of the restaurant will increase this risk. He stated that the town put in a 25 MPH on Lunt Road as well as a "turn ahead" sign on Farm Gate Road. He would like to see additional safety measures put in place: the possible closing of the gate so people wouldn't use Farm Gate as a go through; the addition of a speed bump; additional signs (he's asked for a children at play sign); a white line to keep drivers on their side of the road; and an increased Police presence. He feels the road is the same as it was when very few people lived on it. He's afraid something tragic will happen if nothing is done about it.

Loni Graiver of 40 Farm Gate Road stated he hopes the restaurant goes through, but also agrees with Mr. Filler in his concerns regarding traffic issues. He's had people drive up on his lawn and feels he and many of his neighbors would take on the safety measure costs themselves. He also stated that many of the vehicles are coming from the abutting apartment complex. They just want the traffic slowed down.

Janet Hutcherson of 16 Farm Gate Road stated that she was involved in a near miss accident going north towards Lunt Road approaching the curve where someone was on her side of the road. She is concerned about an increase of traffic with the introduction of Rivalries.

Valerie Scorsoni of 13 Herring Point Road stated she did get into an accident on Farm Gate Road and felt it was a dangerous road. She is disappointed that the Planning Board has been approved and is upset that this site was

chosen for Rivalries. There are other areas where they could have gone such as the former Shaws Supermarket space or the former Lotus restaurant space.

Susan Nielsen of 13 Farm Gate Road feels the same as everyone else. The road is dangerous. She also pointed out that where the parallel parking spaces are proposed is where the town puts the snow. There will not be any room for two vehicles to pass safely in the winter.

Peggy Gilbert of 14 Herring Point Road reinforced what Ms. Nielsen said about the parking spaces. She stated it would be very tight to have a sidewalk, parallel parking and buffering. She stated she would advocate getting rid of the parking spaces and adding more buffering.

Tom Emery, a landscape architect of Foreside Architects, was retained by the HOA and thanked the applicant and applicant's team for inviting them to a meeting last week. He feels there is no reason to have 9 parallel spaces on Farm Gate Road as they remove the esplanade that's there, they force the sidewalk over the property line, and they narrow the buffer between building and the drip edge of the building, which is 4 feet away from the face of the building to approximately 6 feet. He feels there are other spaces nearby that would no impact the shoulder of Farm Gate. He feels the bayberry plants proposed are inadequate for buffering and will not weather well. A traffic study will be submitted regarding this application. They don't want to see the building hidden, but want the esplanade kept to hold snow in the winter and buffering as well.

Lance Meader, a resident of Underwood Road in Falmouth and the owner of Rivalries in Portland, stated the road is more of an area problem then relating to the restaurant. Other businesses will be coming into the area which will also add to the traffic issue. All the other land near them is also zoned for restaurant use as well. He also stated that Farm Gate Road was just recently made a public road. He felt maybe that was a mistake and maybe the resident's didn't want that to happen. Hat Trick Drive will become a real road and could become the new thoroughfare to cross through instead of Farm Gate Road. He feels the neighborhood would see less traffic with the construction of Hat Trick Drive. He also stated that he felt that he came away from the Subcommittee meeting with the intention that parallel parking was acceptable. He stated he felt they were helping the neighborhood by indenting the parallel parking so as not to take away from the road width.

Tom Mundhenk of 25 Marigold Lane stated he was the president of the Homeowner's Association, and the traffic has been a problem before the restaurant was being thought of. He stated that the parallel parking spaces are a mistake because they would direct people to leave the restaurant

through Farm Gate Road. He stated that there were discussions about restricting parking on Farm Gate Road altogether. He brought up the letter sent out by a disgruntled potential buyer who backed out of the agreement when they learned about the Rivalries plan.

PUBLIC COMMENTS CLOSED.

Mr. Chace stated that this application has not yet received approval by the Board. It is still in the review stages. He stated that they would be before the Planning Board again with a formal application at a later date.

Mr. McKeon stated that the building design was nice and the Board would be looking for answers to the Peer Review questions. His two issues are parking and traffic. He stated that the Planning Board is required to pay special attention to minimum parking requirements. He feels the traffic on Farm Gate Road is a very important piece as this road will see increased traffic. Mr. McKeon feels the Board needs to hear from a professional on whether or not there would be increased traffic. He asked Mr. Cudlitz what his interpretation was of the minimum needed under Section 5.5. Mr. Cudlitz stated 1 space to 3 seats. Mr. McKeon asked if there was any study that shows that there would be 3 people in every car attending the restaurant.

Mr. Cudlitz stated they are allowed to park anywhere in the town on a public road unless restricted by the Council. He stated that the parallel parking spaces weren't in the way of anything. Mr. McKeon stated that the Board is tasked with finding "safe and convenient" parking. Mr. Cudlitz stated they could take away the 9 parallel parking spaces, but they need definitive cooperative agreements that there's tons of parking available within 500' of the parcel. Mr. McKeon asked what the snow removal plan was. Mr. Cudlitz stated that per the recommendation of Public Works snow would be piled in the dumpster area in the northwest area of the parking lot as well as on the side of the parking lot near Hat Trick Drive.

Mr. Meader stated that there are parking spots on Clearwater Drive that he's never seen anyone park in. He stated that their busiest times would be non-business office hours. Mr. McKeon stated that the Planning Board needs to know that the parking spaces are definitive.

Mr. Chace stated they still need to see the parking matrices spelled out clearly how their meeting the parking standards.

Mr. Hickey proposed a berm of material along the west side of the parking would do a lot in terms of isolating the parking lot from the neighborhood and providing a natural barrier.

Mr. Israel stated they have beaten the parking issue to death. He suggested the applicant contact a traffic engineer to figure out how many parking spaces they need. Mr. McKeon asked what the legal status was for the deeded parking spaces. Mr. Cudlitz stated they have the parking spaces but the legal paperwork is being cleaned up. Mr. McKeon asked what their legal right to use the shared spaces was. Mr. Cudlitz stated a calculation is done to determine how many spaces per business are necessary; any remaining spaces are considered "shared".

Mr. Benzing isn't concerned about parking. He agrees with the 500' radius. He would like to see the 9 parallel spaces gone. He feels the space could be put to better use. As far as the traffic, it is already an issue in the area. He isn't sure if the Planning Board is the venue for increasing public safety. He feels Hat Trick Drive is a more direct route to Lunt Road and people would probably take that route and also feels this will be more of an issue when Route 1 construction is completed as it will be all shared parking. Mr. Cudlitz stated that as a Civil Engineer who is ultimately responsible for the site, he would love to take out the 9 spaces, but would have to go back to the shared parking from the very beginning and the Planning Board would have to accept that there is tons of parking in the 500' radius.

Mr. Cudlitz also stated that the photographs included in the letter from the potential buyer were of property that isn't owned by the Meaders and whoever took the photos didn't speak with the Meaders first.

Mr. Chace stated they need the traffic analysis and it needs to be polished up. He asked what the design capacity was of Farm Gate Road when it was built. He would like to see a zoomed out picture of how this property will tie in with Hat Trick Drive as well as consideration of on-street parking on Hat Trick Drive. Mr. Cudlitz stated he has no say or control on proposed changes to Hat Trick Drive and stated there is no on-street parking on the first 250' on Hat Trick Drive.

The meeting was recessed for a short break. Readjourned at 8:40 PM

Item 5 **David Chase** – 430 US Route One – Request for Site Plan Review for construction of a self storage facility. Tax Sheet 70; Map-lot U62-005-001. Zoned BP.

The applicant was before the Board in September 2014 for a pre-application sketch plan review for this project. The applicant is now requesting formal site plan approval. Mr. Croce gave a zoning overview of this application.

Mr. Tom Greer gave an overview of the project. He stated they now have a

DEP permit and two entrance permits from MeDOT. There will be traditional buildings in the back. The buildings facing Route 1 will be nicer. They are moving the access road and they raised the site and the canopy of trees will be kept along Route One. There are 3 or 4 trucks a week that are tractor trailers and will be the only ones using the middle entrance to exit the site. He outlined the look of the 3 buildings that will be along Route One. There will be cupolas and a barn door look as well. The office building has a similar look and colors.

Mr. Greer then went through the landscaping plan. He stated that all the comments from the peer review they could address with a "yes, they will do that". He feels there is adequate planting there to meet the ordinance. They will start working in 2 weeks if they can get approval tonight.

Mr. Chace asked for clarifying comments from the Board of which there were none.

PUBLIC COMMENTS: No public comments.

PUBLIC COMMENT CLOSED.

Mr. Chace stated the application is a lot further along than in October. His first issue is landscape plan and what their intent is of the understory of the existing vegetation. He hopes that the preserved trees stay and the understory cleaned up a bit. Mr. Greer stated that stumps have been pushed up. It's not a nice uniformed graded area and they would like to clean it up some and add bark mulch to make it more presentable.

The second issue is the driveways and minimizing the curb cuts. Mr. Greer stated it's an economic issue being based on square footage and the curb cuts are acceptable under the ordinance. They are limiting it to just the tractor trailer trucks exiting. There is 50' between the two buildings in the back. Mr. Chace asked if they could extend the pavement in the back so a tractor-trailer could back in to turn around. Mr. Greer stated they could not as it would involve some blasting of the rock in the back.

Mr. Chace also stated there was no lighting shown on the front of the buildings on the Route One side. Mr. Greer stated they would probably put in some soffit lighting on that side.

Mr. Israel asked if the slope in the back was steep. Mr. Greer stated that it was and it was a rock face. Mr. Israel asked if there would be plantings there. Mr. Greer stated no.

Mr. McKeon asked if there would be signage regarding the second gate that

states for tractor trailers only. Mr. Hickey asked if the gate would be locked and a person in the office have a key. Mr. Greer stated yes. Mr. Hickey asked if the Fire Department would require a lock box and asked if there was still a caretaker's unit. Mr. Greer they would be prepared to provide a lock box for the Fire Department and stated the caretaker's unit was not allowed per Zoning, so it's not before the Board.

Mr. Greer stated that the cuts are allowed and read from the ordinance. He feels when there is specific language, the Planning Board is obligated to vote on it. When there is a general guidance, it's guidance. Mr. Chace stated he has yet to see enough evidence that compels him to vote for 2 curb cuts.

There was a lengthy discussion regarding curb cuts. Mr. Greer stated that the abutting landowner, Mr. Kennedy, will not allow the applicant to share his driveway.

Mr. Chase stated the second entrance for an exit only is very important. It chews up a lot of square footage of the building. It's a very low traffic impact business to start with. He would be happy to make it an in and an out. There are very few curb cuts possible on Route One. The site distance is very good. If the exit isn't approved, they will likely back out on Route One or cut into one of the units. Mr. Kennedy's plans for development are on top of the hill only. Mr. Chase felt there would not be multiple curb cuts in that area.

Mr. Israel stated he could live with the second curb cut, exit only. Mr. McKeon agreed with Mr. Israel as long as they have the condition with respect to trucks. There was a lengthy discussion regarding tractor trailer turning and curb cuts.

Mr. McKeon asked if there was a set of conditions. Mr. Croce stated there were conditions prepared and read them into the record.

Mr. McKeon moved to approve the application with conditions contained and an additional condition that the second entrance be used for truck usage only.

Mr. Croce suggested Condition 2A-that the landscape reviewer sign off on the landscape design.

Mr. McKeon withdrew his previous motion, and moved to approve the application with conditions contained that the second exit to the south be restricted to truck traffic exit only and subject to the landscape design peer review. Mr. Israel seconded. Mr. Chace abstained from the vote as he felt the Board doesn't have the necessary evidence to date and he is not ready to

vote. Motion passed 4-0; Mr. Chace abstained.

Meeting adjourned at 9:25 pm

Recording Secretary,
Lisa Sangillo