

**FALMOUTH PLANNING BOARD MEETING MINUTES
TUESDAY, MAY 6, 2014, 6:30 P.M.
FALMOUTH TOWN HALL, COUNCIL CHAMBERS**

MEMBERS PRESENT: Jay Chace (Chair), Bernard Pender (Vice Chair), William Benzing, Christopher Hickey, Thomas McKeon (alternate)

MEMBERS ABSENT: Rudy Israel

STAFF PRESENT: Ethan Croce, Senior Planner

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

Tom McKeon was appointed as a voting member.

1. Approval of minutes from the April 1, 2014 Planning Board meeting.

Bill Benzing moved to approve the minutes; Chris Hickey seconded. Motion carried 4-0 (Pender abstained).

Administrative Action Items

2. Unitil Service Corp. – Gray Road and Blackstrap Road – Request for Shoreland Zone approval to relocate a gas pipeline. Tax Sheets 110 and 190; Map-lots R06-065-001 and R06-092. Zoned Farm & Forest, RCZO, LR and RP (Shoreland).

3. Falmouth School Department – 58 Woodville Rd – Site Plan amendment for a 714 sf restroom addition to the concessions building. Tax Sheet 300; Map-lot R05-020. Zoned Farm & Forest and RCZO.

Chris Hickey moved to approve the administrative items; Bernie Pender seconded. Motion carried 5-0.

Public Hearings

4. Public hearing on a proposed amendment to the Zoning and Site Plan Review Ordinance to create a special overlay district for the Walmart Garden Center.

Ethan Croce gave a brief overview of the project and a history of the garden center at Walmart. Walmart has requested this rezoning to allow them to accommodate outdoor sales and storage within the same area they have been using for a number of years. This would grant them an exemption from the 2,500 sq. foot limitation on outdoor sales in the VC-1. The site plan includes extension of the sidewalk, installation of pedestrian lighting and installation of street trees to screen the outdoor sales area. The amendment would exempt the project from coming back to the Planning Board for a site plan review, which would typically be required for outdoor sales and storage.

Jay Chace wondered how it had been operating in the last few years without prior site plan approval.

Ethan Croce said Walmart had temporary, one-year approval for that outdoor area, in recognition of the fact that they were planning to relocate the area to the other side of the building as part of their proposed expansion. They were granted two separate, one-year extensions of that approval while the expansion went through its approval process. They do not have any permanent approval for this outdoor area.

Phil Saucier of Bernstein Shur, representing Walmart, discussed the history of the garden center. The landscaping and fencing that they installed was always seen as temporary, as they were planning to install landscaping as part of the expansion. The zone change that was approved for Route 1 removed the outdoor sales and storage category under which they had been operating. This amendment would reinstate

that category so that they could continue to operate as they have been, with some improvements. They have added a sidewalk; additional landscaping; additional lighting that would match the Clearwater Drive lighting; and opaque screening around the pallet storage area. There is also substantial landscaping proposed for the Hat Trick Drive project, which is separate from, but adjacent to, this project. He showed a rendering of the landscaping for Hat Trick Drive, which will provide additional screening for the area. This plan shows additional landscaping than what was initially proposed to the Council, in response to concerns voiced by the abutters. He said that the existing fence, which was damaged during the winter, will be upgraded and fixed as part of this project.

Jay Chace thought outdoor retail sales was allowed in VC-1, but only up to 2500 sq. feet. Mr. Saucier said the category they operated under had unlimited size and also included a storage component which now doesn't exist.

Bernie Pender asked if they are doing away with the storage that is outside the chain link fence. Mr. Saucier said no, this would incorporate that area and make the whole thing permanent.

Public hearing opened.

Clifford Gilpin of Heron Point Road is the president of the Tidewater Homeowners Association (HOA). He thought the Tidewater development made a substantial contribution to the Route 1 TIF that is now being used to fund the improvements currently underway. Walmart is outside these improvements; but they would like to see it included, in recognition of that contribution. When the landscaping at the garden center was installed it was supposed to be both "aesthetically pleasing" and "adequately maintained"; he argued that neither of those happened. The residents of Tidewater would like to see a significant improvement to the landscaping along this area. Many businesses along Route 1 have done an excellent job of installing and maintaining attractive landscaping.

Susan Gilpin of Heron Point Road pointed out that the VC zoning's goal is to encourage mixed-use zoning. She thought visual and auditory buffering is very important to that goal and felt this area needs to be buffered from the adjacent residential area. The 6 trees do not provide either a visual or auditory buffer; this needs to be a solid buffer. She read the VC district standards regarding screening and buffering. This landscaping is not opaque or year-round, and does not screen the building from the view of pedestrians.

Elizabeth Andrews of Heron Point Road is a member of the Board of Directors for the Tidewater HOA. While she appreciated the addition of landscaping, she didn't feel it was sufficient. The landscaping that was installed has mostly died, perhaps due to road salt. She has reviewed the proposed landscaping plans and pointed out that the trees are located in the same place as before; even with the sidewalk, road salt is going to get into them and they will die. She proposed that a berm be installed so that the trees could be planted in the berm and away from the road salt. 12-14 trees in the berm, preferably indigenous conifers, would eventually create a hedge and would require little maintenance. This would be a lovely way to enclose the garden center, enhancing both the Garden Center and Clearwater Drive.

Mr. Saucier clarified that what is out there now was minor on purpose, since it was going to be removed as part of the expansion. There are 8 more trees and 30 shrubs proposed over what currently exists. The rendering that he showed was almost exactly what the Board originally approved for that area as part of the expansion plan.

Public hearing closed.

Chris Hickey asked if the project would return to the Board for site plan approval. Jay Chace said it would not, according to the zoning amendment as written.

Tom McKeon felt that any approval of the zoning should take the neighbor's concerns about buffering into consideration.

Chris Hickey wondered if it is even permitted to create a district that is exempt from site plan review without adding a specific exemption under section 9. Ethan Croce said it is.

Chris Hickey said the plan is in essence a finding of fact; he felt it was appropriate for the Board to discuss the merits of the plan as part of this hearing, since the zoning specifically refers out to it.

Tom McKeon and Jay Chace were both concerned that someone should review the proposed landscaping plan prior to approval. The buffering plan was not included in the Board's packets, since their review is limited to the zoning amendment.

Jay Chace thought "outdoor sales" is an allowed use in VC-1; unless the Council wishes to review the size of outdoor sales for the whole district, so that they do not create advantages or disadvantages within the marketplace, he suggested they need to reconsider how they are approaching this. He was concerned about the appearance of a *quid pro quo* situation with the Hat Trick Drive project. If the Council wants to take these types of actions, they might want to consider allowing contract zoning. He could not support this zoning change. He felt it would create an unfair advantage in a district that was just created and thoroughly vetted.

Chris Hickey felt the proposal was perfectly reasonable but he was concerned with the exemption from site plan review. He felt the reason it was in there was to create a more efficient process for a small project, but the Board is designed to move slowly to provide opportunity for review. He did not support the district with that provision.

Town Manager Nathan Poore said this zoning amendment isn't technically attached to the Hat Trick Drive project. He discussed the history of the project: the violation with the outdoor garden center was first observed in 2000. A deal was struck between the property owner, Family Ice, the Town and Walmart to improve Hat Trick to a public easement, with pedestrian amenities, landscaping and parking, to improve interconnectivity. A part of that deal was that the garden center would remain legal, with some improvements made around it in exchange for the parties to financially support the Hat Trick Drive improvements. The improvements to Hat Trick went before the Planning Board for re-approval several times before the Walmart expansion was proposed. A Limited Development agreement for the Hat Trick Drive project will be voted on at the Council meeting on May 12. He didn't think the Council would vote on this zoning amendment without that agreement in place. These two projects are connected; he felt the Council was willing to consider streamlining the garden center because of the public benefit of the Hat Trick Drive project. Staff have advocated for replicating the site plan review process as much as possible.

Tom McKeon moved to recommend that the amendment be approved, with the recommendation that either the project return to the Board for site plan review, or that the Council ensure that the abutters' concerns regarding landscaping are addressed. Bernie Pender seconded.

Motion carried 3-2 (Chace, Hickey opposed)

Chris Hickey said he didn't like the precedent of creating a unique project that is being deliberately exempted from site plan review by the Planning Board. He wanted review by a competent body to ensure that it was a quality plan that protected the interests of the Town and residents.

5. Public hearing on a proposed amendment to the Zoning and Site Plan Review Ordinance to accommodate the construction by Casco Bay Hockey Association (CBHA) of a covered ice rink, locker rooms and bathrooms at Village Park.

Ethan Croce said this proposal would create a new base district, covering the area of Village Park and including the rink, lawn and associated parking lot. The zoning would require the applicant, CBHA, to comply with all the VC-1 standards except for those standards specifically called out in the amendment. This project would also be exempted from site plan review by the Planning Board.

John Veilleux, president of CBHA, spoke about the organization. They are a non-profit and want to improve an outdoor, dilapidated ice rink that the Town cannot maintain. This is a permitted use in the VC-1 district. They want to fit their project into what is already there, but they cannot comply with the maximum setback of the VC-1 district. Compliance with that setback would require them to put the building in the parking lot they want to maintain, and move the parking lot to the location of the current rink. They want to build over the existing rink. The proposed amendment would allow the building to be between 0-150 feet from Hat Trick Drive. The VC-1 zone is general and broad, but cost considerations will not allow them to meet certain design standards, such as siding. The rink would be open air, so they cannot meet the design requirements for treatment of all 4 sides. They also cannot meet the fenestration design standards for the front of the building, since that is where the locker rooms are located. They have already observed the same protocols as if they were presenting the project to the Planning Board, including engineering, surveying, landscape architecture, test boring, etc. The current rink doesn't have a roof over it; a roof would lower the sound coming off the rink. The side of the rink closest to Lunt Road will include a row of 20+ staggered evergreens, to provide a visual wall and sound mitigation. That side of the building will include the locker rooms, and the siding will go all the way to the ground in that area. It has been suggested that they fully enclose the rink, but this is intended to be a seasonal rink, and will not be operated for skating outside of the hockey season. The building doesn't include HVAC and needs ventilation; it would be too hot to use in the summer if it were fully enclosed. They are not trying to change the dynamic of the VC district. This building will be a vast improvement over what is there now. They have met with town staff on numerous occasions and are not looking for special treatment.

Public hearing opened.

Jay Chace said the Board has received two emails with comments on this issue.

There was no public comment.

Mr. Poore said this is a town-owned parcel. CBHA approached the Town with this idea earlier this year; the Council was intrigued by the public benefit of this project. He gave a brief history of the project since then. The Council wanted this to be in compliance with the VC zoning as much as possible, and that the public opportunity to use the ice should be preserved as much as possible. The current rink only has good ice 10-12 days of the year. He spoke about some of the negotiations they have had regarding town/public/school use of the ice. This amendment exempts the project from site plan review. He explained that CBHA has momentum for this project; they have been looking at several different locations for this project, but this is their first choice, and the Council didn't want to risk them choosing another location.

Mr. Veilleux agreed timing is an issue; they have other opportunities. The need for more ice time is now and they want to have this up and running this fall. The current rink is not in good shape, and they feel this is a good opportunity to improve this for the Town. This is a public benefit for Falmouth during the season, with guaranteed peak ice times for the school hockey programs, and off-season, with use by Community Programs. He argued that this isn't a complicated structure; it is basic, with 4 locker rooms and a warm area for spectators.

Bernie Pender wondered about the section of the amendment where "future changes will be reviewed by the Board". Ethan Croce said that would cover any changes to the building, post-construction.

Bernie Pender asked if there was any portion of this that would come before the Board; Ethan Croce said no, unless something changes this is the only opportunity for Board comment.

Jay Chace said this is different, since this is a conditional use in the district, but a conditional use would typically require both Planning and Zoning Board review. He had an issue with jumping past the standard review process for non-residential activities. He generally supported the notion of providing flexibility for the setback standards. He wondered what the due process is for the abutters if this is approved; he

wondered what the appeal process would be. He generally supported the project, but couldn't support the exemption from site plan review.

Bernie Pender didn't think there would be a lot to go through for site plan review; a lot of work has been done already. He didn't see any lighting in the project. He wanted some type of review for the project.

Bill Benzing wondered why they using this process instead of granting waivers as would be typical. Ethan Croce explained that these design standards are non-waiverable provisions, so the Board would not have the authority to grant relief from those.

Bill Benzing agreed that it is a well-thought out plan and a public benefit, but he had reservations about the Board giving up their role as a check and balance for the citizens of Falmouth.

Chris Hickey pointed out that this is a huge parcel of land; he saw a lot more uses that could happen on the land. He wondered why the rink and parking couldn't switch places; it would not increase the impervious surface, and would open the back of the property for other uses. Site plan review allows them to determine the "highest and best use" of a parcel; that is being circumvented in this case.

Mr. Veilleux said they met with staff regarding some of these ideas, and they were opposed to those types of changes; staff didn't want to lose the green space and thought they could use the rink that has been there for 50 years. They want to build a rink where there is an existing rink. They could simply put a roof over the existing rink, but it would be a terrible rink. Timing and expense are crucial to them. This is now a \$1.5 million project and they will take the debt service themselves.

Tom McKeon asked what exactly made this project different from what is allowed in the VC district. Ethan Croce said it is called out in the exceptions listed in the proposed ordinance.

Bill Benzing was concerned with the precedent of certain projects being fast-tracked and circumventing the approval process. He was in general agreement with the project.

Bernie Pender asked what would stop other developers from following this same process. Ethan Croce said there is nothing stopping anyone from making the same request of the Council.

Bernie Pender wondered if they can put in the recommendation that staff review and approve this project. Jay Chace felt it would be unfair to put staff in that situation.

Ethan Croce said the Community Development Director has been working closely with the applicant and the Council on this project, so staff has been intimately involved in the review to date.

Chris Hickey wondered the potential exposure or liability of the Town for doing contract zoning without a contract zone provision in the ordinance. Ethan Croce said neither of these would be considered contract zoning.

Tom McKeon said they can't do this with every good project that comes along. He agreed that this is a good project and he felt that the staff has vetted this thoroughly. He felt comfortable voting to recommend this as shown in their packet. He would also support the recommendation Bernie Pender made.

Chris Hickey didn't like the idea of punting this to staff.

Jay Chace moved to recommend approval of the amendment with the provision that it come before the Board for site plan review. Bill Benzing seconded. Motion carried 3-2 (McKeon, Pender opposed).

Tom McKeon explained that he would approve the zoning change with a check and balance through the Town Planning office. Bernie Pender agreed.

Agenda Items

6. Kevin Smith – Schuster Road – Request for preliminary approval of the proposed 17-lot Overlook Farms Subdivision. Tax Sheet 30; Map-lot R06-087, 087-B, -D, -E. Zoned Farm & Forest, RCZO, and Route 100 Corridor Overlay.

Tom Greer, of Pinkham & Greer, presented the application and responded to staff comments. He said since their last hearing they have added the 8 acre lot along Gray Road to the project. They have submitted the application to DEP and received comments back requesting some changes to the plans. There were no technical issues raised during that review. They have spoken with Chris Baldwin at CCSWCD; he is in general agreement but had requested a few changes to the plans as well. Mr. Greer displayed some aerial photos of the site, and discussed the open space, home locations, and wetlands. The farm pond and its associated wetlands flood in any significant rainstorm. The existing barn is right on Gray Road, within the 75 foot setback. They can vacate the existing private way, but the McNitts' have retained an easement across it to access their property. He showed an aerial photo of the land area, demonstrating the abutting properties. The 100 acre parcel adjacent is separated from this parcel by wetlands. They felt they located the paper street properly to access the most developable abutting land. He explained that the McNitts have explored the potential of splitting off two lots with access for those off the proposed subdivision street. The proposed lot 17 along Gray Road is within the Route 100 corridor overlay; under the estate lot provision they have a 75 foot setback, but the barn on that lot is within that setback. Also, staff has said that floodplains and wetlands cannot be included in lots, but he argued that country estate lots are large, and the Board has allowed it before. There are two proposed building envelopes for this lot; he didn't feel that either of those would impact the view corridor. The existing driveway at the barn could be used to access the building lot nearest the barn. Their concern with eliminating this lot and turning it to common open space was that it wouldn't be maintained and the viewshed would be lost. They felt the barn is part of the history and fabric of the Town and the best way to preserve it is to use the lot as a house lot and the open area as pasture. The proposed Halter Road stops 50 feet from the Town line; they don't want to build that last 50 feet. They plan to plant street trees all along the length of Overlook Drive; as they grow they will provide screening from Route 100. They have located the homes on the proposed master plan, but didn't think that would dictate the final location or orientation of the homes; the final location of the wells and septic would determine the final location of the homes. The staff comments focus on the length of the road; he argued that they are building a neighborhood and they need that road length to do that. When taking water and septic into account, making the lots smaller doesn't benefit the project; it makes it more difficult from a technical point of view, and doesn't create the type of neighborhood they are looking for. They have to cross the wetlands, but it is minor. For almost 2,000 feet of road, they only have 5300 sq. feet of impact. They felt installing the underdrain soil filters adjacent to the wetlands was appropriate; they are trying to collect as much of the runoff from the road and lots as they can. They have exceeded DEP standards for treating the road; DEP requires 75% of treatment for the road, they are treating 95%. The right place to treat the stormwater is the low spots. The infiltration basins are located in those areas that are already mowed as fields, so they are already developed. The agricultural fields are mowed down to the wetlands already; they are installing grass-line basins that will provide the same level of stormwater treatment as a wooded buffer. Those will require some maintenance, but they won't have a lot of activity. Regarding trails, he argued that trails are a good idea if they lead somewhere; they spoke with the Land Trust about this project, but this field area doesn't connect to anything so they were not interested in the project or its open space. They didn't want to install a trail around the backyard of the lots. They could put language in the documents to keep the fields open, either by mowing or grazing.

Bernie Pender asked if there was a turnaround at the end of the road; Mr. Greer said there is a hammerhead, designed according to Town standards. There are two underdrain filters off the end to treat the stormwater.

Chris Hickey asked about the addition of lot 17.

Mr. Greer said they added it because the owners wish to maintain the lot and barn as a possible small farm; the lot needed enough pasture for the barn to function as a farm. They felt it was advantageous to bring it in now for the Board's review.

Public comment period opened; no public comment.

Jay Chace asked about the threshold issue regarding the barn and the street buffer requirement in the Route 100 Corridor Overlay. The overlay does not allow buildings within the street buffer; this is the first instance in which a project has an existing building within the buffer. The Board should determine whether the ordinance is intended to prohibit existing buildings, or only new buildings.

The consensus of the Board was that the barn could remain and that the ordinance was intended to prohibit new buildings in the buffer.

Mr. Greer presented the work on the 4 step design process, identifying wetlands, steep slopes, soils, natural and cultural features, vernal pools, net residential area, floodplain areas, the secondary conservation area for the viewshed from Route 100 across the field, the street layout, and open space. He explained that not all the stormwater treatment is in the underdrain soil filters; there are metal stormwater buffers with stone berms in three areas along one lot that will look like a stone wall. Their goal was to get the treatment level as high as they could.

Jay Chace asked about the 100 foot setback from the wetlands and floodplains requested by IFW.

Mr. Greer said IFW automatically requests 100 feet; the law says 75 feet, and the DEP permit says 75 feet. He tries to provide 100 feet when you have a buffer system that impacts water quality. They are not working within any of the wetland buffers that the DEP required for the high-value wetlands. DEP allows the underdrain soil filters in their proposed locations. Eastern cottontails and box turtles were identified in the area, but not on these parcels.

Tom McKeon pointed out that there would be nothing to prevent a buyer from tearing the barn down; Mr. Greer agreed, but the barn with the pasture has value to a person who wants to have horses. They can put deed restrictions that the pasture be mowed twice a year.

The Board was satisfied with the 4 step design process.

Jay Chace asked about the treatment of the open space.

Mr. Greer said the stormwater buffers become "forever wild" and are part of the deed restrictions for the HOA under DEP guidelines. They are supposed to be inspected and the permit will be renewed every 5 years. They feel the field has value as a viewshed, a recreational field or as pasture for either the farm or lot 17.

Chris Hickey asked if the open space would be under an easement held by Mr. Smith. Mr. Greer said that is no longer the case; the open space would go to the HOA under certain guidelines. These would be deed restrictions with a third party, likely the Town, so that there would be some enforcement.

Jay Chace suggested a note on the plans to that effect as well.

Bernie Pender asked who would maintain the fence. Mr. Greer said whoever was using it as pasture.

Bernie Pender wondered if it should be the HOA; Mr. Greer felt that was okay for 20 years, but it didn't feel right to restrict the HOA for the next 100 years on that. They were leaning toward deed restrictions; they spoke with the Land Trust, but it doesn't fit with anything that they do.

Tom McKeon asked about the two different building envelopes on lot 17; he wondered about the impact of a house in the envelope not adjacent to the barn.

Mr. Greer said there wasn't much impact. He shared a photo of the property and what the impact a house in that location would have.

Jay Chace asked about the Route 100 limitation on curb cuts. Mr. Greer said they can have 1 per lot, or 1 every 200 feet. They have 800 feet along Route 100. The cut for the barn is likely to remain. He showed the location of a potential cut for the other building envelope.

Ethan Croce said section 3.10.3 states that all new residential lots must obtain their frontage from a street other than Route 100, unless the Board makes certain findings. In this instance the applicant will need to request a waiver, as no new streets to access this lot are being created.

Jay Chace asked if only one cut on Route 100 would be allowed; Ethan Croce said that was correct.

Chris Hickey felt the lot met criteria b; there was no way to create a new road to access this. Tom McKeon agreed.

Ethan Croce felt the intent of the requirement was for those lots where subdivision was possible; they didn't want development coming in piecemeal. In this case, since a country estate lot must be 8 acres, this lot cannot be subdivided.

Jay Chace said there are two building areas on this lot, separated by a wetland stream, which they don't want to cross. He felt development on the northern side of this lot makes sense.

Tom McKeon asked if the consideration for one building envelope for lot 17 was for the viewshed or the curb cut. Ethan Croce said it was both; those are two separate issues.

Chris Hickey didn't agree that the second building envelope on lot 17 was a viable envelope. Jay Chace and Tom McKeon agreed.

Mr. Greer asked about the classification of the street; there is some off-site development potential, especially with three lots likely to be developed on the McNitt property, as well as some commercial activity for the vet hospital. The current trend is for smaller streets to minimize environmental impact and reduce speeds. They feel a 24-foot wide street is plenty for their needs as well as for the future, even though it is smaller than ordinance standards.

Ethan Croce said there is an unknown variable here with the development of the McNitt property as well as potential future development in Cumberland. He suggested that, instead of requiring a subdivision amendment in the event Cumberland approves further development off this road, the Board could use the caps in the ordinance. As long as future development doesn't exceed those amounts, they would meet the Town's road standards as long as it is a private street. The alternative is to require them to come back to the Board for each lot added. Mr. Greer agreed that the cap was reasonable and would add it to the plans.

Mr. Greer discussed landscaping; they are not planning any landscaping along Route 100 since they are trying to maintain the viewshed and the fence. They also have a 25 foot strip for a streetscape buffer along Schuster. He asked the Board if they want them to add landscaping along the entrance to Schuster Road and along the property line at the Town line. They are proposing street trees along Schuster Road and Overlook Drive.

Ethan Croce said there are two layers for buffering along Route 100; the streetscape buffer is included in conservation zoning, which is intended to minimize the visual impact of the subdivision. The Route 100 corridor overlay standards require all buffer strips to be landscaped strips with a certain combination of plantings. It does allow some flexibility to the Board.

The consensus of the Board was that the intent was to preserve the viewshed, and that no landscaping would be required along Route 100. The Board was comfortable with the streetscape buffers as proposed.

Ethan Croce asked about the 50 foot perimeter buffer along the Town line. The intent was to minimize the impact of the subdivision on abutting properties.

Mr. Greer said the property boundary is already a tree line, and the existing homes are far distant from the property line. The intent was for that buffer to be allowed to grow naturally.

Chris Hickey thought the abutter's request for the berm was for runoff, not visual impact. Mr. Greer discussed the drainage from that ridge. The tree line along the back of the subdivision is close to the boundary; he believes it is on the abutting property.

Jay Chace wondered about installing 3-4 trees behind each house lot, in case that tree line was removed, since it is not on the subdivision property and so is not protected. Chris Hickey thought that would help delineate the buffer area for the new homeowners; if that is currently open field the new owners would likely mow that whole area.

Jay Chace asked why the stormwater point of analysis is off-site.

Mr. Greer spoke about the stormwater model they used, and indicated the extent of it. The point of analysis is the flow coming into the pond and not the Route 100 piece. There is some much flow coming into this parcel from the watershed that their detention is very small.

Jay Chace asked about the review of stormwater for this project. Ethan Croce said Chris Baldwin is reviewing for DEP and the Town but they have not received comments from him yet.

Waiver Request #1 – Appendix 5(E)5.c – Request to waive the 1,500 foot maximum dead end road length limitation.

Jay Chace asked if there was a way to pull the road back slightly to pull the stormwater facilities out of the wetland buffers. Mr. Greer didn't think so; the road length is dictated by how the lots are laid out and not the underdrain filters. They shortened the road up as much as they could. The road length is needed to access the development areas identified by the 4 step design process.

Jay Chace asked him to review it to see if shrinking the lot frontages would allow a reduced road length. Mr. Greer said the lot sizing is driven by the well and septic separations; it would be hard to shrink them up. The lots range between 20,000-30,000 sq. feet.

Tom McKeon asked the intent of the 1,500 foot limit; Ethan Croce felt it was primarily to promote street connectivity.

Tom McKeon moved to grant waiver #1; Bill Benzing seconded. Motion carried 5-0.

Waiver Request #2 – Appendix 7(E)1.a - Request to use smooth lined polyethylene pipe instead of reinforced concrete.

Chris Hickey moved to approve waiver request #2; Bill Benzing seconded. Motion carried 5-0.

Waiver Request #3 – Section 3.10.3 – Request to waive the requirement for residential lots to obtain their frontage off Route 100 and request to waive the limitation on having only one curb cut off Route 100.

Jay Chace felt the Board was comfortable approving this in light of the removal of the second building envelope.

Jay Chace moved to grant waiver #3 to allow lot 17 to take its frontage off Route 100 since the shape or physical condition of the parcel does not permit access to or creation of a street other than Route 100, provided that the building envelope is next to the barn. Chris Hickey seconded. Motion carried 5-0.

Waiver Request #4 – Section 7(E)6 – Request to waive the requirement to have plans drawn to the 1" = 40' scale specified in the ordinance.

Jay Chace asked the applicant to work with the Town Engineer and determine which plans he needs to be at 1/40 scale. Mr. Greer was comfortable with that suggestion. Waiver #4 was not granted.

Waiver Request #5 – Appendix 9 Step 3 – Request to waive requirement to provide a trail network in a conservation subdivision.

Chris Hickey said it is qualitatively different to have a mowed trail in a field rather than grass. Tom McKeon agreed; this is an important provision in conservation zoning. He hasn't been convinced that there is no reason to have a trail. He asked if this would be for public access or just for the owners.

Ethan Croce said there is no requirement for public access and it is not proposed in this development; this would be for the exclusive use of the residents and their guests.

Tom McKeon said there was nothing to prevent the HOA from cutting a trail later if they wanted one.

Ethan Croce said if they wanted to cut a trail through the buffer, they would have to come back to the Board for approval.

Mr. Greer indicated a likely location for a trail; Ethan Croce suggested that the interurban rail bed might be another location.

Jay Chace asked about the floodplain on lot 17. Ethan Croce said ordinance prohibits approval of lots within the 100 year floodplain. Portions of lot 17 lie within the floodplain.

Mr. Greer argued that they are not approving development within the floodplain, just within the building envelope. He indicated the areas within the floodplain.

Jay Chace wondered if they could consider a waiver on that; Ethan Croce said they could, or they could put the land in common open space.

Mr. Greer didn't think they could get the necessary 8 acres on that lot if they put it in open space.

Chris Hickey wondered if that provision is intended for smaller lots. Jay Chace was willing to consider the waiver, but wanted to see some justification from the applicant.

Waiver #6 (Not requested, but needed as project is designed) – Appendix 5(E)5.g - This is a requirement to provide two paper streets in instances where the dead end road length is waived by the Board.

Mr. Greer felt they have two paper street connections. Ethan Croce said the issue is whether the Board considers Halter Road a paper street; paper streets are typically not constructed.

Jay Chace asked about the connection to the abutting 100 acre parcel. Ethan Croce said it has development potential and the wetland between the parcels is perhaps the same size as the wetland they are crossing.

Mr. Greer argued that it is 4 times the size of that wetland. Providing the right of way as required would require them to remove one lot.

Chris Hickey would rather see them extend the road 50 feet and provide the right of way.

Mr. Greer suggested bringing the paper street down the perimeter buffer. The Town allows streets in the buffer. He wasn't anxious to locate a paper street to access that property, as it appears to be very wet and unlikely to be developed. He felt the intention of the ordinance was to provide two connections, not two paper streets and they have met that with what they have proposed.

Chris Hickey would like more information on the 100 acre lot, and how wet it is.

Waiver #7 (Not requested, but needed as project is designed) - Appendix 5(E)5.d – maximum number of 15 homes on a dead end street.

Jay Chace moved to approve the waiver, given that the road classification is designed to handle the load; Chris Hickey seconded. Motion carried 5-0.

Mr. Greer said they have suggested maximum lot coverage of 20% in the master plan, but staff has said the maximum in this district is 15%. He argued that 15% of a 2 acre lot is larger than 20% of a 20,000 sq. foot lot. Ethan Croce said lot coverage is structural only and is not waivable. Mr. Greer argued that the Board can set those standards under Conservation Overlay zoning. Ethan Croce said the underlying district is the stricter standard and shall apply.

Mr. Greer said they felt the master plan was a guide for the Board to show they can reduce the road frontages and lot sizes while providing adequate building envelopes. They do not see it as limiting exactly how the houses will be designed and built.

Ethan Croce said the ordinance says a master plan shall require certain design parameters, details of which are laid out in the ordinance. This requirement is not waivable.

Mr. Greer was concerned that the master plan would limit what owners could build. It is too restrictive. Ethan Croce suggested that the applicant propose some design flexibility in their master plan for the next submission.

Bill Benzing moved to grant preliminary approval; Chris Hickey seconded. Motion carried 5-0.

Chris Hickey moved to waive the 10:30 rule. Tom McKeon seconded. Motion carried 3-2 (Benzing, Pender opposed)

7. Fairway Villas, Inc. – Lindenwood Lane – Request for a site plan amendment to the Villas at the Woodlands (West Side) to remove a sidewalk. Tax Sheet 300; Map-Lot U67-098-101, -102, -103, -104. Zoned MUC.

Dan Diffin, representing the applicant, said they are requesting to remove the sidewalk on the basis that this is only a 5 building/6 unit development; this road is basically a driveway. Installing the sidewalk would require the removal of trees and create 2200 sq. feet of extra impervious surface. The HOA has requested that the sidewalk be removed from the plan since it would increase the need for maintenance.

Jay Chace said this isn't a defined street, there isn't a right of way and it wasn't built to Town standards. Mr. Diffin said that was correct.

Public comment period opened; no public comment.

Chris Hickey asked if there is a sidewalk on Woodlands Drive; Mr. Diffen said there is 4 feet of pavement outside the travel way, but that is at-grade. That is how it was approved in the original approval.

Chris Hickey moved to approve the application; Bill Benzing seconded. Motion carried 5-0.

8. (Tabled) Kristen & David Mitchell - *Anna's Way* – Request for a lot line adjustment to a lot on *Anna's Way*. Tax Sheet 232; Map-lot U23-008-004. Zoned RB and RCZO.

9. (Tabled) Summit Natural Gas - Request for shoreland zone permits for six shoreland zone crossings within the public right of way (*Leighton Rd, Falmouth Rd, Lunt Rd, Depot Rd, Johnson Rd, U.S. Rt.1*) for a gas pipeline.

10. OceanView Retirement Community Limited Partnership and Oceanview at Lunt and Plummer Schools, LLC – Blueberry Lane and Lunt Road. – Request for various site plan amendments to the Oceanview Schools Redevelopment Project. Tax Sheet 310; Map-lot U27-003. Zoned RB, RCOD, ESRD and RCZO.

Rick Licht of Licht Environmental Design, representing the applicants, said they submitted a photometric plan. They discussed reducing the lighting on Lunt Road from 15 fixtures to 9, but they have added one extra light in front of Lunt, raising the final number to 10. That would leave no lighting at Plummer until such time as that property is developed. There is a cobra light at the intersection with Middle Road. The goal is to remove the cobras eventually.

Jay Chace asked if the photometric considers the removal of the cobra lights. Mr. Licht said it does; it includes the lights at the intersection with Falmouth Road.

Jay Chace said there is one dark area, but that is after the end of the parallel parking. Mr. Licht said that is correct.

Mr. Licht discussed the landscaping along the recreation field at the parking lot. They have met with Town staff about drainage and will draft a plan for staff approval to relocate some of the trees proposed for that area, moving them from along the potential fire access lane and instead clustering them at the parking lot. They put in a culvert from the field to Lunt Road by mistake; it was not part of the original DEP approval. Town Engineer Jamie Mason has agreed that it is acceptable but he would like to have a way to get from the parking lot to the green without having to walk through the ditch, so they will add a causeway in the middle to access the field.

Mr. Licht said they will provide a detail on how they will work the contours at the pond, including the final landscaping and design, for staff to review.

Chris Wasileski of Oceanview said this was initially brought up by the Council; it was always intended for them to come back and meet with Mr. Holtwijk about landscaping for the pond.

Jay Chace asked about an amended DEP permit for a change to the drainage pipe around the pond, which has been shortened by about 50%. Ethan Croce said there have been a lot of cumulative, minor changes that have been made over the last few months.

Mr. Licht said there was no change to the underdrain design; it is 97 feet long as determined by BMP. The original plan had additional solid piping; current plans change the conveyance pipe, but not the underdrain.

Ethan Croce asked about a requirement for a separate distance between the inlet pipe and that is why it got piped to the opposite side of the pond. Mr. Licht said the DEP want the inlet and outlet to be on opposite sides of the pond. They do have an inlet and the outlet close together but after some negotiations it was approved that way by DEP. They had a site meeting with the DEP last week. They were agreeable to the changes to the stormwater and indicated that they do not need a letter.

Bill Benzing asked if the lighting along the loop in front of Lunt is going to be dimmed at night; Mr. Licht said that is the case. The light they are adding is a town light and would not dim.

Jay Chace moved to accept the lighting plan as proposed, with the 10th light added; Tom McKeon seconded. Motion carried 5-0.

Jay Chace moved to approve with the condition that they address the staff comments; Bill Benzing seconded. Motion carried 5-0.

The meeting adjourned at 11:50 pm.

Respectfully submitted,

Melissa Tryon
Recording Secretary