

**FALMOUTH PLANNING BOARD DRAFT MEETING MINUTES
TUESDAY, NOVEMBER 4, 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 & voting member this evening).

MEMBERS ABSENT: Rudy Israel

STAFF PRESENT: Ethan Croce, Senior Planner; Lisa Sangillo, Meeting Recorder

The meeting was called to order at 6:36 pm.

1. Approval of minutes from the October 7, 2014 Planning Board meeting. Approved 5-0 subject to revising them to show that Bernie Pender and Bill Benzing were present at the meeting.

ADMINISTRATIVE ACTION ITEMS

2. **Alan Fitzgerald** – Sunrise Drive – Request for Private Way Amendment to extend Sunrise Drive five feet to restore adequate street frontage. Tax Sheet 451; Map-lot U47-007. Zoned RB & RCZOD. Bill Benzing motioned to approve. Chris Hickey seconded. Approved 5-0.

PUBLIC HEARING

3. **Public Hearing** –an amendment to the Zoning and Site Plan Review Ordinance to create a Hat Trick Drive Special District. Chris Hickey motioned this be removed tonight and taken up on Site Plan Review as he doesn't feel this is the appropriate arena to review this. He stated that the same procedure was followed for two other projects and none of the Planning Boards recommendations were followed. Bill Benzing asked for Staff input. This is for Public input per the Town Council as opposed to Planning Board input. No second on motion. Motion fails to carry.

Amanda Stearns made a quick presentation on the Hat Trick Drive Special District and the history behind making a special district. She then explained the two reasons behind the Town Council's decision to create the new district. In 2011, the Planning Board reviewed and approved the site plan for Hat Trick Drive. The Council wanted to be able to designate it as an internal drive, to also provides alternate access to Route 1, and to avoid triggering a site plan review which would result in requiring the entire Falmouth Plaza property to be brought up to current zoning standard.

Public Comment: No public comment.

Tom McKeon stated that the last two times this was done was for the ice rink and the garden center a few months ago. He stated he would want to endorse what appears to be a long negotiation and would recommend approving it with the reservation that this not be a solution for every problem that appears. Bill Benzing stated his agreement with Tom's comments. Bernie also agrees with Tom and stated that this process was first brought up in 2011.

Chris Hickey reiterated his objection to the process for this special district. After reading from Planning Board minutes where they reviewed the ice rink and the garden center, he questioned whether the site plan review was reviewed by the Planning Board for the garden center and

whether or not the abutter's concerns were addressed after the last time this came before the Board. He feels the standard review process is being circumvented. It was reviewed and approved under a larger project earlier and feels this should go to site plan review.

Jay Chace stated that this has a similar feel as those "spot" districts previously adopted, and asked Ethan Croce what the options that were available to the Board. Ethan stated that the Board has four options at its disposal: make recommendation, approve ordinance as written, approve with modifications, and not approve (make no recommendation or make neutral recommendation).

Tom moved to recommend the approval of the ordinance with the understanding that they have specific reservations. Bill seconded. 4 in favor; 1 opposed-Chris Hickey.

4. Public Hearing - a zoning amendment to Section 9.10.c to restore language permitting flexibility in the location of parking in certain districts along Route One.

Amanda made a brief presentation regarding this amendment explaining that this amendment is to restore the ordinance to May 2013 language to include language that was accidentally removed previously. Tom asked for an example of the type of parking is referenced in the language. Ethan stated that the ordinance prohibits parking within the front setbacks except within the BP district and in the RA district along Route One.

Public Comments: No public comments.

No Board comments or concerns.

Jay Chace takes a pause to point out that Tom is officially a voting member this evening.

Bill Benzing moved to recommend the changing of the ordinance to restore language. Tom seconded. No discussion. All in favor and approved 5-0.

AGENDA ITEMS

5. Risbara Bros. Construction Co. Inc. – Hardy Road - Request for Pre-Application Sketch Plan Review for the proposed 6 lot Grove Forel Baek Subdivision. Tax Sheet 451; Map-lot R07-100. Zoned F, RCZO, and SP (Shoreland).

Ethan Croce provided a synopsis of the zoning for this project. Nancy St. Clair of St. Clair Associates represented Risbara Bros. and gave a presentation on the project. Keith Smith, landscape architect, was also present and presented the steps of the process. Property has never been subdivided. The subdivision name is tied to the family history; Grove is translated from Lund and Forel Baek is trout brook in Danish.

Keith Smith gave an overview of the site. The property does not have a thick understory and can be walked very well. He pointed out what trees were where and described the density of the understory in each area as well as pointed out drainage direction, streams and ponds. He presented different pictures showing the canopy and the distance that can be seen within the site.

The next plan shown was the site analysis which showed wetlands, streams, vegetative buffer, required buffers leaving the areas on the parcel that are buildable. He showed where the burial ground, tomb and crypt were located. He pointed out primary conservation areas and secondary conservation areas. He described the process of looking for the building locations. He explained that the reason for NOT putting a subdivision road onto parcel and to have the lots located off Hardy Road was so as not to impact the open space and the resources pointing out areas where trails would be created. He then explained where the lot lines were.

Nancy St. Clair received in the staff packet containing Ethan's comment memo and also received memos from Public Works Director and from Falmouth Land Management Acquisition Committee. Ms. St. Clair addressed the Public Works Director's memo first. In this memo, Jay Reynolds pointed out that the property abuts the former Town landfill and was concerned about the wells for the new properties. Ms. St. Clair stated that Risbara was aware of this going into the project and will be coordinating and continuing to pursue that design in light of the adjacent capped landfill.

The Miscellaneous items in Ethan's memo were addressed as follows:

- LMAC's first priority recommended that the open space be conveyed to the town to allow for a linkage with the town-owned land containing other open spaces adjacent to this property. She explained that the applicant was open to this and would possibly pursue this in the future. They are open to providing pedestrian access as well.
- The crypt was on the plan, and all terms reference that same area.
- Two sheds are in open space and would be removed as part of this project.
- It was suggested that the Board take a site walk if they wish.

Waivers

- Waivers – They provided a medium soil survey for the areas where the septic systems would be and were asking for a waiver from a requirement of a high soil survey on the entire property. They requested a waiver on the tree survey as it is a large site where large part is set aside as open space. Tree survey would be limited to the development areas of the lots. Waiver request regarding a dead end road length. Road is well over 1500' long. The site begins at about 625' from Blackstrap Road. When they get into the road frontage area, they are well over the 1500' mark.

Jay asked the Board if they had any points of clarification. Tom requested more clarification regarding the dead end issue. They explained on the map their reasons for the waiver request.

Bill requested clarification regarding the outsale lot. The property has not been divided within the last five years. This means they can break off a piece of the lot which will be exempt from subdivision review process. The lot can be created and sold prior to the subdivision approval. She also stated that the home that is built on the outsale property would be consistent with the homes in the subdivision.

Public Comments:

Bob Gaudreau – 55 Hardy Road – Mr. Gaudreau has concerns that there is better planning to be done. He talked briefly regarding the history of the dead end street to Hardy Road. Town created the dead end road and the clarification shouldn't be born by the developer and homeowners of Hardy Road. He has walked the property and stated the risks regarding taking a piece of property as open space. It has been used as a stump dump, used for refrigerator removal as well as used as a wasteland to excavate soils. Deer and hunters are in there all the time. The parcel is not clean. The pond has a dam and suggested the Town have the dam inspected before taking responsibility of it. Parcel has been stripped and what's left is ledge. Lots 2 and 3 have had recent dumping. He was concerned about Town taking over common space and of someone taking responsibility for items dumped on site. Culverts have been left on site 6, which is basically a debris field. He was concerned about waiving a high intensity soil survey. The crypt has historical significance and was used by the Town Fathers as safety from Indians back in 1700s. He felt this should be research as a historical site.

Aaron Svedlow (LMAC) – 11 Pine Grove Way - Mr. Svedlow reiterated LMAC's comments with respect to the subdivision and the recommendation that one house on the plan be moved closer to Hardy Road. If Town were to take over the conservation area, it would infringe on the conservation area. He stated that dynamite sheds be removed from the property if the Town is to take ownership and removed right away. He also requested that the location of vernal pools on property be identified.

Jeff Sawyer – 13 Hard Road – Mr. Sawyer requested clarification regarding an area on the map where a couple lots would be sharing a septic system.

Chrysa Baker – 107 Hardy Road – Chrysa asked what the access points were for the outsale property and what the timeline for the subdivision is.

SueEllen Crawford – 21 Hardy Road – Ms. Crawford expressed concern about the brook around their property and under a culvert being compromised and potentially flooding her house and property.

Chrysa Baker – She wanted to know what the design expectations were for this project and how they are going to be marketed.

Julie Waterman – 127 Hardy Road – Ms. Waterman was concerned about the fact that the houses will be within 52 feet of Hardy Road which is a deviation from most other houses which are set back from the road; she was also worried about the quality of houses and impact in the property.

Jay stated that the Board received a letter from Mary Dyer of 65 Hardy Road, which has been provided to all Board members.

Public comments section closed.

Nancy St. Clair returned to the podium and stated that they were not prepared to respond to all of Mr. Gaudreau's items in detail. They will pursue items further and take into account his comments.

Ms. St. Clair stated that the applicant was aware of the LMAC request to shift house on the utility side of the lot and keeping the open space area sizable and intact. She also addressed Mr. Svedlow's comment regarding vernal pools explaining that none were found when the site was evaluated for wetlands.

She addressed the shared septic question posed by Mr. Sawyer stated that the septic would be located on an easement and provided by a buried line. She pointed out the area on the map.

The access point of the outsale property would be a simple driveway which would be sited similar to other homes in the area.

Ms. St. Clair addressed Ms. Crawford's concern regarding drainage with respect to a brook running through her property stating they would not be impinging on that area as it is part of the open space and will be allowed to continue down through. She reiterated that they would have to address drainage as part of the subdivision process. Jay asked if this was going to trigger a DEP Stormwater Permit. Ms. St. Clair stated it would not, but could have a stormwater permit by rule.

She addressed the question regarding the location of the homes and the proximity to the road. They were designed to take advantage of the open space of the project. Mr. Hickey asked if they had researched the landfill closure and any monitoring wells that were installed as part of the closure.

Jay explained the process for the benefit of those in the audience stating that the presentation tonight, Sketch Plan Review, which is the first step. He asked if Public Safety had any comments on the proposal. Ethan stated that they had not received any comments from them.

A discussion began regarding the dead end road issue. Ethan explained the ordinance that applies to this item. Bill was okay with going along with waiver pending any concerns from Public Safety. Tom agreed with Bill's comments as connecting with Westbrook doesn't seem to be within the best interest of the homeowners. Tom would want to know if the location of the driveways would pose a hazard.

Jay stated the architect did a very nice job walking the Board and public through the four steps and asked fellow Board members for any concerns.

Bill appreciated the developer going through different steps. He feels the biggest issue is the stream going through the parcel, and then secondly the steep slopes as well as the location of lot 5. Tom agreed and stated that he would like to know more about the crypt and the adjacent burying ground, and the history of it. He also stated his concerns regarding Town ownership versus homeownership of open space subject to concerns of dam, dynamite shack.

Bernie stated that he was interested to know historical significance of crypt and would like documentation on the lack of vernal pools. Ms. St. Clair stated that they would follow up on documentation of vernal pools. Jay would like to see what the Falmouth Historical Society knows about the crypt as well as the utility easement on Lot 5 and how it's used.

Jay pointed out that lot 6 has a small building envelope and a septic easement that crosses common space and brook, and asked if the applicant saw this as a viable building envelope. He asked that this be clarified in further submissions.

Jay posed a question for staff for the next submission asking what the requirements were for handling subsurface wastewater. Ethan explained what the ordinance outlines and allows. Jay asked if other test pits were attempted. He stated he would rather see the 50' buffer utilized rather than having to cross a wetland and/or a brook.

Ms. St. Clair stated that the area in question is neither a brook nor a stream, but drainage that comes from a culvert. It does not meet the criteria for a stream or a brook. They did spend a lot of time for soils for subservice disposal. The better soils are on the opposite end.

Jay stated that the tree inventory would be required just in the lots and not the whole parcel; not necessarily on the lots where the houses are close to the roads. The Board agreed that they would wait until after the site walk to make a final determination on the tree waiver.

A discussion ensued regarding the utility easement, who owns the land, and whether or not there are any restrictions with the easement.

A discussion took place regarding a site visit. The Board felt this would be very beneficial with regards to this process. Ethan will set up a date and time and notify members.

No further comments from the Board.

No further comments from the Applicant.

Tom reiterated his appreciation with the way the presentation was done. Jay also stated that there are two members of Conservation Commission who stated they were willing and able to comment on any application before the board as it relates to their expertise.

The Board took a few minutes to discuss Officers for the coming year which usually takes place at the first meeting in March. Tom asked about changing the bylaws to bring them in line with the Town Council's requirement that all Board members term out on December 31st. Bill made a motion to recommend to town council that the Planning Board's Bylaws be reflected to allow voting of new Officers to take place in December. Tom seconded. Approved 5-0

Meeting adjourned at 9:03 pm

Respectfully submitted,

Lisa Sangillo
Recording Secretary