

Town Council Meeting Minutes May 9, 2016

The meeting was called to order at 5:30 pm.

Roll Call

All Councilors were present and answering roll call.

Item 1 Workshop to discuss suite of zoning amendments based on the Year 1 implementation of the Comprehensive Plan.

Councilor King gave a brief history of the work to date.

In response to Councilor Anderson, Councilor Farber discussed the changes to the cap: there are no changes to single family dwellings, but the growth cap on multi-family dwellings is being reduced. This is because the amendments make it easier to develop those multi-family units, and they wanted to pace that development. The Town has had one multi-family dwelling built under the current ordinance. Councilor Anderson asked how the proposed expansion of Princeton Properties would be affected by this change. Councilor Farber said the current proposal from Princeton Properties doesn't meet either the current zoning or the new zoning. All commercial areas and the housing developments would be exempt from the growth cap.

Councilor Anderson asked if this would discourage or slow down new affordable housing developments. Councilor Hemphill pointed out that there has been no activity in this category before now; there may be a huge increase in this type of development due to these amendments. Councilor Farber said many of the larger developments they have seen have had their own separate zoning by way of individual districts, overlays, or master plans, which excluded them from the growth cap. The Council could exempt any future significant project from the growth cap.

Councilor Anderson acknowledged that they hadn't seen this type of development in the past but was concerned that they may see more of this type of development in the future. He wondered why they made the change.

Councilor King said it had to do with pace of development and developing a comfort level with it. The proposed annual cap is 6 buildings. Councilor Farber pointed out that the minimum lot size for these developments is 2 acres; a lot of that size is rare in the more densely developed areas of town.

Councilor Anderson wondered what would happen if a developer wanted to build an 8 unit apartment building. Councilor Farber said it isn't permitted under current zoning, and wouldn't be under the proposed amendments. It would require an amendment.

Councilor Farber pointed out that this isn't about the creation of lots; the caps are about building permits issued in a given calendar year.

Councilor King discussed a request for pocket parks and playgrounds in the more densely developed areas; she said that isn't addressed by this zoning. That it could be addressed by the Resource Conservation Zoning Overlay at a future date.

Councilor King spoke about accessory dwelling units; she agreed that a requirement for the landowner to live in one of the units on the lot is appealing, but it is very difficult to enforce.

Councilor McBrady asked about the change of the property on Falmouth Road to Farm & Forest.

Amanda Stearns, Community Development Director, explained that the map developed by the Comp Plan identified this area as one that might be rezoned. It is characterized by large parcels, many of which are

already protected, and it would be cost-prohibitive to bring sewer to it. It was originally zoned RB and was moved to the rural area as part of the map work done by the CDC last year. While the school property that abuts it is technically included in the growth area due to State requirements, it is still very much rural. Councilor King said the goal was for the residential growth areas to support the commercial growth areas, and that as you move further away from the Route 1 and Route 100 corridors, the density of development should become lighter.

The Council discussed next steps. The amendments will be sent to the Planning Board for a MRA hearing on June 7 and the Council order would be scheduled for their meeting on July 11.

Councilor Farber moved to amend the agenda and to enter an executive session pursuant to the Laws of Maine to discuss and consider the acquisition and disposition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C). Councilor King seconded. Motion carried 7-0.

The Council entered executive session at 6:20 pm.

The Council returned to regular session at 7:00 pm.

Item 2 Order to accept the Ad-Hoc Tercentennial Committee's final report and to extend the committee's term.

Councilor Kitchel introduced the goals of the committee and gave a history of their work to date.

Erin Cadigan, Tercentennial Coordinator, gave a presentation on the work of the committee and its recommendations. The committee evaluated past commemorative events, both in Falmouth and in neighboring areas, met with stakeholder groups, held public forums, and gathered public opinion with a survey. She discussed commemorative events held in Falmouth in 1918, 1968, 1976, and 1994. Most towns that have held similar celebrations have hosted a year-long celebration incorporating multiple events. The response from stakeholders the committee met with was overwhelming positive – themes from these discussions include history focus, outdoor recreation, demonstrating love of Falmouth, and holding multi-generational events. The committee encouraged groups to consider expanding or tweaking existing events to include the tercentennial celebration. The majority of survey respondents said it was important to mark the 300th and the top choices to mark the event was with historic preservation, historical tours, and a fair or festival. At the public forum, attendees said they wanted a year-long event, inspiring involvements from all sectors of Falmouth, highlighting Falmouth history and heritage, and promoting collaboration among Falmouth organizations. The committee identified the goals of the celebration as to “Honor the Past, Celebrate the Present, and Invest in the Future”. Recommendation 1: amend the committee’s charge to extend their term; 2: serve as the umbrella organization and maintain a part-time coordinator; 3: create a collaborative history project; 4: organize 5-7 commemorative events or activities including a kick-off event, a multi-day event like Old Home Days, a road race, the Falmouth300 challenges, and a grant program to assist outside organizations in hosting their own events. She discussed the estimated costs associated with the celebration, as well as the potential for in-kind donations and other revenue streams to offset the cost.

Chair Goldberg opened a public comment period; there was no public comment.

Councilor Kitchel moved the order; Councilor Hemphill seconded. Motion carried 7-0.

Item 3 Public Hearing on amendments to Section 19-1 of the Code of Ordinances, Zoning and Site Plan Review Ordinance, to create a new Retirement Community Overlay District to facilitate the expansion of the Avesta Blackstone housing development on Squidere Lane.

Drew Wing, of Avesta Housing, discussed the project and its goals. He said they have the funding for the project lined up and ready to go. They realize this is a change for the community; they have met with the neighbors and will continue to do so.

Jessie Thompson of Kaplan Thompson Architects discussed the location of the property and the location of the proposed new building. They are trying to fit the new building in such a way as to avoid cutting down trees and any wet areas. They propose to locate the building where the turnaround is currently. They would create a new tree buffer and add fencing along two sides of the property line to provide privacy for both the neighbors and for Blackstone residents. They propose one parking space per unit on the property. The new building would be compatible in scale to the existing buildings: it would be 30 feet wide with a gable roof. They will review every existing unit and draft a capital improvement plan to ensure they are properly maintained. He showed a conceptual photo of what the building would look like from Depot Road. He said they have studied other similar housing developments, which provide parking at a ratio of .3-.7 spaces/unit.

Chair Goldberg opened the public hearing.

Chris Wasileski of Johnson Road voiced his personal support, and the support of Oceanview, for this development. It addresses a need for affordable senior housing. It is a clean, safe, and sustainable building. This is a reputable developer and building manager that has done development all over southern Maine. He felt this is a good strategy for reinvigorating the existing site and bringing new opportunity for senior housing with density on the same site.

James Richardson, a resident of Blackstone, was happy with what he just heard but was concerned with parking spaces changing. He didn't want his parking space to change.

Dawn Peterson, resident of Blackstone, said they have some concerns about changing the peaceful, small community they have built. She was worried about squeezing more parking spaces onto the property. She was concerned about emergency vehicle access, especially in the winter. Snow removal is going to be a problem as well; it already is with residents having to move their vehicles to accommodate the plows. She wondered about the schedule of the renovations of the existing buildings and when they would happen compared to the new building construction.

Susan Zeamer, resident of Blackstone, agreed with Ms. Peterson. It is a special community with a lot of natural features; it feels like a small village. Parking has always been an issue, especially in the winter; during winter residents move their vehicles to the place where they are proposing to locate the new building. She was concerned about emergency vehicle access and the congestion.

Ron Dipetro, resident of Blackstone, agreed that the parking will be a big issue. They assigned parking last year as a community since Avesta wouldn't assign parking. He was concerned with disabled residents having to walk to their spaces. He was also concerned with where they park so that they can plow. It is very narrow where the last four spaces are located in the back.

Nancy Lightbody of Falmouth Road said it is a great idea for the town to support affordable housing for seniors. Over 1/3 of the Falmouth residents supported by the food pantry are senior citizens.

Emmy Anderson of Depot Road was concerned with how many people would be housed in the new apartments. She wondered if 19 more units meant 19 more people or 38. The Depot Road community is starting to establish itself as a younger community; many young families have moved there recently and she was concerned with increased traffic where young children are playing. This is a high-traffic area already. She

was concerned with how her property would be impacted by the construction, especially the sewer hook-up and drainage. She asked how the property would be maintained and whether there would be management on-site. There have been problems in the past.

John Wasileski of Oceanview started his career working with the Blackstone development when it was built. He spoke about the Avesta organization: they are highly professional, highly dedicated, and are passionate about their mission. He has served on their Board. This project would provide some needed rehabilitation of existing units; the development of the new units would provide the funding for that rehabilitation due to the nature of the tax credits. He was confident that the staff of Avesta would be hands-on, and would address the needs of the residents. He said some of the concerns of the residents couldn't be addressed yet, but they would be addressed as they move through the process.

Mr. Wing said the parking data they have gathered is very accurate as to what they can anticipate. They listened to the concerns aired previously that there wasn't enough parking, and increased the proposed parking that would be provided. They have talented architects and landscape architects and he felt they would come up with solutions to create a great environment. He agreed that snow removal is challenging; if there was too much snow, they would remove it. They do not have on-site management, but would have a resident coordinator and their highly dedicated management team to address any concerns. He felt the concerns about additional traffic would be addressed during the Planning Board process.

Chair Goldberg closed the public hearing.

Councilor King understood the residents concerns with parking, traffic, and emergency access, and felt those issues would be well addressed during the Planning Board process.

Councilor Farber asked why the proposal states a "maximum" of 1 parking space per unit. Mr. Wing said the proposal for parking was drafted to address the concerns of the residents that there was a lack of parking. The additional of the term maximum was to prevent them from being asked to add more than 39 spaces to the lot. They don't want to build more parking than is needed.

Councilor Farber said this language would limit the Planning Board's power. Mr. Wing agreed.

Councilor King wondered if this would put them in a position where they would have to reduce the number of units, if the Planning Board determined that they needed more parking per unit. Mr. Wing said they worked with town staff and their legal team, and are comfortable with the language as proposed.

Councilor Anderson said they received a letter from the tenants' organization detailing their concerns. He said one of the areas of concern is visitor parking; he wondered where visitors park if the parking is limited to 1 space per unit. He asked if Avesta has addressed these concerns with the tenants' association.

Mr. Wing said they felt the parking proposed is adequate to serve visitor parking as well; not every resident has a vehicle. It is rare that all the cars are on the property. Avesta held a meeting with the residents and reviewed the list of concerns; they had an in-depth conversation on parking. They are going to continue to address it. He said the rehab work would be done at the same time as the new construction.

Councilor Anderson said there are currently 4 spaces identified for visitors, along with the 20 spaces for residents. Mr. Wing agreed that it is a concern, but didn't feel it would be a problem.

Councilor Anderson agreed with the concept of the proposal, but did not want to handcuff the Planning Board with the wording of the zoning.

Councilor Farber asked about Squidre Lane and the ownership of the property. Mr. Poore said it is a little unclear; the next agenda item seeks to address that. He wasn't sure if there was room there for on-street parking; it would take some engineering.

Councilor Farber wondered if the Planning Board could use on-street parking toward the parking counts. Mr. Poore wasn't sure.

Ms. Stearns said there is currently public parking along Squidere; it isn't formal public parking but parking is allowed along public rights-of-way, whether it is formally striped or not. Typically a developer wants to provide required parking on-site. She would have to review whether the ordinance would allow on-street parking to count toward their required spaces.

Councilor Farber said the greater public good is for the project to move forward. She would feel better if there was the ability for parking along Squidere.

Chair Goldberg pointed out that there is no overnight parking allowed during the winter. He wondered what the result would be if they removed the term 'maximum'.

Councilor Farber felt in that case the Planning Board could mandate 2 spaces per unit, which would kill the project. Mr. Wing agreed.

Councilor Anderson wondered why they wouldn't let the Board make the determination if the Planning Board felt that 2 spaces/unit was safer.

Chair Goldberg pointed out that this prevents the Board from increasing the parking, but it doesn't prevent them from voting down the project.

Ms. Stearns said if they place the maximum in the ordinance, the Board can't increase the parking. The rest of site plan review is much more subjective. If the Board finds the project to be adequate, they are obligated to approve it. There is a lot of latitude in site plan review to allow the Board to make decisions. It is unlikely that the Board would make a determination that the project is unsafe; they would have to document that and make an effort to work with the developer to find a solution. They could find that the site isn't viable for the intensity of the use.

Councilor Farber asked what zoning guidance exists in RA for parking. Ms. Stearns said the parking guidance is listed in the overlay district. Removing the term 'maximum' from the proposed language would mean the 1 space per unit would become a minimum. The Planning Board would be able to ask for a parking study if there were a question. Additional parking raises the issue of increased impervious surface, water quality, etc.

Councilor Farber pointed out that the Planning Board held its MRA hearing; the 'maximum' parking issue was not discussed.

An order was scheduled for May 23, 2016. Ms. Stearns will provide information about shared parking for that meeting.

Item 4 Resolution to permit Avesta Blackstone, LP to proceed with its Planning Board review for a proposed senior housing project at Squidere Lane.

Natalie Burns, attorney for Avesta Housing, said the street was laid out in the 1970's but the right of way was never recorded in the registry of deeds. The Town has maintained it for all that time, and may have acquired it. The underlying fee to the road is on Avesta's property. Avesta proposes to deed the right of way to the Town from their property line to Depot Road, and would grant an easement to the Town for access to the turnaround on Avesta's property. Avesta is requesting the Town discontinue the existing cul-de-sac, since that is where the proposed new building will be located. The Town has asked Avesta to take over winter maintenance of the street and Avesta is proposing to draft a road maintenance covenant to add to the title of the property, so that it would pass along to any future property owner. There is one property that has its sole access and road frontage on this street; this is why it is important that the Town maintain rights to the street. Avesta cannot do these things until it is further along in the project; these would be required as a part of the

Planning Board site plan approval. However, there is a question of title that must be resolved before Avesta can proceed with the Planning Board process. Avesta is not seeking any money for any of this.

Chair Goldberg opened a public comment period; there was no public comment.

Councilor Farber asked if all this would happen if the project doesn't go forward. Ms. Burns said it would not; the only thing they are asking tonight is for the resolution to move forward; none of the deed changes would happen if the project did not go through.

Mr. Poore explained that the Planning Board needs proof of adequate right, title and interest in order to review the project. This resolution would establish that the parties are in agreement conceptually which is sufficient to allow the project to move forward.

Chair Goldberg read the resolution into the record.

Councilor Farber moved; Councilor King seconded. Motion carried 7-0.

Item 5 Ordinance to amend the Code of Ordinances, Section 19-1 relative to permitting housing for older persons in the Elementary School Redevelopment District. Amendments include changes to 19-1-2, Definitions, 19-25, Elementary School Redevelopment District, 19-41, Dwelling Unit, 19-42, Multiplex and 19-69, Residential Growth Permit.

Councilor Farber moved the ordinance; Councilor Hemphill seconded. Motion carried 7-0.

Item 6 Order to amend the Development Agreement, dated December 2, 2015, between the Town and Ocean View Retirement Community Limited Partnership.

Mr. Poore summarized the development agreement. In the agreement, Oceanview agreed to landscape the Town Green and the Town granted a portion of the Green to Oceanview for the addition to Plummer building. The agreement also allows for the development of affordable senior housing; grants a walking trail easement to the Town as well as shared outdoor space on Oceanview property; details the affordability of the housing units and makes it permanent; exchanges parking between the parties and adds parking along the Plummer building; establishes an easement to allow a tanker truck to come onto Town property to fill the underground propane tank; and allows for a separate meter and propane line from the Oceanview tank to serve the Mason/Motz building. He said if the Planning Board made changes as part of site plan review process, they would return to the Council to amend the agreement.

Chair Goldberg opened a public comment period; there was no public comment.

Councilor Hemphill asked about the parking spaces that would be reserved for housing.

Matt Teare of Oceanview said there would be 26 dedicated spaces for Plummer housing; he felt there was adequate parking available on site. If they needed more, he felt they could discuss it with town staff. They have done an independent parking study, which would be submitted to the Planning Board.

Councilor Hemphill asked how many spaces are available for the public to park; Mr. Teare thought it was 42 spaces plus there will be 26 spaces along the interior drive.

Councilor Kitchel asked if the dedicated spaces for the housing units would be signed. Mr. Teare said they would be.

Councilor Farber moved the order; Councilor Anderson seconded. Motion carried 7-0.

Item 7 Presentation by Princeton Properties of a proposed expansion of the Foreside Estates apartment complex on Clearwater Drive and need for a zoning amendment.

Dennis Keeler of Pierce Atwood, representing Princeton Properties, said the property was built in 1981 and has 170 units. They propose to add 72 units in three, 4-story buildings. It fits in the Town's comp plan and is located in a designated residential growth area. Current zoning would not allow the proposed expansion; they would like the Council to indicate whether they should proceed with the drafting of an overlay district. Princeton has an adjacent parcel of land under contract; it was originally thought they would need that property to do this project, but it might not be in the Town's interest to tie that parcel up, since it would prevent development along Clearwater in the future. Secondary access is an issue for this property since it does not have access along Route 1; they would have to cross private land to do that.

Dan Endyke of Princeton Properties said the company has owned Foreside Estates for more than 10 years and operates about 600 units in the greater Portland area. He said they have 170 units at this location: 71 are 1-bedroom units, and 99 units have 2 bedrooms. Their rents range from \$1150-1600/month; the rents on the new units would be around \$2000/month for the 2 bedroom units. He showed photos of some existing units, which include wood cabinetry, granite countertops, and 9 foot ceilings. The unit floor plans are very functional and attractive. The exteriors will include HardiePlank siding with cultured stone around the entrances. The proposed expansion plan includes three 4-story buildings located to the interior of their current site. The lot is 50 acres and they have 170 units, which is very low density. They originally considered expansion onto the adjacent Waterhouse site, but it is a tricky piece of property; there are a lot of pockets of wetlands. They still have it under contract, and if they need it to reduce their net density they can keep it, but the Town's comp plan includes the development of that land along Clearwater. If they take this land for density calculations, it would remove the potential for further commercial development. They do not do commercial development, only residential. They have 1.5 parking spaces per unit, which is fairly typical for a conventional family development. One building would be built where the current tennis court is, which they propose to move. The other two buildings would be located on current empty land.

Beau Kennedy of Stantec discussed the zoning issues. The surrounding zones include VC-1, VC-2 and RB. The in-fill development they are proposing is interior to the site, and not impacted by setback requirements. They would need relief from the VC prohibition on residential units on the 1st floor. The parcel is 50 acres and their net residential area is 21 acres, which comes to 5500 sf/unit, far below the 30,000 sf/unit required by zoning. Increasing the units would bring them to 3900 sf/unit. Adding the abutting lot would bring them to 4300 sf/unit with the proposed expansion, so it would not bring them a lot of value for shared density. The current ordinance requires a multiplex to have no more than 6 units per building; they are proposing 24 and the buildings would not have the required 24 foot setback from each other.

Mr. Endyke said the CDC has stressed the importance of gaining secondary access to the development. He met with the ownership group of Waldo's as well as the owner's of the vet office. He understood their concerns and said that for various good reasons, it isn't something they are willing to consider at this time. He pointed out that they could pave a strip to their property line along the conceptual access point; the topography is such that an emergency vehicle could pass over the property to access that strip.

Councilor Farber said it seemed to the CDC to be a lot of units at the end of this road and there would be a lot of benefit, not just for emergency vehicles but also for traffic, to have a secondary access off Route 1. She wondered about providing a pedestrian/bike easement to Route 1.

Councilor King would like to have a discussion about connectivity in a case like this. She was concerned about the net residential density and wondered if they could stage this expansion if it felt like too much. She pointed out that this property bridges three zoning districts, and wondered how they would address that.

Councilor Farber said they discussed whether it would be good to discuss another zone, distinct from VC, which requires commercial development on the first floor, and the classically residential districts.

Councilor Anderson pointed out that part of the discussion of expanding the village feel of Route 1 was increasing residential density in the area. He said the traffic along Clearwater is sparse, even with the number of apartments there now. He didn't think the increase of units would impact the traffic very much. He encouraged them to consider pedestrian/bike access as a secondary access to allow people to reach the shopping along Route 1. He said there is a small walking path already. He supported the conceptual proposal.

Mr. Endyke said they are going to improve the walking path to the property line anyway. He felt the abutting property ownership groups would agree to a walking path.

Councilor King asked about the abutting Waterhouse property, which is under agreement to improve the net residential area calculations, but using it this way would remove potential commercial development along Clearwater.

Chair Goldberg said he understood the concerns of the Route 1 owners regarding a street; he asked about emergency use of the private property, since he thought they would need permission to use it that way anyway.

Mr. Poore said that they have the right to use private property in the case of an emergency.

Chair Goldberg thought it would be a shame to remove the potential of commercial development on the Clearwater property. He asked if the property was within the TIF and whether they were market rate apartments.

Mr. Poore said he would research the TIF question.

Mr. Endyke said they were market rate units. They have 25 half-contract units.

Councilor Farber asked if they could throw in a few more affordable or section 8 units; Mr. Endyke felt that was reasonable. Any developments they do in Massachusetts must include affordable housing.

Councilor Farber pointed out that any development they do here would be exempted from the growth cap. When you add this with the Plummer development and the Avesta expansion, it would add about 125 units in fairly quick order. She asked whether this should be a broader policy question. This issue was raised by the Planning Board.

Councilor Hemphill said the CDC discussed the impact of this expansion on the schools. Mr. Endyke said town staff researched the existing number of children in the development. Mr. Poore said there are 23 current students that live at this development. This comes to .23 students per unit; the town average is .45 students per unit.

Mr. Endyke said the new units will have higher rents; when the rents are the same as a mortgage, people with school age children typically choose a mortgage instead.

Councilor King felt they should have some way of describing and accounting for this type of growth. Perhaps it shouldn't be capped, but it should be named. In this instance, the development is on water and sewer, and the student ratio is less than the average, but if they have caps on single-family dwellings it didn't make sense to not have a way to address this type of development.

The Council discussed next steps. The developers will work with staff and possibly the CDC on a proposed zoning amendment to bring forward. This process will draft several options: zoning district versus overlay versus master plan and bring it back to the full Council for a check in.

The Council discussed the net residential area issue, and the potential of adding the abutting parcel. Councilor Farber felt that the zoning is going to change regardless. Chair Goldberg pointed out that the addition of that

land did not increase the density calculation by a great extent. Mr. Endyke argued that it is very subjective. Councilor Hemphill said it is a very wet property; there is a trail that goes through it already.

The consensus of the Council was that the addition of the abutting property was not necessary.

The developers will meet with staff to develop a proposed process and bring it back to the Council.

Item 8 Order to endorse a PACTS 2019 Collector Road Paving project.

Mr. Poore said the Town scored very highly on this project, and Council approval is required for it to move forward.

Chair Goldberg opened a public comment period; no public comment.

Councilor Hemphill moved the order; Councilor Kitchel seconded. Motion carried 7-0.

Item 9 Order to go into Executive Session pursuant to the Laws of Maine to discuss and consider the acquisition and disposition of real estate rights, pursuant to 1 M.R.S.A. § 405 (6) (C).

Councilor Anderson moved the order; Councilor Kitchel seconded. Motion carried 7-0.

The Council entered executive session at 9:56 pm and did not return.

Respectfully submitted,

Melissa Tryon
Recording Secretary