

March 18, 2014

Amanda Stearns, Community Development Director  
Town of Falmouth  
271 Falmouth Rd  
Falmouth, ME 04105

Dear Amanda:

Thank you again for the opportunity to present this proposed rezoning of a portion of the property located at 206 U.S. Route One to permit the continued operation of Walmart's outdoor garden center. As requested, this letter provides an analysis of zoning compliance for the outdoor garden center pursuant to the performance standards included in Sections 3.6.5 and 9.7 of the Town of Falmouth Zoning and Site Plan Review Ordinance.

As you know, Walmart received approvals from the Planning Board and Board of Zoning Appeals and operated a seasonal garden center and storage area on the property for the last three years. The 2013 zoning amendments re-designated the area that the property is located on from the old SB-1 District to the newly created Village Center 1 District (VC1), which allows, as a permitted use, outdoor retail display between 100 and 2,500 square feet as an accessory use. The company's existing garden center is larger than what is now allowed in the new VC1 District; they would like to continue to operate the garden center as it has been previously approved under the SB-1 District. Further, the company would like to continue to store certain materials in an area that does not have a roof, but will be screened with additional fencing and landscaping.

We have submitted a draft plan of the garden center area, which is substantially similar to what the Planning Board has previously approved with a few changes based on staff review, including the following:

- 1) Adds more landscaping along the Clearwater Drive and Hat Trick Drive portions of the property;
- 2) Adds a sidewalk and pedestrian lighting along Clearwater Drive; and
- 3) Adds new decorative fencing along the pallet storage section to provide additional screening.

The location and size of the garden center furthers the purpose of the underlying VC-1 District as articulated in Section 3.6.1 of the Ordinance, by providing and encouraging a greater intensity of land use and by providing transportation infrastructure that supports motorists, pedestrian, transit riders and cyclists through the addition of the sidewalk along Clearwater Drive and the improvements between the loading area and Hat Trick Drive.

The garden center would meet all performance standards in the Zoning and Site Plan Review Ordinance. Please see below for specific responses:

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## **General Site Plan Review Standards pursuant to Section 3.6.5**

### **3.6.5.2 General Site Planning.**

- 1. *Corner Lots - Buildings located on a lot fronting more than one street or internal drive shall be placed at the intersection of the streets or internal drive so that the front setback is met for all frontages unless the site plan designates a future building site at the intersection.***

N/A - No new buildings are proposed.

- 2. *New buildings on lots that have at least 70% of the frontage length within eighty (80) feet of the front lot line developed with buildings are exempt from meeting the setbacks provided that the existing buildings remain in place.***

N/A - No new buildings are proposed.

- 3. *Businesses that provide shopping carts shall provide designated cart storage both in the parking lot and inside the store.***

Designated cart storage is available both in the parking lot and inside the existing store.

- 4. *Outdoor retail display shall meet the following standards:***
  - a. *Shall be in a dedicated area;***

The garden center is in a dedicated area along the south side of the building abutting Clearwater Drive and Hat Trick Drive.

- b. *Shall not interfere with approved parking areas, landscaping, stormwater management structures or vehicle and pedestrian circulation;***

The general layout, circulation pattern, and access points of the overall site will remain unchanged; the expanded outdoor garden center is in an area of the parking lot along the side of the store and not within the area where most vehicular traffic traverses the site. It will likely reduce the amount of vehicular traffic in that area of the site and will not result in any significant hazards or traffic congestion. A new proposed sidewalk along Clearwater Drive and crosswalk to the store will improve existing pedestrian safety. Additionally, the separately proposed construction of Hat Trick Drive and the connection to Clearwater Drive to include additional parking along the back side of the store and the closing off of the truck area to the rear drive will be an overall improvement to circulation and pedestrian safety along the rear of the garden center.

- c. *Shall only be open to the public during the same hours as the primary use;***

The garden center will only be open when primary retail use is open.

- d. *The outdoor display of merchandise shall not exceed a maximum height of six (6' 0") feet; and***

The outdoor display of merchandise will not exceed six feet.

- e. Areas immediately adjacent to a public right(s) of way shall be enclosed with a solid fence or wall to screen views from the right(s)-of-way. The maximum height of the enclosure shall be ten (10' 0") feet. The design of the fencing enclosure shall be compatible with the main building(s) and surrounding development.***

The bale and pallet storage area will be enclosed with a solid eight foot fence that is similar in design to the existing fence along Clearwater Drive (which is not solid). Additional landscaping has been designed to supplement the site while screening the garden center and storage areas from adjacent properties and right-of-ways.

- 5. Internal drives are encouraged to develop street frontage for existing buildings and provide more opportunity for infill development.***

N/A- there are no internal drives proposed for the garden center.

- 6. Neighborhood Compatibility – Sites developed adjacent to residential district boundaries shall be designed, where possible, so that service areas, parking lots, outdoor storage yards and other similar features do not face toward the district boundary. If orienting these areas toward adjacent residential district boundaries is unavoidable, adequate year round screening and noise reduction shall be provided. (See Section 3.6.5.7, Landscaping and Screening)***

The garden center is not immediately adjacent to a residential district, and is oriented along Clearwater Drive facing other commercial properties. Additional landscaping has been designed however to supplement the site while screening the garden center and storage areas from adjacent properties and right-of-ways.

- 7. 2013 Route One South Infrastructure Plan – The 2013 Route One South Infrastructure Plan (Plan) is hereby adopted as an addendum to this Ordinance. The permitting authority shall rely on the Plan as a guide for access management and streetscape improvements. The permitting authority shall have the authority to modify the improvements if it is determined that the goal of the improvement can be achieved by some other method and that the modifications are in the best interest of the Town and is of equal or greater benefit to the Town.***

The garden center is not on Route One, however this project does propose a new sidewalk and pedestrian lighting along Clearwater Drive.

***3.6.5.3 Streetscape – Site planning and architectural design shall complement and be integrated with the improvements made by the Town and recommended in the Plan. Buildings at or near the street edge are a necessary component of a village streetscape. Development along all street frontages should encourage pedestrian interest and provide safe movement.***

- 1. When there is a gap between the sidewalk/proposed sidewalk on Route One or side streets and the front property line, the applicant shall confer with the Town regarding improvements within the right of way to provide a transition.***

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This project proposes a new sidewalk along Clearwater Drive to connect with Hat Trick Drive, and the applicant has conferred with Town staff regarding improvements to provide a transition.

- 2. Street trees, curbing, pedestrian lighting and sidewalks are required components on both sides of all side streets. Where improvements are not installed by the Town as part of the Plan, the property owner shall be responsible for the installation of improvements.***

This new sidewalk along Clearwater Drive includes new landscaping, curbing, and pedestrian lighting to match the existing sidewalk on the other side of the street.

- 3. Street Furnishings – Street furnishings, including outdoor seating or space for pedestrians and patrons are encouraged and may be placed in the public right-of-way with the permission of the Town if not provided on site adjacent to the street. Street furnishings are also encouraged on private property and should be located between the building and the sidewalk. They may include bicycle racks, benches, planters or other similar furnishings. Materials shall be durable and able to with stand heavy public use and Maine climate conditions. Street furnishings shall be secured in such a manner that they cannot be removed easily.***

N/A- no new street furnishings are proposed for the garden center after conferring with Town staff.

#### **3.6.5.4 Internal Drives**

N/A- there are no internal drives proposed for the garden center.

#### **3.6.5.5 Architecture for new building development and redevelopment of existing buildings**

N/A – there are no new buildings proposed or any redevelopment of existing buildings.

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N/A – there are no new buildings proposed or any redevelopment of existing buildings.

***3.6.5.6 Pedestrian and Bicycle Movement Development shall include a well-defined safe circulation system that encourages walking and cycling within the Village Center with connections to adjacent neighborhoods. This should be provided with pathways between sidewalks, sidewalks on public streets and sidewalks on internal drives.***

- 1. Pedestrian circulation systems shall provide connectivity between internal pathways, sidewalks on adjacent public and internal streets, buildings and parking lots.***

This project proposes a new sidewalk along Clearwater Drive that connects to the existing sidewalk and also connects to Hat Trick Drive, and adds an internal crosswalk from

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Clearwater Drive along the front of the garden center to the corner of the existing storefront.

- 2. Sidewalks and pathways shall avoid crossing parking lots at entrances, service areas and other potential points of conflict where possible. Where such crossings are unavoidable, they shall be as direct as possible.**

N/A – the proposed sidewalk does not cross a parking lot.

- 3. Pedestrian islands shall be installed in streets, drives and driveways where the crossing distance is greater than 32 feet. Pedestrian refuge islands shall be a minimum of six feet wide.**

N/A - neither the proposed sidewalk or new internal crosswalk crosses a street, drive or driveway.

- 4. Where crosswalks occur, a change in materials, textures or colors shall be provided to emphasize the crossing and enhance visibility.**

The new internal crosswalk will be marked in a way that will enhance visibility, per the site plan.

- 5. Bike racks shall be provided at a minimum of one at each customer entrance of a building and be placed so to minimize bicycle-pedestrian conflicts. Bike racks may be placed in a public right of way with permission of the Town.**

N/A- there are no additional bike racks proposed for the existing building.

**3.6.5.7 Landscaping and Screening – A landscaping plan shall be designed to complement the proposed or redeveloped buildings, reinforce pedestrian circulation, highlight transitions between parking and the building, provide shade to parking areas, provide stormwater treatment, add seasonal interest to the property and provide appropriate screening to adjacent residential properties and districts.**

Additional landscaping is proposed as shown on the site plan to provide enhanced screening of the garden center and storage areas. A new eight foot opaque fence will enclose the storage area to block the view from an adjacent pedestrian.

**3.6.5.8 Lighting – In addition to the standards in Section 9.23, the following standards shall be met. Where the standards differ, the standards in this section shall prevail. The minimum level of lighting shall be provided to provide security, safety and visual appeal for both pedestrians and motorists.**

Pedestrian lighting is proposed for the new sidewalk along Clearwater Drive that will meet the standards in this section and will match the existing lighting on the other side of the street. No additional lighting is proposed for the garden center.

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### **3.6.5.9 Signage**

N/A – there is no signage proposed for the garden center.

### **3.6.5.10 Parking Areas**

N/A – there is no new parking area proposed for the garden center.

### **3.6.5.11 Service Areas – Provisions for servicing buildings, including loading docks, service entrances, trash disposal, utilities and mechanical equipment shall be provided in such a way that minimizes visual blight, offensive odors and excessive noise.**

Deliveries will continue to be provided on the south side in the existing location, and the service entrance is designed in a way to minimize the impact of truck delivery on Clearwater Drive. As noted above, the storage area will be screened and enclosed by a new eight-foot opaque fence.

### **3.6.5.12 Stormwater Management Facilities – Stormwater management facilities shall be treated as an integral and attractive part of the landscape and be generally compliant with the recommendations of the 2013 Route One Stormwater Management Grant Report or other stormwater management plan as may be adopted by the Town. The location of bio retention areas, rain gardens, filter strips, swales, and constructed wetlands is permitted in required setback areas, parking islands and in buffer strips.**

The applicant has reviewed the proposed landscaping plan with Town staff in relation to the stormwater report. There will be no additional impervious surface area in the garden center.

### **3.6.5.13 Focal Points**

N/A- there are no focal points proposed for the corners of the garden center, other than the existing stockade fence and landscaping.

### **3.6.5.14 Outdoor Spaces**

N/A- there are no outdoor spaces proposed for the garden center, other than the existing retail area which will be enclosed and screened with additional landscaping.

### **General Site Plan Review Standards Pursuant to Section 9.7**

- a. *Preservation of the Landscape: the landscape shall be preserved in its natural state, insofar as practicable, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.***

This is an existing site that has been developed since the early 1970's. The majority of the existing landscape and grade will be preserved. Disturbance of soil will be minimal. This proposal preserves the existing topography and does not cut, fill, or pave other than what may be needed to install the additional fencing near the pallet area. Additional landscaping

has been designed to supplement the site while screening the storage areas from adjacent properties.

- b. Relation of Proposed Buildings to Environment: Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed structures, so as to have a minimally adverse effect on the environmental and aesthetic qualities of the developed and neighboring areas.**

No new structures are proposed.

- c. Drives, Parking and Circulation: With respect to vehicular and pedestrian circulation, including walkways, interior drives and parking, special attention shall be given to location, number of access points and increased traffic to the public streets, width of interior drives and access points, general interior circulation, separation of pedestrian and vehicular traffic, an arrangement of parking areas that are safe and convenient, and, insofar as practicable, do not detract from or have a minimally adverse effect on the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and the neighboring properties.**

The general layout, circulation pattern, and access points of the overall site will remain unchanged; the expanded outdoor garden center is in an area of the parking lot along the side of the store and not within the area where most vehicular traffic traverses the site. It will likely reduce the amount of vehicular traffic in that area of the site and will not result in any significant hazards or traffic congestion. A new proposed sidewalk along Clearwater Drive and crosswalk to the store will improve existing pedestrian safety. Additionally, the separately proposed construction of Hat Trick Drive and the connection to Clearwater Drive to include additional parking along the back side of the store and the closing off of the truck area to the rear drive will be an overall improvement to circulation and pedestrian safety along the rear of the garden center.

- d. Utility Service: The Planning Board may require electric, cable television, and telephone lines to be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site. Within the VC, BP, and CO districts, all individual electrical and telecommunication services shall be placed underground from the building(s) to the main utility lines unless the cost of doing so would exceed twenty (20 %) percent of the total estimated project construction cost. This section shall not apply to projects submitted for Minor Site Plan Approval.**

There are no new utilities proposed for this project.

- e. Advertising Features: The size, number, location, design, color, texture, lighting and materials of all permanent signs and outdoor advertising structures or features shall not detract from or adversely affect the design, appearance, and environmental and aesthetic qualities of proposed buildings and structures and the surrounding properties.**

There are no signs proposed for this project.

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- f. *Special Features: Exposed storage areas, exposed machinery installations, service areas, truck loading areas, utility buildings and structures, and similar accessory areas and structures shall be subject to setbacks, screen plantings or other screening methods as shall reasonably be required to prevent their being adverse to or incongruous with the design, appearance, environment and the surrounding properties.***

The truck dock and delivery areas will be screened with landscape plantings. The bale and pallet area will be screened with an enclosure; see plans for further details.

- g. *All Site Plan Review applications within the VC Districts are subject to Section 3.6. Site Plans shall include those portions of the public right of way necessary to demonstrate how the standards have been incorporated into the site plan under review.***

See responses to Section 3.6.5 Village Center Performance Standards above.

- h. [deleted 8/26/13]**

- i. *Route 100: All Site Plan Review applications within the Corridor Overlay District shall meet the requirements of section 3.10 of the Zoning Site Plan Review Ordinance and, wherever possible, follow the recommendations contained in the Exit 10 Design Guidelines dated January 5, 1998.***

N/A - This project is not located within the Corridor Overlay District.

- j. *Business Professional District: All site plan review applications within the Business Professional District shall meet the requirements of the Route One Design guidelines date October 27, 1997.***

N/A - This project is not located within the Business Professional District.

Please let me know if you have any further questions.

Sincerely,  
**James W. Sewall Company**



Aaron Shaw, PE  
Senior Project Manager

Cc: Philip Saucier and Joan Fortin, Bernstein Shur  
Holly Malloy, Falmouth Plaza, LLC