




Town of Falmouth  
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## Memorandum

Date: March 6, 2018  
To: Falmouth Town Council  
From: Jay Reynolds, Public Works Director   
Cc: Nathan Poore, Town Manager  
Re: Application for Street Acceptance – Garden Way

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Please find the following review comments provided by Town Staff as they relate to the Garden Way street acceptance application. Please note that some of these initial review comments were provided in early 2017 and that some items have been addressed. Staff comments are as follows:

- **Community Development Department** (February 2017):

The developer still has not completed all of their site improvements for this subdivision. We are holding an LOC.

The project is within the growth area so it is supported by the Comprehensive Plan.

All open space should be public.

There are a multitude of easements over easements that need to be sorted out.

The Town should make sure that the trail connection to the Portland Dog Park is constructed.

- **Legal Review**

(March 2017)

From a legal standpoint, I see no issues with this application. Everything I see in the Registry suggests that things have been done well up to this point, and FL Ventures, LLC appears to be the current owner of the road. I note that the following were recorded and I see no issues with them: Declaration (26108/106), Amendment to the Declaration (29887/124), deed to the Falmouth Conservation Trust for Open Spaces A, B, F, and G (26108/122). The homeowner's association was formed in 2007 (Ledges Residential Homeowners Association) and in 2012 the name was changed to Elm Landing Homeowners Association. Couple of notes to keep in mind for the next step:

1. The plan notes indicate that there should have been a deed from FL Ventures, LLC to the HOA for Open Spaces C, D, and E. My preliminary search does not indicate that this was done. If the street acceptance occurs, that transfer should be accomplished at the same time. That conveyance will include the center circle of the cul-de-sac per Note 4 on the recorded plan. If the Town will not own that, then the deed to the Town for Garden Way should

include an easement in favor of the Town over that parcel as may be necessary in connection with its ownership and maintenance of the road.

2. It is a bit challenging to read the as-built plan, so when we are at the point where we have a draft deed to the Town to review, it would be helpful to see a full-sized plan if possible.

(January 2018)

Here are our comments on the Garden Way application:

1. Title commitment:
  - a. Title exception #14 (PWD easement) should say Book 2163, Page 223 rather than page 69.
  - b. Title exception #18 should say Plan Book 213, Page 405 and 406 rather than 335.
  - c. There are two plans recorded that do not appear to be referenced, in Plan Book 213, Pages 64 and 65 – please add.
2. We have received a draft easement from the owner of Lot 2 to the Town and the Homeowner's Association. That drainage system near Ledgewood Drive is a private system, and is not appurtenant to the Garden Way, so it will remain the responsibility of the Homeowner's Association. The Town will need to be deleted from that easement.
3. Please request copies of the draft documents in Word (rather than PDF) so we can make our proposed changes. We will wait to do this until after the first Town Council meeting. We will review the metes and bounds descriptions at that time as well. We will have several changes to the documents themselves but nothing that I think will be significant or problematic for the developer.
4. As you and I discussed, it would be good to let the Conservation Trust know about the easements being given to the HOA now, and to share the sketch with them that shows the location of those easements in relation to the land owned by the Conservation Trust.

- **Public Works Department**

(February 2018)

Items that need to be submitted prior to the Town Council scheduling an order to accept the street:

1. Defect Guarantee, per section 14-63, 11., of the ordinance.
2. Executed Warranty deed, per section 14-63, 12., a., of the ordinance.
3. Recordable mylars and plans, per section 14-63, 12., b., of the ordinance.

- **Fire Department** (February 2017)

No issues at this time from Fire-EMS.

- **Police Department** (February 2017)

I reviewed the street in regards to police operations and I find no issues with the street.