Falmouth Planning Board
Selectmen’s Meeting Room, Town Hall – January 12, 2021
Virtual Meeting - 6:30 pm

MINUTES

Present: Pat Kerfoot, Chair, Charlotte Harris, Vice Chair, Paul Dreyer, Clerk/Secretary, Jim Fox, John Druley, Pamela Harting-Barrat, Robert Leary
Also Present: Tom Bott, Town Planner; Michaela Shoemaker, Community Development Planner

Chairwoman Pat Kerfoot called the meeting to order at 6:30 pm.

In accordance with the Governor’s Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the January 12, 2021 public meeting of the Falmouth Planning Board shall be physically closed to the public to avoid group congregation.

Alternative public access to this meeting shall be provided in the following manner:
The meeting will be televised via Falmouth Community Television.
Real-time public comment can be addressed to the Planning Board utilizing the Zoom virtual meeting software for remote access. This application will allow users to view the meeting and send a comment or question to the Chair via the Chat function. Submitted text comments will be read into the record at the appropriate points in the meeting.

Zoom Login instructions:
Instructions and the meeting link for this specific meeting can be found at the following web address:
http://www.falmouthma.gov/Planning
Please plan on 10-15 minutes of preparation time to log in though it may be less if you have previously used Zoom on the device you will use to access this meeting.
Additionally, public comments may be sent in advance of the meeting to planning@falmouthma.gov at least 5 hours prior to the beginning of the meeting. Documents and audio or video files may also be submitted via email. Submitted email comments and documents will be made a part of the meeting record and may be read into the record, summarized or displayed during the meeting at the discretion of the chair.

Applicants, their representatives and individuals with enforcement matters before the Planning Board may appear remotely and are not required to be physically present. Applicants, their representatives and individuals with enforcement matters before the Planning Board may contact the Planning Department to arrange an alternative means of real time participation if unable to use the Zoom virtual meeting software. Documentary exhibits and/or visual presentations should be submitted in advance of the meeting to planning@falmouthma.gov so that they may be displayed for remote public access viewing.

MINUTES: January 5, 2021
MOTION by P.Dreyer/P.Harting-Barrat to approve the minutes of January 5, 2021.
Voted 7-0-0

MOTION by P.Harting-Barrat/R.Leary to table and take the hearing for Michael and Nicole Bingaman out of order.
Voted 7-0-0

PUBLIC HEARING cont:
Applicant: Michael and Nicole Bingaman – Definitive Plan application and Special Permit application for a 6-lot Planned Residential Development located at Lot 15B, Timothy Bourne Cartway
John Druley recused himself.

Attorney Kevin Klauer – We have made some changes to the plans. We are still requesting a waiver for sidewalks within the subdivision but have agreed to a sidewalk outside the subdivision. We did revise the plans which included the addition of that sidewalk along the easterly side of Timothy Bourne Cartway. We did alter the street opening in response to the neighbor’s concerns regarding light glare. There were technical changes made in response to the Engineering comments and Staff report.

T. Bott – Is screening a possibility; that is the only issue that I had. We haven’t seen a site diagram for the moving of the roadway due to poor site distance.

K. Klauer – We are not opposed to the screening. I would ask that be a finding that we will have a conversation with the neighbors since it’s not on our property.

R. Leary – I don’t see any way to move that to improve it.

MOTION by J. Fox/P. Harting-Barrat to close the hearing.
Voted 6-0-0

MOTION by P. Harting-Barrat/J. Fox to return to the regularly published agenda.
Voted 7-0-0

APPROVAL NOT REQUIRED:

Applicant: Sandwich Road Development, LLC – Plan of land to divide one lot into two lots located at 0 Sandwich Rd (Map# 17 01 032 000)

MOTION by J. Fox/P. Harting-Barrat that the Planning Board vote to endorse “Approval under the Subdivision Control Law not required”. The plan does not depict a subdivision by definition. This endorsement is without regard to zoning or buildability and should not be construed as an approval that the lots shown are entitled to a building permit.

Voted 7-0-0

Applicant: Sandwich Road Development, LLC – Special Permit application along with a Site Plan Review application to have a contractor’s yard in the AGA District, including a contractor’s yard building with floor area of 7,450 SF and exterior contractor’s yard storage, parking and assembly area of 39,900 SF, and one detached single-family dwelling located at 0 Sandwich Rd (Map# 17 01 032 000)

Attorney Bob Ament – The line is 200 feet from the Lebron’s house and the closest point of the actual contractor’s yard will be 330 feet away from their house. Contractors need a place to store their equipment and vehicles; otherwise they store it at their home. This contractor’s yard meets all the requirements. The lighting can be on motion sensors and we can do more planting. Prohibiting cutting firewood or crushing stone is ok.

J. Fox – There’s a specific need in our town; we were losing contractors badly. We developed this bylaw carefully looking at setbacks and locations. It meets a need for the whole town.

R. Leary – This is a better use of this property than putting a bunch of houses in there.

C. Harris – This meets all of our requirements and we have no reason to reject it.

J. Druley – I have a concern about how many contractors should be allowed on the site.

B. Ament – No cutting of wood is fine. The house may be workers; it could be a family. This project is going to end up having a total lot coverage of parking and paving of just about less than 20% where 40% is allowed by right. The buildings will cover less than 4 per cent where 20 per cent is allowed by right. The development is clustered in an area that is farthest away from the residents on Hayway Road.
T. Bott – This is an application for a Special Permit. It is within the Board’s right if they want to require some additional screening to the property.

M. Shoemaker - read the letter from the Lebrons with concerns regarding the level of noise and the effects on the Hayway Road neighborhood and a letter from Dorothy Cigarsi regarding concerns on the pathways for wildlife.

B. Ament – The lighting will be motion-censored and will not shine all night. All of the lighting would be down-lighting.

J. Druley – I’d like to discuss the hours of operation.

R. Leary – It’s going to be a maximum of 25 vehicles. How would a vegetated berm 20 feet below mitigate any sound or visual?

P. Kerfoot – Do you want to see erosion control methods? We need to see method of sewage disposal. I wonder if we should have the trips in and out of the property.

J. Fox – Their building will actually reduce the amount of water flowing between sites.

B. Ament – The proposed use of this property will create less flow than one bedroom per acre and we have reduced the flow from this property way below if it were two houses on seven acres. Hours of operation are 6:30 am to 7pm; the same hours that Greener Image Landscaping is allowed. Six days.

MOTION by C. Harris/J. Druley to continue the hearing to January 26, 2021.

Voted 7-0-0

PLANNING BOARD DISCUSSION:

Request for Administrative Approval – Cumberland Farms (400 East Falmouth Hwy)

John Druley recused himself.

T. Bott – The folks at Cumberland Farms have requested to withdraw this request without prejudice for administrative approval.

MOTION C. Harris/P. Harting-Barrat to accept the request for withdrawal.

Voted 6-0-0

Warrant Articles for Spring 2021 Town Meeting: Site Plan Review Bylaw Changes, Changes to Zoning

MOTION by P. Harting-Barrat/C. Harris to accept 240-192 as printed on the Warrant.

Voted 7-0-0

MOTION by P. Harting-Barrat/C. Harris to accept 240-198 as printed on the Warrant.

Voted 7-0-0

Map, Funding for Zoning Bylaw Recodification

MOTION by P. Harting-Barrat/C. Harris to put this Article on the Warrant.

Voted 7-0-0

Committee Reports:

none

ANNOUNCEMENTS:

Completer Street Public Meeting February 13th

GENERAL CORRESPONDENCE: January 6, 2021 through January 12, 2021

Letter from Julian Souso regarding Lewis Neck Road.

CPC Committee and Falmouth Affordable Housing Funds
FUTURE AGENDA ITEMS:
Lewis Neck Road access
Multifamily Bylaw update

NEXT MEETING: January 26, 2021

Meeting adjourned at 8:18pm.

Respectfully Submitted,
Paul Dreyer, Clerk/Secretary
Sheri Theroux, Recording Secretary
EROSION AND SEDIMENT CONTROL NOTES:

1. LIMITS OF WORK AND PROPERTY LINES SHALL BE MARKED IN THE FIELD PRIOR TO THE START OF CONSTRUCTION.

2. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE CONSTRUCTED IN ACCORDANCE WITH STANDARDS AND SPECIFICATIONS OF THE MASSACHUSETTS EROSION AND SEDIMENT CONTROL SUBCONTRACTORS ASSOCIATION, INC. RULES AND REGULATIONS. ALL EROSION CONTROL MEASURES ARE TO BE MAINTAINED AND OPERATED AS REQUIRED TO ACHIEVE PROPER SEDIMENT CONTROL DURING CONSTRUCTION.

3. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO INSTALL TEMPORARY CONTROL MEASURES DURING CONSTRUCTION AS REQUIRED TO PREVENT ANY SEDIMENT DREDGING IMPACTS.

4. SEDIMENT REMOVED FROM EROSION CONTROL STRUCTURES WILL BE STORED IN A MANNER WHICH IS CONSIDERED BY THE AGENCY TO BE APPROPRIATE. ALL SEDIMENT REMOVED FROM EROSION CONTROL STRUCTURES WILL BE STORED IN SUCH A MANNER AND IN SUCH QUANTITIES AS TO ENSURE THAT THE SEDIMENT REMOVED AND ALL EXCAVATION DREDGING CONTROLS REMAIN IN PLACE AND UNALTERED.

5. SEDIMENT REMOVED FROM EROSION CONTROL STRUCTURES WILL BE STORED IN SUCH A MANNER WHICH IS CONSIDERED BY THE AGENCY TO BE APPROPRIATE. ALL SEDIMENT REMOVED FROM EROSION CONTROL STRUCTURES WILL BE STORED IN SUCH A MANNER AND IN SUCH QUANTITIES AS TO ENSURE THAT THE SEDIMENT REMOVED AND ALL EXCAVATION DREDGING CONTROLS REMAIN IN PLACE AND UNALTERED.


7. THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONTROLLING DREDGE AND SEDIMENT THROUGHOUT THE AREA AND Always USE BEST EFFORTS TO MINIMIZE EROSION AND SEDIMENT REMOVAL DURING CONSTRUCTION SHALL OCCUR DURING DEWY TO PREVENT A HAZARD TO TRAFFIC AT ADJACENT ROADWAYS.

8. If a contracted area is not exposed further than one year, permanent grasses or other approved cover must be installed.

9. In described areas, if the surface material is not suitable for the grading of road, a maximum of a 6" thickness of stone will be required.

10. The contractor must keep on site at all times excavation and silt fence for the installation at the direction of the engineer for repairs as needed.

11. Erosion and sediment control plans also be subject to "silt fence and sediment control standards" where applicable by the town of Falmouth Department of Public Works Engineering Division dated August 20, 2022 consisting of 7 pages.

SOIL EROSION & SEDIMENT CONTROL PLAN

EROSION CONTROL PLAN

MICHAEL & NICOLE BINGAMAN

FAWMOUTH

PLAN DATE: JANUARY 4, 2022

PLAN SCALE: 1" = 20'
Date of Notice: January 5, 2021

Subject: Campaign Finance Report Due
Due Date: January 22, 2021

Dear Candidate or Treasurer:

The campaign finance law, M.G.L. c.55, requires you to file a campaign disclosure report (Form CPF M102) with this office on or before Jan. 22, 2021. Your report must disclose all campaign finance activity (all funds and in-kind contributions received, expenses paid and liabilities incurred) from the day following the ending date of the last report filed by you through December 31, 2020.

A link to the M102 form is available by clicking here. Please ensure that your report is complete before filing. Reports that do not conform to the law cannot be accepted by this office and must be returned to you for correction. Your report must include the candidate's and treasurer's original signatures in ink, and must be received by this office no later than the close of business on Jan. 22, 2021. By law, a postmark is not acceptable.

IMPORTANT: The campaign finance law mandates that a CIVIL PENALTY OF $25 PER DAY, UP TO $5,600 TOTAL, be assessed personally against a candidate for any report that is filed after the due date and upon referral to the Office of Campaign and Political Finance. In addition, failure to file the report as required will subject you to referral to the Attorney General.

If you do not have a political committee organized on your behalf and you have not received any contributions, made any expenditures or incurred any liabilities during this reporting period, and you do not have a previous campaign balance, you may, if you choose, simply sign an M102-0 affidavit form stating those facts. The M102-0 form is by clicking here.

If you have any questions about your filing requirements or any other campaign finance matter, please do not hesitate to contact this office.

Sincerely,

Michael Palmer
Form CPF M 102-0: Campaign Finance Report
Municipal Form
Office of Campaign and Political Finance

City or Town of: ____________________________

Please print or type all information, except signatures.

Reporting Period: Beginning: ____________ Ending: ____________
(MM/DD/YYYY) (MM/DD/YYYY)

Type of Report: (Check One)
☐ 8th day preceding preliminary/primary ☐ 8th day preceding election ☐ 30th day following election (town or special) ☐ 20th day of January (Year-End report)

Pursuant to M.G.L. Chapter 55:
1. I certify that I am a candidate for or currently hold Municipal Office.
2. I certify that I have not received any contributions, made any expenditures, or incurred any obligations during this reporting period, and do not have a campaign fund in existence.
3. I certify that I do not have a political committee.

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January 6, 2021

VIA EMAIL melinda.maranchie@falmouthma.gov
AND FEDERAL EXPRESS MAIL

Town of Falmouth Planning Board
Attention: Melinda Maranchie
59 Town Hall Square
Falmouth, MA 02540

Re: Cumberland Farms Inc.’s Application for Special Permit
400 East Falmouth Hwy, Map 33, Section 12, Parcel 8
8 Old Meeting House Road, Map 33, Section 12, Parcel 7

Dear Ms. Maranchie:

Cumberland Farms, Inc. (“CFI”) respectfully requests that the Town of Falmouth Planning Board (“Board”) administratively modify its December 11, 2019 Site Plan Approval and July 31, 2020 modification of Site Plan Approval to CFI concerning CFI’s project to raze and rebuild the existing convenience store (retail), motor vehicle service (gas) station and canopy at 400 East Falmouth Highway and 8 Old Meeting House Rd. (“Subject Property”) in order to approve minor changes, revisions, and modifications made to the approved site plan and landscaping plan. (See copy of the Board’s December 11, 2019 Site Plan Approval and July 31, 2020 Modified Site Plan Approval (“Site Plan Approval”) attached hereto respectively as Exhibits “A” – “B”).

It is CFI’s position that the below requested modifications are minor in nature and not a substantial deviation from the record of the exhibits and/or the site plan conditions set forth in the Site Plan Approval and therefore do not require CFI to seek a formal modification of the Site Plan Approval in connection with CFI’s Project.

In support of this request, CFI states as follows:

CFI is requesting the relocation of three (3) dogwood trees as shown on the proposed landscaping plan (CFG 08.0) attached hereto as Exhibit “D” in order to increase visibility on and off the Subject Property. CFI is also seeking to relocate its proposed free-standing sign to the location shown on the revised site plan (CFG 04.0) attached hereto as Exhibit “C” in
January 6, 2021
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connection with the relocation of the dogwood trees in order to increase and improve visibility on and off the Subject Property.

CFI specifically provides below the requested minor revisions, modifications and changes to be made to approved site plan (CFG 04.0) and landscaping plan (CFG 08.0) dated September 10, 2019, with latest revision dates December 23, 2020 and December 11, 2020 respectively:

**Requested Minor Modifications:**

1. Modify Site Layout plan with Site Layout plan, CFG04.0 - latest revised date December 23, 2020. (See Revised Plans attached hereto as Exhibit C). The modified plan provides for the following changes:
   
   a. Relocate the free-standing sign from the SW corner of Subject Property to the center of the front Southern landscape island of Subject Property; and
   
   b. Increase front landscaping island depth from 8.1’ to 12.1’.

2. Modify Site Landscaping Plan with Site Landscaping Plan - CFG08.0 latest revised date December 11, 2020. (See Exhibit “D”).
   
   a. The modified plan seeks the relocate the planting of three (3) dogwood trees on the frontages of the Subject Property.

To the extent further approval is necessary in connection with the minor modifications to the plans as set forth in Exhibits C-D, CFI respectfully requests that such plans be modified – last revised date December 23, 2020 and December 11, 2020 respectively.

**Conclusion**

It is CFI’s position that it is clear that the above requested modifications are not a substantial deviation in nature from the record of the exhibits and/or the site plan conditions set forth in the Site Plan Approval and therefore do not require CFI to seek a formal modification of the Site Plan Approval in connection with CFI’s Project.

For all of the foregoing reasons, Cumberland respectfully submits that its request for modification of the Site Plan Approval be approved.

Accordingly, CFI requests that the Board place CFI on its agenda for the next Board meeting, and approve the following minor modifications to the Site Plan as request above.
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Should you have any questions regarding this request or require any additional information, please do not hesitate to contact me.

Respectfully submitted,

CUMBERLAND FARMS, INC.,

By their attorneys,

[Signature]

Douglas A. Troyer, BBO #645134
dtroyer@lawmtm.com
MORIARTY TROYER & MALLOY LLC
30 Braintree Hill Office Park, Suite 205
Braintree, MA 02184
(781) 817-4900

cc: CFI Project Team (via email only)
    Thomas Bott (via email only thomas.bott@falmouthma.gov)
EXHIBIT “A”
December 11, 2019

Rod Palmer, Building Commissioner
Falmouth Town Hall
59 Town Hall Square
Falmouth, Massachusetts 02540

Re: Site Plan Review Decision for Cumberland Farms, Inc.
400 East Falmouth Hwy and 8 Old Meeting House Road
Map #33 12 008 000, 33 12 007 000

At its meeting of December 10, 2019, the Planning Board voted to approve the application of Cumberland Farms, Inc under Article XXXIX (39) – Site Plan Review – of the Zoning Bylaw to raze and rebuild the existing convenience store (retail), motor vehicle service (gas) station and canopy at 400 East Falmouth Highway and 8 Old Meeting House Rd, as depicted on plans entitled, “Site Plan – 400 East Falmouth Highway – Assessors Map 33 Block 12 Lot 7 & 8, East Falmouth, Massachusetts” prepared by Farland Corp., dated September 10, 2019, with latest revision November 18, 2019; Scale – As Noted, (Sheets 1-28), with the following findings and conditions.

FINDINGS:

The applicant, Cumberland Farms, Inc., is seeking Site Plan Review approval to raze an existing Cumberland Farms convenience store and motor vehicle service station and canopy and rebuild a new 4,384 square foot Cumberland Farms. The applicant would like to redevelop two existing parcels, 8 Old Meeting House Road which was formerly occupied by Wynne Oil Company and contains two buildings as well as a driveway and parking area and 400 East Falmouth Highway which is an existing motor vehicle station. Parcels are both zoned Business 2 and are located in the Coastal Pond Overlay for Bournes Pond and Green Pond. The applicant is allowed 12% lot coverage by structure and has removed one gas filling station in revised plans in order to meet the required lot coverage. The applicant is proposing to provide 24 parking spaces, install a new stormwater management system to reduce runoff volume, and install a new freestanding sign.

The Town of Falmouth Engineering Division commented on the above referenced site plans in referrals dated October 3, 2019 and October 21, 2019; the applicant’s engineer responded to the Town’s referrals included in a letter dated October 16, 2019 and November 18, 2019. The Planning Board finds the applicant has adequately addressed the Engineering Division’s concerns.

The Planning Board finds the proposed modifications to the site plan, vehicle circulation plan and color architectural renderings of the proposed building with landscaping appropriate for the
site and thanks the applicant for revising plans in a timely manner based on Planning Board comment.

CONDITIONS

1. The plan shall be constructed as approved. Any changes shall be reviewed by the Planning Board at a public meeting to determine if a modification of this decision is necessary. Pursuant to §240-183.B. of the Zoning Bylaw, no permit for occupancy shall be issued until the Planning Board is satisfied that the conditions of this approval have been met.

2. The Applicant shall obtain an approved Driveway Permit or Street Opening Permit and post any required bond with the Engineering Division prior to start of construction. The Applicant shall complete the work as approved by the Engineering Division in the Driveway Permit.

3. The applicant shall apply for a Special Permit pursuant to 240-109 E. to allow parking in front yards based on the approved site plan.

4. The address (#400) shall be posted in a location visible from East Falmouth Highway and Old Meeting House Road per the requirements of §99-1 Affixing of legible numbers required; time limit for compliance.

5. Construction of this project shall follow the attached “Soil Erosion & Sediment Control Standard Conditions” document. Standard #15 is waived, the soil stockpile location as shown on Erosion Control Plan CFG0.60 is acceptable. References to the “Department of Public Works Engineering Division” shall be replaced with the “Planning Board” who is the permitting authority for this project.

6. As stated in the “Soil Erosion & Sediment Control Standard Conditions” document, no work shall start until the limit of works has been demarcated in the field, septic and stormwater infiltration areas are protected, a stabilized construction entrance is installed, and all other erosion control measures shown on Erosion Control Plan CFG0.60 are inspected by the Town and approval to start work has been issued in writing.

7. The Applicant shall meet with the Falmouth Police Department to determine when police details would be required. All police details required by the Falmouth Police Department, MassDOT, or per the Applicant’s own choice, shall be paid for by the Applicant.

8. Prior to issuance of an occupancy permit, a certified as-built plan shall be provided (per 240-193 C.) to the Board for review for conformance to the approved plans. The as-built plan shall be an overlay on the Site Layout Plan CFG04.0 with the addition of the proposed stormwater management structures and pipes, and the proposed subsurface sewage disposal system structures and pipes added to them to serve as the approved base plan. The approved plan shall be faded back for clarity, and any deviations from the approved plan shall be clearly shown in redline over this base plan. The as-built plan
shall be certified by both a licensed surveyor and registered engineer that work was performed in conformance with the approved plans and all permits.

9. The Planning Board will require the applicant to hire an outside consultant as a clerk of the works to perform inspections, testing, materials approval or other construction related services required by the Board. The clerk of the works will be hired at the expense of the Applicant.

Sincerely,

Thomas Bott
Town Planner
cc: Applicant
    Assessor's Office
EXHIBIT "B"
July 31, 2020

Rod Palmer, Building Commissioner
Falmouth Town Hall
59 Town Hall Square
Falmouth, Massachusetts 02540

Re: Administrative Approval Decision for Cumberland Farms, Inc.
400 East Falmouth Hwy and 8 Old Meeting House Road
Map #33 12 008 000, 33 12 007 000

At its meeting of July 28, 2020, the Planning Board voted to allow the Planning Office staff to administratively approve the requested modifications from the original site plan review decision for Cumberland Farms, Inc at 400 East Falmouth Highway and 8 Old Meeting House Rd, as depicted on plans entitled, “Site Plan – 400 East Falmouth Highway – Assessors Map 33 Block 12 Lot 7 & 8, East Falmouth, Massachusetts” prepared by Farland Corp., dated September 10, 2019, with latest revision June 25, 2020; Scale – As Noted, (Sheets 1-38),

A copy of the requested modifications and plans are attached.

Sincerely,

[Signature]
Thomas Bott
Town Planner

cc: Applicant
EXHIBIT “C”
EXHIBIT "D"
**CURRENT FALMOUTH SITE PLAN BYLAW** with proposed changes **bold blue** for additions **red strikethrough** for deletions.

**Yellow highlight** note change suggested from 1/5/21 meeting.

§ 240-191 Purpose.

Each use for which a site plan submission is required is a potentially significant addition to a developing or developed area of the Town, and to a residential, commercial or industrial neighborhood. The purpose of site plan review is to ensure the design and layout of certain developments permitted as a matter of right or by special permit will constitute suitable development and will not result in a detriment to the neighborhood or the environment. The site plan for each use shall be prepared with due consideration for compliance with all applicable sections of this chapter including, but not limited to, all performance requirements under Articles XXII to XXIV, and parking and loading standards as may be adopted by the Planning Board.

§ 240-192 Applicability.

Any new development, **redevelopment** or expansion in use, other than one single-family or one two-family residence on a lot which would add 4000 500 square feet or more of gross floor area or **roof area** or which would, under the parking schedule Table of Minimum Requirements of § 240-108, require a total of **five two (2)** or more parking spaces based on both the existing, **redevelopment** and/or new development, **or require a change to the layout or location of two (2) or more parking spaces, an increase in pavement of more than 300 square feet, or the alteration of any driveway**; or any change of use which would, under the parking schedule Table of Minimum Requirements of § 240-108, require **five two (2)** or more parking spaces based only on new development; **Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan;** an accessory apartment allowed as a matter of right or special permit shall be permitted only upon the approval of the Planning Board for site plan review.

**A. Administrative Approval for Minor Alteration to Building Exterior or Site:**

Town Planner may authorize work to proceed without Site Plan Review for minor alterations provided the following criteria are satisfied:

(1) The proposed alteration shall not violate any provision of this Bylaw.
(2) The proposed alteration does not result in an expansion of the building footprint other than those required by the building code related to means of egress or accessibility.

(3) The proposed alteration does not change the height or roof lines of any building.

(4) The proposal does not result in any substantial change in lot coverage.

B. Waived Requirements: The Board may waive, by an affirmative majority vote, any of the following requirements, if it believes that the strict compliance with these rules and regulations will, because of the size or special nature of the proposed development, create an undue hardship on the Applicant and not be in the public interest. Any waiver(s) requested by the Applicant shall be submitted in writing by the Applicant with the submission of the Site Plan Review application.

a. § 240-193 Procedure.
   [Amended AFTM 11-18-1996, Art. 12, approved 4-30-1997]

A. Applications for site plan review shall be filed with the Planning Board as specified in § 300-10 of the Code of Falmouth.

B. Before approval of a site plan review, the Planning Board shall solicit public comment at the public meeting where the plan is being discussed. Notice that the Board will be accepting public comments shall be given by advertisement in a local newspaper once at least one week prior to the date of the Board's meeting and by notice to abutters within 100 feet of any part of the land of the applicant, by regular mail, at least one week prior to the date of the Board's meeting.

C. No certificate of occupancy shall be issued until an as-built plan, prepared by a registered land surveyor, professional engineer, or registered landscape architect has been submitted and verified by the Planning Board’s designee within seven days of the as-built submittal that all conditions of approval have been met. For reasonable cause the Planning Board or its designee may authorize a temporary or partial certificate of occupancy, where the required work is substantially complete and is adequately assured by a performance guaranty of the Board's choosing.

   [Added ATM 4-8-2019, Art. 17, approved 7-11-2019]

§ 240-194 Action. [1]

[Added AFTM 11-17-1997, Art. 5, approved 2-27-1998]

The Planning Board shall act within 90 days of receiving a complete application for site plan review. Failure by the Planning Board to take final action upon an application shall be deemed to be a granting of the review applied for. The issuing of the site plan review shall require a majority vote of the Board.
§ 240-195 Application requirements.

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D. The applicant shall submit such material as may be required regarding the projected traffic flow patterns into and upon the site for both vehicles and pedestrians and an estimate of the projected number of motor vehicle trips to and from the site for an average day and for peak hours.\footnote{Editor’s Note: Former Subsection E, added ATM 4-5-1993 by Art. 25, approved 7-16-1993, which provided for the referral of an application to the Design Review Committee, was repealed AFTM 11-17-2014 by Art. 5, approved 2-19-2015.}

§ 240-196 Access and circulation.
Provisions shall be made for vehicular access to the lot and circulation upon the lot in such a manner as to safeguard against hazards to traffic and pedestrians in the street and upon the lot, to avoid traffic congestion on any street and to provide safe and convenient circulation in the street and upon the lot. Access and circulation shall also conform to the following:

**A.** Where reasonable alternate access is available, the vehicular access to the lot shall be arranged to avoid traffic use of the local residential streets situated in or bordered by residential districts;

**B.** Where a lot has frontage on two or more streets, the Planning Board may require that the access to the lot be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians;

**C.** Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, driveways and traffic controls within the streets;

**D.** Access driveways shall be of a design and have sufficient capacity to avoid queuing and entering vehicles on any street;

**E.** Driveways into the lot shall have proper grade and alignment as well as transition grades and sight distances, for safe, convenient and efficient access and shall meet the street right-of-way line and travelway of the street in such a manner as to conform to the standard cross section for the street as determined by the Director of the Department of Public Works and the Planning Board;

**F.** Where topographic and other conditions are reasonably usable, provision shall be made for circulation driveway connections to adjoining lots of similar existing or potential use. When such driveway connection will facilitate fire protection services and/or when such driveway shall enable the public to travel between two existing or potential uses, open to the public generally, without need to travel upon a street; and

**G.** There shall be no more than one driveway connection from any lot to any street, except that separate entrance and exit driveways may be provided where necessary to safeguard against hazards and to avoid congestion and additional driveway connections may be provided, particularly for but not limited to large tracks and uses of extensive scope, if traffic flow in the street will be facilitated by the additional connection. Driveways shall not exceed 24 feet in width at the street line, or such lesser width as will be sufficient to accommodate the traffic to be generated unless a greater width is required by Town bylaw or the Commonwealth of Massachusetts.
§ 240-197 Existing streets.
Where the lot has frontage on an existing street, proper provision shall be made for grading and improvement of shoulders and sidewalk areas within the right-of-way of the street and for provision of curbs and sidewalks.

§ 240-198 Effect of other laws.
This Article XXXIX is supplementary of other existing zoning bylaws affecting the access, circulation, design and landscaping of parking areas. Where the application of this Article XXXIX imposes a greater restriction than is imposed by other zoning bylaws, the application of this Article XXXIX shall control.

§ 240-198.1 Lapse of decision.
[Added AFTM 4-13-1998, Art. 12, approved 6-9-1998]
A site plan review decision issued under this Article shall lapse two three years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause. The determination of good cause shall be made by the Planning Board.
Planning Board Review

To: Thomas Bott, Town Planner

From: Scott Schluter, P.E., Staff Engineer

CC: File

Date: 1/8/2021

Re: Sandwich Road Parcel 17 01 032 000

The Engineering department reviewed the following:

- Letter – to Falmouth Planning Board, from Thomas J Bunker and Jeffrey E Ryther, dated December 18, 2020, regarding Special Permit / Site plan review 0 Sandwich Road Map# 17 01 032 000.

- Letter – to Falmouth Planning Board, from Thomas J Bunker, dated December 22, 2020, regarding Special Permit / Site plan review 0 Sandwich Road Map# 17 01 032 000.

- Plans - “Site Plan – Contractor's Yard & House” Sheets 1-6 (the “site plans”) for the above referenced project, dated November 10, 2020, and last revised Dec 22, 2020, by BSS Design Engineering & Surveying.

Following is a list of our comments regarding this project. Our original comments are in italics and new comments in bold. Images from the original comments removed.

Sewage
- Review and approval of the sewage disposal plans are subject to the Board of Health.

Nothing to address.

Water
- Review and approval of the potable water system and fire protection is subject to the Water Department and Falmouth Fire Rescue Department.
  - Separate water services are proposed for the proposed house and proposed contractor building.

Nothing to address.

Parking and Access
- Access to the proposed house and proposed contractor building will be via a proposed 20 foot wide driveway. The first 80 feet will be paved, the remaining driveway parking and storage will be native dense grade with the exception of the designated parking area which will also be paved.
  - Sandwich Road is a Town right of way and construction of the driveway will require a driveway permit from the Engineering Division. What is shown on the plans would be permittable.
    - With the proposed clearing, adequate sight distance appears to be provided.
    - There are provisions for the driveway drainage to prevent stormwater runoff from the driveway on the property entering the Town roadway.
We request that the Board either require the Applicant to obtain an approved driveway permit from the Engineering Division prior to closing the hearing for this project, or that the Board include the following condition if the project is approved:

“The Applicant shall obtain an approved Driveway Permit and post any required bond with the Engineering Division prior to start of construction. The Applicant shall complete the work as approved by the Engineering Division in the Driveway Permit.”

Comment remains.

- A new address will be assigned to the property when the Applicant comes in to Engineering for sign off on the Building Permit. The lot will be assigned an odd number between 991 and 997 and buildings 1 and 2.

We recommend the following condition be included (or similar) in any approval:

“Upon completion of construction, the Applicant shall post the address for this residence per §99-1 Affixing of legible numbers required; time limit for compliance.”

Comment remains.

- Based on the Applicant’s estimate of 9 employees, at 1.3 parking spaces per employee required, 7 parking spaces are required for the contractor’s portion of this project. There is also a requirement to be capable to provide expansion to 1 space per 200 square feet of floor area, which with a building at 7,450 square feet would require 25 spaces.
  - 8 parking spaces are provided at the contractor’s building which exceeds the 1.3 space per employee requirement.
  - There appears to be ample room to expand parking to 25 spaces if required.
  - There is 1 proposed van accessible parking space which appears to meet the requirements.
  - The parking spaces do not appear to meet the required dimensions. The 18 foot stall length is measured for the useable length only. In perpendicular parking the stall length and line length are the same, but when the spaces are angled, the line length is longer than the stall length in order to provide the stall length required. See below where a vehicle would extend beyond the parking stall.

We recommend that the plans be revised.

The plans were revised, the new parking layout meets dimension requirements.

Grading and Drainage

- Evaluation of the stormwater management system could not be made because no calculations were provided.

- §240-112 Stormwater management. B. Design Requirements: (3) states that “Uncontaminated runoff should be directed in such a way as to recharge the groundwater within the lot where it originates, unless an alternative location is approved.” While there appears to be infiltration mitigation for the parking and buildings, there does not appear to be infiltration for the southern graded portions of the site. There will likely be a reduction in stormwater flow to the abutting properties post construction, however not all disturbed areas are mitigated for.

We recommend that stormwater calculations be provided.

Comment remains. We agree that there is likely a reduction in stormwater runoff to abutting properties, but there were no calculations provided. The Board can consider what standard to
hold: the regulation that all stormwater on the lot is infiltrated on site; interpret the regulation to mean all areas disturbed by the project is infiltrated onsite; or that there is a reduction in offsite flow and grant a waiver. Either way, there are no calculations to confirm the system sizes and impacts. We defer to the Planning Board if a waiver is sought and granted for §240-112 and if calculations should be provided.

- The plans provided to us for review were not at scale and the slopes are not labeled so it isn’t clear if some of the slopes should have slope erosion protection.

We recommend that the slopes be confirmed and any areas requiring slope erosion protection be labeled and a detail be provided.

The slopes are labeled, they are 3:1 and 2:1. It appears that the Applicant’s Engineer proposes vegetation for erosion protection, however there doesn’t appear to be erosion control plans for the 2:1 slopes for the period between construction and establishment of vegetation such as jute or erosion control blankets. Where any potential erosion from these areas would not impact a public right of way, Town property, or abutters, we defer to the Planning Board if additional erosion control should be included; if there were erosion it would only impact the Applicant’s property.

- An Erosion and Sediment Control plan is included in this application. This can be included with the Driveway Permit Application. We will be looking for some additional information on the plan such as:
  - Construction entrance location and detail.
  - Silt sacks installed on existing downstream catchbasins in Sandwich Road.
  - Protection of infiltration areas during construction.
  - Phasing information if applicable.
  - Concrete washout, stockpiling, construction period esc details.

As stated above, we recommend a condition requiring the Applicant to obtain a Driveway Permit from Engineering where we will require adherence to the Soil Erosion & Sediment Control Standard Conditions document which is available on the Engineering Division’s webpage.

Comment remains.

- We typically look for 50 feet separation between stormwater infiltration and septic system leaching areas as required in the Massachusetts Stormwater Handbook Rules for Groundwater Recharge. There appears to be ample room on this site to provide the separation.

We defer to the Board if the plans should be revised or if less separation is acceptable.

Comment addressed, the stormwater facilities are now 50 feet from the proposed septic leaching area.
§ 240-117 Plan contents states that the “landscape plan shall show the location of existing trees of greater than four inches in trunk diameter at a height of four feet six inches.” The plan shows some trees at the entrance to the site, it isn’t clear if there aren’t more throughout the site or if a waiver is being sought.

We defer to the Board if additional information is required.

Comment remains.

Thanks,

Scott Schluter, P.E.
Staff Engineer
DPW Engineering Division
Town of Falmouth
PLANTING NOTES

Landscape contractor shall not submit bid to become.....

No planting shall be installed until soil grading and construction has been completed in immediate area.

Contractor is required to verify all utilities at property and to protect all utilities during excavation.

All container material to be grown in containers a minimum of 6 months.

All materials shall comply with the latest update of the American standard for nursery stock, American Association of Nurserymen.

Contractor shall report all damage to property from planting operations at no cost to the owner.

Contractor shall guarantee new plant material through one calendar year from time of guaranteed survival.

All proposed plants to be located carefully as shown on the plans.

All areas noted not to be paved or planted shall be graded and prepared until they are located from ground cover and stable.

All irrigation shall be metal or drip type only, as municipal water is to be used for irrigation.

LEGEND

PROPERTY LINE
EXISTING GUARD RAIL
PROPOSED UPLAND WORK
EXISTING ELECRIC POLE
CONCRETE PLANTER
PROPOSED STRUCTURES

LOT 1
242,569 SF
5.569 ACRES

LOT 2
To: Falmouth Planning Board
From: Thomas Bott, Town Planner
Date: January 8, 2021
RE: Proposed Warrant Articles for Town Meeting April (we hope) 2021

Below please find proposed Warrant Articles from the Planning Board for the April 2021 Town Meeting. I have also attached a marked up copy of the Site Plan bylaw in its entirety showing the changes to § 240-192 and § 240-198. As of “press time” Town Counsel and I are still working on language to fund the completion of Zoning Recodification Phase 1.

ARTICLE # To see if the Town will vote to amend the Zoning Bylaw Article XXXIX – Site Plan Review - by replacing § 240-192 Applicability so that the revised section will read:

Any new development, redevelopment or expansion in use, other than one single-family or one two-family residence on a lot which would add 500 square feet or more of gross floor area or roof area or which would, under the parking schedule Table of Minimum Requirements of § 240-108, require a total of two (2) or more parking spaces based on the existing, redevelopment and/or new development, or require a change to the layout or location of two (2) or more parking spaces, an increase in pavement of more than 300 square feet, or the alteration of any driveway; or any change of use which would, under the parking schedule Table of Minimum Requirements of § 240-108, require two (2) or more parking spaces based only on new development; Grading or clearing more than ten percent (10%) of a lot, except for the following: landscaping on a lot with an existing structure or a proposed single or two family dwelling; clearing necessary for percolation and other site tests, work incidental to agricultural activity, work in conjunction with an approved subdivision plan; an accessory apartment allowed as a matter of right or special permit shall be permitted only upon the approval of the Planning Board for site plan review.

A. Administrative Approval for Minor Alteration to Building Exterior or Site: Town Planner may authorize work to proceed without Site Plan Review for minor alterations provided the following criteria are satisfied:

(1) The proposed alteration shall not violate any provision of this Bylaw.
(2) The proposed alteration does not result in an expansion of the building footprint other than those required by the building code related to means of egress or accessibility.
(3) The proposed alteration does not change the height or roof lines of any building.
(4) The proposal does not result in any substantial change in lot coverage.
Proposed Warrant Articles for Town Meeting April 2010

B. Waived Requirements: The Board may waive, by an affirmative majority vote, any of the following requirements, if it believes that the strict compliance with these rules and regulations will, because of the size or special nature of the proposed development, create an undue hardship on the Applicant and not be in the public interest. Any waiver(s) requested by the Applicant shall be submitted in writing by the Applicant with the submission of the Site Plan Review application.

Or do or take any other action on this matter. On behalf of the Planning Board

ARTICLE #+1 To see if the Town will vote to amend the Zoning Bylaw Article XXXIX – Site Plan Review - by amending § 240-198 Lapse of Decision to extend the period by one year by replacing the words “two years” with “three years” to read:

A site plan review decision issued under this Article shall lapse three years from the date it is granted if a substantial use thereof has not sooner commenced except for good cause. The determination of good cause shall be made by the Planning Board.

Or do or take any other action on this matter. On behalf of the Planning Board

ARTICLE ## To see if the Town will vote to amend the Official Zoning Map to remove text box of footnotes 1 through 8 and add reference to all existing Zoning Overlay Districts (including Accident Prevention, Wildlife Corridor, and Large Scale Ground Mounted Solar) to remove inconsistencies with both the online Zoning Map and the hard copies available for purchase through the Town Clerk’s Office.

Or do or take any other action on this matter. On request of the Planning Board.

ARTICLE ##: To see if the Town will vote to appropriate a sum of money for the purpose of continuing Zoning Bylaw Recodification Phase 1 or do or take any other action on the matter. On request of the Planning Board. Note: Still reviewing with Town Counsel

Hearings for the Planning Board sponsored Warrant Articles along with any petitioned articles will be scheduled for February 9, 2021

Attachments: CURRENT FALMOUTH SITE PLAN BYLAW with proposed changes
Zoning Bylaw Maps

CC: Frank Duffy, Town Counsel
CURRENT FALMOUTH SITE PLAN BYLAW with proposed changes **bold blue** for additions **red strikethrough** for deletions.

**Yellow highlight** note change suggested from 1/5/21 meeting.

§ 240-191 Purpose.

Each use for which a site plan submission is required is a potentially significant addition to a developing or developed area of the Town, and to a residential, commercial or industrial neighborhood. The purpose of site plan review is to ensure the design and layout of certain developments permitted as a matter of right or by special permit will constitute suitable development and will not result in a detriment to the neighborhood or the environment. The site plan for each use shall be prepared with due consideration for compliance with all applicable sections of this chapter including, but not limited to, all performance requirements under Articles **XXII** to **XXIV**, and parking and loading standards as may be adopted by the Planning Board.

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