



TOWN OF BRUNSWICK

PLANNING BOARD

28 FEDERAL STREET, BRUNSWICK, ME 04011-1583

TOWN OF BRUNSWICK

PLANNING BOARD

AGENDA

BRUNSWICK STATION

16 STATION AVENUE, BRUNSWICK, ME

ROOM 217

Tuesday, February 5, 2013

7:00 P.M.

1. **WORKSHOP - Case Number: 12-031 Brunswick Landing Subdivision:** Applicant has requested a workshop to receive further guidance from the Board so that they may adequately prepare their revised Final Plan submission (**Assessor's Map 40, Lot 2** in the **BNAS Reuse Zoning District**).
2. Other Business
3. Minutes

It is the practice of the Planning Board to allow public comment on development review applications and all are invited to attend and participate.

Please call the Brunswick Department of Planning and Development (725-6660) with questions or comments. Individuals needing auxiliary aids for effective communications please call 725-6659 or TDD 725-5521. This meeting will be televised.

January 30, 2013
W-P Project No. 12218B

Ms. Anna Breinich
Director of Planning and Development
Department of Planning and Development
28 Federal Street
Brunswick, ME 04011

Subject: Response to Comments from Planning Board – Workshop Submission
Brunswick Landing Phase 1 Subdivision

Dear Ms. Breinich:

Please find enclosed information for the Planning Board Workshop meeting on February 5th, 2013. We have prepared responses to comments raised at the recent planning board meeting as summarized by your office. The plans attached depict two alternatives for the Phase 1 of the subdivision. The first is the 399 acre subdivision as previously proposed and the second removes undeveloped land from Phase 1 of the subdivision and results in an area of 219 acres and 37 lots. We have also prepared a plan that highlights the differences in the two plans for clarity.

We have prepared the following responses to comments raised during the last planning board session:

- COMMENT: *Town has a requirement to show overlay designations. The applicant has attempted to depict the NRPZ but natural resources, especially streams, need to be field determined. The applicant didn't field verify. Natural resources are depicted on the 1:24,000 scale zoning map.*
 - RESPONSE: As stated in Note 7 of the General Notes set forth on the Brunswick Landing Phase 1 Subdivision (subdivision) plans, submitted as part of the subdivision application, the Town's NRPZs as depicted on the subdivision plans are taken exclusively from the Town's GIS. The applicant understands that the actual limits of the NRPZs are controlled by the location of the related protected natural resource.

The intent of the applicant in showing these NRPZs on the subdivision plans in the manner stated in Note 7, is to recognize that these zones exist and to inform potential purchasers of subdivision lots that these zones exist and that certain development considerations apply.

It is further stated in Note 13 of the General Notes that "Any construction/development activities proposed on any lot within the subdivision will be subject to the applicable provisions of the Town of Brunswick Zoning Ordinance", understanding that at the time a particular development activity is proposed on a subdivision lot, on-the-ground mapping of the protected natural resources (among other items) will need to be done.

- COMMENT: Stormwater management plan:



Drawing 2 of 7 shows proposed stormwater ponds, but ponds currently exist. Drawings need to clarify existing versus proposed.

- RESPONSE: Drawing 2 of 7 shows that proposed easements have been delineated around the existing stormwater ponds. The easements are labeled as proposed because they currently do not exist and are proposed by the plan.
- COMMENT: *Recommend changing how threatened and endangered wildlife is depicted. Currently plan (figure 3.12.2) depicts the internal IF&W review buffer, which includes a 250 foot buffer around habitat. The buffer should be eliminated. Endangered population is mapped on the EIS, but not shown on Lot 9.*
 - Drawing 2 of 7 has been revised to show the Rare, Threatened or Endangered Wildlife Habitat Boundary only. The boundary was established the Maine Department of Inland Fisheries and Wildlife as part of the EIS.
- COMMENT: *Significant wildlife habitat – the applicant has shown limits of deer wintering habitat on lot 43*
 - RESPONSE: See Drawing 7 of 7. The boundary of the deer wintering habitat area was obtained from the Maine Department of Inland Fisheries and Wildlife and represents an area that contains the appropriate habitat for deer wintering.
- COMMENT: *There is a process for formally designating vernal pools. The applicant has done a vernal pool assessment but it is based on aerial photos and some verification. But there hasn't been a comprehensive vernal pool and wetland delineation. Once these data sheet delineation are completed they have to be submitted to the DEP for acceptance. Once accepted by the DEP a formal designation of "significant wildlife habitat" is given and a 250' buffer around vernal pools becomes wildlife habitat. The quality of the vernal pool report is based on aerial photos, which can miss vernal pools and wetlands. To say the survey is complete within these 399 acres is an overestimation.*
 - RESPONSE: In the EIS, please refer to Section 3, Methodology of Appendix H Vernal Pools included as Appendix B of the subdivision application, for a presentation of the methods used in discovering, identifying and characterizing the vernal pools at NASB. The vernal pool survey was not based exclusively on aerial photos but was comprehensive and done using the methodology recommended by the Maine DEP. The search zones were walked in transects to identify, locate and document pooled areas and the pooled areas were revisited two additional times during April to document evidence of egg masses and indicator species.
 - There were two rounds of vernal pool surveys conducted. In 2008 TRC conducted a thorough survey of the western portion of the property and in 2009 Ecology and Environment conducted a survey of the remaining property.
 - The pools have not yet been formally submitted to Maine DEP for acceptance and designation.
- COMMENT: Wetlands:
The applicant has provided a very nice highway methodology function value assessment. This is a much different animal than a field delineation, which our ordinance requires for all subdivisions. The report that the applicant is using is based on reconnaissance level field visits following up on the 1998 aerial photos. The report says formal wetland delineations have not been completed. Accepting this as a complete depiction of wetlands is not consistent with our ordinance and the application should not be considered complete.



There is a technical methodology based on field assessments that the ACOE requires of all applicants. Our ordinance requires it, and Mary Beth Richardson's letter states that cumulative wetland impacts will be assessed for this project, so the DEP will require a level of detail that hasn't been provided. I have been using 1998 aerial photo reconnaissance level wetland surveys for work on the Rec 7 Parcel, in some work I am doing for the Town. I've done field delineations and have found over 20 wetland crossings in the proposed trail network in the 100 acre site, only 2 or 3 of which were picked up by the 1998 aerial photos.

- RESPONSE: We have pieced together the following history of the development of the wetland lines that are shown on the subdivision plans:
 - In 1998 Normandeau Associates conducted a wetlands aerial photo interpretation and on site reconnaissance to confirm approximate wetland locations.
 - Since that time other formal wetland delineations have been conducted for various projects on the site and have identified approximately 80 acres of wetlands using the ACOE methodology.
 - In 2008 Ecology and Environment field verified the wetlands located in the planning level work and in the delineations and formally identified 389 acres of wetlands on the site. The boundaries of these wetlands were established by ACOE methodology. It is these boundaries that are shown on the subdivision plans.
 - In 2009 Ecology and Environment conducted a study of the functions and values of the identified wetlands using the Federal Highway Administration Methodology. This methodology only characterizes the wetland functions and values and does not address delineation methods.

Wetland delineations for permitting purposes are considered valid if they have been conducted within the previous five years. With this time limitation on the wetland delineation, MRRA would need to invest in a delineation now with no prospect of return if undeveloped properties did not go through permitting within the five year window. The current delineations are approaching the five year window and would need to be redone by a lot developer seeking approvals.

As is the case for identifying actual locations of other natural resources on any lot, a developer will be required to properly identify and delineate wetlands in connection with obtaining the required development permits from the Town and DEP. See General Note 13 of the Subdivision Plans.

As each development proposal will require a modification to the existing DEP Site Location Permit, DEP will be able to assess cumulative wetland impacts for the development of the subdivision. This subdivision project does not propose any site disturbance and therefore no wetland impacts would result from establishing the subdivision alone.

- COMMENT: Building Envelopes:
Envelopes show an acceptable location for principle and accessory structures. Often applicants that submit natural resource surveys are required to show building envelopes that show avoidance of protected resource areas and the ability to mitigate adverse impacts to the land. This wasn't done for this application. It is a serious omission that compromises the Board's ability to review Section 411.2 (project will maximize protection of nature features) and Section 411.10 (project will not have an undue adverse impact on significant wildlife habitats identified by the DEP or rare and irreplaceable natural areas).



Lot 9, in particular, has rare species habitat that has been delineated, so that any tenant proposing any type of future development would create some level of adverse impacts. Marketing and developing other lots that haven't been adequately delineated for natural resources would likely result in adverse impacts. Showing building envelopes is a requirement that the PB has always maintained for other applicants.

- RESPONSE: It is proposed that the developer of any lot will be required to properly identify and delineate locations of natural resources on the lot in connection with obtaining the required development permits from the Town and DEP. Once the natural resources have been delineated, the resulting building windows will be determined by the planning process and set forth on the Site Plan for that development. Building windows for residential subdivisions are necessary because the site improvements do not come back to the planning board and the building windows can be enforced by the Town's building code officials. Development on the lots in this subdivision will come back to the planning board and will also require Maine DEP Site Location Permitting. See General Note 13.

Please review the materials and let me know if you have any questions.

Very truly yours,

WRIGHT-PIERCE

Jan B. Wiegman, P.E.
Project Manager

JBW/
Enclosure

cc: Steve Levesque - MRRA

**Brunswick Area Citizens for a Safe Environment
PO Box 245
Brunswick, ME 04011**

February 1, 2013

Anna Breinich, Director of Planning & Development
And Planning Board Members
Town of Brunswick
28 Federal Street
Brunswick, ME 04011

Subject: MMRA Application for Subdivision

The Brunswick Area Citizens for a Safe Environment (BACSE) was formed in 1991 pursuant to the Code of Federal Regulations requiring community group participation in the identification and remediation of contamination at the former Naval Air Station in Brunswick. In the past several decades we have actively participated in the development of cleanup strategies for the property to ensure future use and enjoyment of the property that does not create risks to human health or ecological receptors. The scope of the environmental concerns has spread beyond the Navy property itself, and also to the protection of contaminated groundwater originating on the Base, from reaching residential wells adjacent to the Base and impacting commercial fishery resources.

It is in keeping with this mission that community members were concerned by the pending application made by MRRA in proposing a large scale subdivision plan for most of the developed portions of the base coming under MRRA's ownership and control. It would appear that many of the serious issues that BACSE has raised and promoted discussion though individual and joint meetings with all stakeholders including DEP, EPA, Town of Brunswick, Navy and MRRA have been largely ignored in this subdivision proposal.

First, the subdivision proposal fails to address any of the specifics generally required in all subdivision applications by other developers in this town. There is an absence of any supporting documentation, particularly documents which lay out a comprehensive management structure for the entire subdivided property, or in this case integration with the remaining former NASB property. Given the need for global management of property resources to further restrict the spread of existing on-site contamination, it is essential that thorough review of this proposal as it relates both to the land called for in subdivision, but also to Brunswick Landing as a whole, receive thorough planning, disclosure and continued monitoring.

All of Brunswick Landing in the proposed subdivision application is subject to groundwater use prohibition due to contaminated groundwater. One plume known as the "Eastern Plume" is of greatest concern, but there are other groundwater contamination areas.

The Eastern Plume boundaries have continued to migrate, and careful monitoring and treatment are necessary to ensure the plume does not affect off-site residential drinking wells or the shellfish which are harvested along Buttermilk Cove & Harpswell Sound. Groundwater can be impacted both by the removal of water from the ground as well as the addition of water to the property. Storm water management is an important consideration for the entire system of groundwater impacting the property as a whole. Any action in the proposed subdivision also impacts the groundwater in adjacent non-subdivided land and has to be managed as such.

While the concerns we address are broad and over-arching, there are specific examples of concerns that we must raise based upon the limited disclosure that has been made available to us.

1. Failure to meet the requirements for storm water management concerns, as described in item 411.5:

If MRRA intends to springboard off an existing storm water management plan, shouldn't they at a minimum produce that existing plan and confirm the existing plan is certified by a professional engineer in conformity with Water Conservation District standards? While the application references that a storm water system is in existence there is no reference to the fact that there were known deficiencies in the system up to the time of departure of Navy squadrons. Furthermore there is little discussion or management proposed of the urban impaired streams which cross the property. Significantly, the current system serves a base-wide area, including current aircraft operation activity. The question needs to be asked as to how that storm water system is being managed. Since becoming owners of the operational components of this airfield, MRRA has not identified its own management plan for storm water on the property, or identified a management infrastructure to insure spill containment and system maintenance. As the developer of the Brunswick Landing subdivision, MRRA must provide a comprehensive plan for its properties.

Any storm water management plan needs to address the question of the current capacity of the system for supporting future development without deleterious impact on the groundwater, given the unique contamination situation which exists on the property. Wright-Pierce's statement that the base has some existing detention basins for storm water, needs to be mapped and validated for operational sufficiency as to its impact on

groundwater flow. The contamination of the sediment in these detention basins should also be addressed.

The applicant needs to be more specific on the future layout of the system and how all future development will work in concert with the current pump and treat system that must be maintained by the Navy in treating contamination by Perfluorinated Compounds(PFCs), 1, 4-Dioxane and other emerging contaminants of concern.

2. The plan fails to identify any protections incorporating the Groundwater restrictions [**item 411.6 (Groundwater)**] The applicant has not identified and the Board has not investigated the extent of the groundwater "Land Use Controls" recommended by the US Navy to either protect the public or to protect the environmental remediation program. The plan also neglects to identify where groundwater is only a few feet below the ground surface, as is the case in many areas of Brunswick Landing, and where any construction activity may encounter contaminated groundwater. Other Land Use Controls not referenced in this subdivision application is the presence of pockets of contaminated soil and restrictions on removal or disturbance of same.

3. Objection is made to any Board endorsement of **item 411.19(Financial Capacity and Maintenance):**

A maintenance and oversight administration proposal is needed now. A "paper trail" of restrictions, both in groundwater as well as soil is insufficient to administrate numerous "Superfund" sites, adjacent areas impacted by these sites, and scattered "hot spots" which also contain petroleum contamination. The Board needs to determine how the subdivided property be managed, such that the already existing base contamination is not further exponentially impacted by the effect of accidental discharge or criminal dumping. The Board must keep in mind that migration of contamination known to exist on site can have serious local and regional affects including the potential shut down of commercial fisheries and contamination of drinking water. How will subdivision owners be able to design appropriate construction when there has been no comprehensive plan laid out by MRRA as to these important issues?

Comprehensive resource management cannot be achieved in a further division of this property into multiple lots, with no overarching strategy identified for new owners to plug into. Furthermore, given the complexities of conveyance and deed restrictions running with the property, it seems premature to seek subdivision approval with no development partner waiting in the wings. Such an approach seems

destined for several revised subdivision plans being sought once a developer shows interest in a parcel. Such a process also appears to be destined for exhaustion of competent review when looking at a parcel by parcel revision without review of impact on the greater whole.

A Board endorsement that the subdivision be approved without a comprehensive proposal for management of contamination issues is unacceptable. Any approval without public oversight and input from all interested parties fails the decades of knowledge and service that has been provided to ensure the cleanup of this land. The Town of Brunswick has the obligation to ensure the health and safety of its residents as well as those who come to work or recreate on this property. Further divided ownership of this property cannot be considered without a comprehensive plan of environmental containment and management. The applicant needs to undertake this planning obligation and submit a plan which addresses these concerns. Board endorsement at this stage in the process is premature and unacceptable.

4. We welcome further discussion with the Board to discuss our concerns.

Sincerely,



Edmund Benedikt, President, (with concurrence of):

Carol Warren, Esq. Vice President

Antoinette Mercadante, PhD, Vice President

David W. Chipman, PhD, Town of Harpswell Representative to the US Navy
Restoration Advisory Board

Suzanne L. Johnson, Esq. Town of Brunswick Representative to the US Navy
Restoration Advisory Board

E-mail Copy to:

Gary Brown, Brunswick Town Manager,

John Richardson, Esq. Brunswick town councilor "At Large",

MRRA, Brunswick Landing, (c/o Thomas Brubaker)

Denise Clavette, Brunswick Dept. of Econ. Development

Jacqueline Sartoris
Sartoris Law, LLC.
PO Box 385
Brunswick, Maine 04011
(207) 441-4654

Marybeth Richardson
Bureau of Land and Water Quality
Maine Department of Environmental Protection
17 State House Station
Augusta, Maine 04333-0017

January 14, 2013

Dear Ms. Richardson,

My name is Jackie Sartoris. I am an attorney and former Brunswick Town Councilor. I am contacting you today because I believe there is an unfortunate and substantial misunderstanding concerning a development proposal in Brunswick and the applicability of an advisory ruling that you issued at the request of the developer. I am asking you to review the applicability of your advisory ruling to the subdivision's entirety in light of the facts presented below. I will also be sharing my concerns and providing a copy of this letter to Brunswick's Town Manager, the Planning Board, and the developer. I am mindful of and appreciate the time that this will take on your part.

Brunswick's Planning Board is this evening considering Phase I of the subdivision plan for the former Brunswick Naval Air Station, known as Brunswick Landing. Included in the meeting packet is correspondence between Jan B. Wiegman, Project Manager, Wright Pierce, dated November 5, 2012, and yourself, dated November 20, 2012 (attached as A1 and A2). The Planning Board packet included a cover note from the developer, also attached (A3). The correspondence and cover note present information and discuss the exemption from Site Location of Development Review for former military bases pursuant to M.R.S.A. Title 38 §448(15).

The correspondence references a meeting held between yourself and the applicant concerning the exemption. Although I obviously can't speak to what was covered in the meeting, the correspondence characterizes the redevelopment plan with respect to the exemption as follows:

From Mr. Wiegman's November 5, 2012 letter:

“The subdivision will be created by establishing rights of ways along the existing roads and creating lots using the existing buildings as guidance.

It is our understanding that only the construction of a new entrance on Bath Road that is contemplated in the subdivision will be required to undergo Site Development review as it is new work. The establishment of the remainder of the subdivision does not constitute new work as it utilizes existing facilities.”

From your letter of November 20, 2012:

“You state in your letter that the subdivision will be created by establishing rights-of-ways along the existing roads and creating lots using the existing buildings as guidance.”

Based upon that understanding, you advised the MRRA that “creation of subdivision lots at Brunswick Landing by MRRA does not by itself trigger review under the Site Law, nor does the reuse of existing buildings.”

This conclusion, dependent upon the developer's written claim, is a common sense reading supported by the statute, which states in part “Development on a military base at the time ownership of the military base is acquired by a state or local development authority is exempt from review under this article.” The statute goes on to state: “Development proposed or occurring on a former military base after ownership of the military base is acquired by a state or local development authority is subject to review under this article, except to the extent that the development reuses a building and associated facilities in existence on September 29, 1995.”

Unfortunately, the subdivision proposal before Brunswick's Planning Board goes much further than either the language of the exemption or your advisory ruling would appear to allow. I provide concrete examples below. The developers justify their full proposal's exemption from Site Review using your advisory opinion.

The proposal (Attached, maps A4 and A5) does subdivide the former Base acreage to create some lots using existing buildings as guidance, and by establishing rights-of-way along the existing roads, as clearly called for in the statute and in your opinion. However, the proposal also creates lots where no buildings currently exist. Further, where roads do not themselves define a lot, the developers draw their own lines to subdivide parcels. The net result is that where there are no buildings, but some roads, the developers subdivide using their own lines to create a newly developable vacant lot, claiming exemption from review under Site Law with your advisory ruling.

The creation of newly subdivided, vacant lots under the exemption does not seem to comport with the plain language of the statute, your understanding of the developer's intent as represented in your letter, nor the presentation of the development's specifications given in Mr. Wiegman's letter. It is simplest to comprehend the magnitude of the results of the exemption claimed by the developers by referencing the actual proposal.

Attachment A4 shows the layout of the existing infrastructure and roads on the former base. Attachment A5 shows the proposed subdivision lines. From an assessment of the materials provided to the public and my own personal knowledge of the former base, Lots 2, 3, 5, 6, 7, 9, 10, 11, 12, 13, 16, 21, 22, 23, and 24 do not have existing buildings. These are all new, vacant lots that the developer is proposing for subdivision while claiming that such subdivision is exempt from state Site Review. I believe these lots are also not completely defined by the presence of an existing road.

There are many reasons to be concerned with this application of the exemption. In the interest of time, I'll raise just a few. First, this appears to be an over-broad and invalid reading of both the statute and your advisory ruling, and therefore a misuse of the exemption. Second, this is only the first phase of several to delineate future development on the former base, and if this reading of the statute stands, substantial resources on hundreds of acres will be newly divided without the benefit of state oversight.

Finally, specific impacts to the very resources state review carefully weighs are extremely high on this proposed subdivision – perhaps uniquely high. Again, the actual proposal best illustrates this.

Proposed Lot 9 in the subdivision plan is to the northeast of the runways, in the upper left hand corner of the map, A5. Although a small paved turnaround is delineated on the map to the south, there is no structure presently on proposed Lot 9. Map A4 shows that virtually the entire parcel is a “rare natural community.” In this case, the newly created parcel would almost entirely consist of a critically imperiled natural community. With the remaining sandplain grassland that abuts it and surrounds the runways (rendering that acreage undevelopable), this land is home to a state endangered bird - the grasshopper sparrow – several state threatened birds, and state endangered plants. To create this lot, the MRRA must draw a new line to the west, where there is no road or other preexisting feature, and draw lines around the rest of the parcel, even though there is no building.

If the subdivision of this lot is exempt from state Site Review, then future impacts on the created lot automatically cannot be avoided or minimized. By simply subdividing the lot under a purported exemption of Title 38§448(15), Brunswick and Maine is committed to new loss of a well-known and clearly identified critically imperiled habitat, home to state endangered and threatened species.

This does not at all seem to be the intended result of the language of the exemption, which states that that “[d]evelopment proposed or occurring on a former military base after ownership of the military base is acquired by a state or local development authority is subject to review under this article.”

This also does not seem to at all be what the developer claims in requesting your advisory ruling, “a subdivision... created by establishing rights of ways along the existing roads and creating lots using the existing buildings as guidance.”

I appreciate any time and effort that might be required to clarify whether the exemption applies to the creation of lots where no current building exists. There are other examples in the proposal that are very concerning. Proposed Lot 9 simply has the most egregious outcome. A clarification on the limitations of the exemption would be greatly appreciated and beneficial.

Thank you for your time.

Sincerely,

(via email)

Jackie Sartoris, Esq.
Bar #4758

cc: Gary Brown
Brunswick Planning Board
MRRA
Steve Levesque

Julie Erdman

Subject: FW: Attached letter

From: Mullen, Mike
Sent: Monday, January 28, 2013 1:26 PM
To: Richardson, Marybeth
Subject: RE: Attached letter

I've looked over the plans and letters in Ms. Sartoris's first email. I can appreciate her concern but I don't see how the law can be interpreted any other way. It is not relevant whether or not the lots being created have development on them. Regardless of what MRRRA meant when it said it is "...creating lots using existing buildings as guidance.", it is not an issue. Nor is utilizing "existing roads". The second sentence of the exemption found at 38 M.R.S § 488(15) is key, and a plain reading of the sentence is that a state or local development authority can transfer all or any portion of the base without affecting the exemption, period. There is nothing in the exemption to further clarify or condition that sentence to require that a transferred portion must contain development.

As you know, this exemption was just amended last session and was discussed very thoroughly with the Energy and Natural Resources Committee. To simplify, it was their intent to allow these bases to be used for development purposes. Certainly, reuse of existing buildings and development was encouraged because the exemption was expanded to exempt the reuse of buildings and associated facilities from all standards of the Site Law. In our discussions, and I was the Department lead for these, we specifically discussed splitting out lots, that the transfer of such lots would be exempt, and that the subsequent lot holder would then be subject to all the laws that might be applicable to activity on the lot. For example, NRPA and the Stormwater law could apply to sub-Site Law development on a lot. If a Site-sized development is proposed for the lot, clearly a Site permit is needed. And we would continue to require Site Law approval for modifications on transferred lots where Site Law approval had been previously required and granted.

Ms. Sartoris should approach the Department of Inland Fisheries and Wildlife about its ability to deal with possible 'takings' under Maine's Endangered Species Act in the absence of any state permitting. I'm also curious if Brunswick has a subdivision ordinance that might address her concerns in the DEP's absence. As you know, the town is deemed to have "capacity" under the Site Law.

Mike Mullen
Licensing and Compliance Coordinator
Division of Land Resource Regulation
Bureau of Land & Water Quality
Department of Environmental Protection
Tel: 207-446-1611 fax: 207-287-7826
mike.mullen@maine.gov

From: Jacqueline Sartoris [mailto:jacqueline.sartoris@gmail.com]
Sent: Monday, January 14, 2013 4:46 PM
To: Richardson, Marybeth
Subject: Attached letter

Dear Marybeth,

Attached is a letter, attached as a pdf and as a docs, with attachments, regarding the proposal to redevelop the former Brunswick Naval Air Station, and applicability of the exemption from Site Review cited by the developers.

I apologize for the length of the letter. It's a complex issue, and there has not been much time to review the relevant materials prior to tonight's Planning Board meeting. Please note that the maps, A4 and A5, correspond with the first two maps in the titled attachment.

Thank you for your time,

Jackie Sartoris

[\(207\)729-6327](tel:(207)729-6327)

**BRUNSWICK PLANNING BOARD
OCTOBER 23, 2012**

MEMBERS PRESENT: Vice Chair Margaret Wilson, Dann Lewis, Dana Totman, Richard Visser and Steve Walker

STAFF PRESENT: Anna Breinich

A meeting of the Brunswick Planning Board was held on Tuesday October 23, 2012 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Vice Chair Margaret Wilson called the meeting to order at 7:00 P.M.

Case Number: 12-034 Longfellow Arts Building: The Board will review and take action on a joint **Sketch and Final Plan** application submitted by Bowdoin College to renovate the former Longfellow School for the Bowdoin College Longfellow Arts Building (**Assessor's Map U12, 33**) in the **College Use 7 (CU7) Zoning District**.

Anna Breinich began by stating that the applicant is applying for a Change-of-Use and due to the scale the ordinance requires that the application must come before the Board for Major Development Review. Anna stated that there will be little changes to the exterior of the building and noted that as clarification, even though this building was used in the past as an elementary school it was a municipal facility. The applicant requires a Change-of-Use now because it is no longer a municipal facility.

Katie Longley, Bowdoin College Senior Vice President of Finance, stated that in 2011 Bowdoin College acquired the former Longfellow Elementary School. She stated they have decided not to demolish the building but to substantially renovate the building to be an educational facility that will house studio arts and dance; estimated cost to be approximately six million dollars. Katie stated that they have a modest landscape plan and the main entrance will be relocated to the South Street side. Katie stated that there will be some parking, 11 spots; students will be coming from campus and will not be bringing in any new traffic and noted that less than a block away there is the newly paved Coffin Street parking lot. Katie stated that they will be putting in place a path on the west side of the building; they are working with the neighbors to make a formal path with lighting, surface is still to be determined. Katie pointed out that the Staff Review minutes of 10/15/12 state that the building will be strictly academic in nature and that it will have no performance space; Katie clarified that there will be performance in this space for independent studies and will be small and informal. Katie noted that there may also be some art exhibits, but no intense use. If approved, it is hoped that they will begin renovations in November and be complete by the opening of school in September 2013. Katie stated that the new building will house the existing arts program under one roof and include studios at Fort Andros Studio, Maine Street Station, McLellan Building, Digital Media, Burnett House and the Visual Arts Center.

Berton Bremer, Architect with Cambridge Seven Associates, reviewed the floor plan and building construction history. Berton stated that there are two big moves that need to be made to get the dance portion into the building. Berton stated that they are inserting a second floor in the

gymnasium and the rest of the building will be using existing partitions and spaces. Berton stated that the second major change is reworking the entrance so that the main entrance will be located on South Street; they are going to cut down the stairs, lower the ramp and install an elevator. Berton stated that they will be bringing the entrance on Longfellow Street closer to grade and removing the smaller Longfellow entrance completely. They will replace the deteriorating gymnasium single glaze windows with double glaze windows. Berton stated that the chain link fence currently in place to keep people off the roof will be replaced with a wrought iron picket fence. They plan to put an attractive store front on the garage; the college does not have a plan for this space at this time. Berton stated that the blank white panels under the windows will be replaced with windows to allow more light in.

Richard Visser asked where they will be reducing the impervious surface as mentioned in their plans; Berton replied that they will be removing the asphalt that is currently on the front of the building and replacing it with lawn and trees. Richard asked about the east side; Berton replied that they have no plans at this time. Richard asked if the playground will be remaining; Katie Longley replied that the Town has a nine year lease left for the playground. Margaret Wilson asked what would be happening to the west of the playground that is currently a paved area; Katie replied that for now it is going to be left alone as it is still used by the community. Berton stated that they will be cutting the curbing on Longfellow per neighborhood requests. Steve Walker asked if the access on Longfellow will be for emergencies; Berton stated that it will be Fire Department access only. Margaret asked if there will be much machinery noise from the woodworking shop and if they could buffer or isolate it; Berton replied that it is mostly table saws and sanders and stated that there are small windows and he does not anticipate much noise bleed. Dana Totman asked if the plot has changed since it has been purchased from the Town; Katie replied "no". Dana asked if the paper street Hawthorn Street was still used; Katie replied that the street was abandoned by the Town after the purchase, it is gone now and it is the property of Bowdoin. Margaret asked about the second noted paper street; Anna replied that she will need to confirm that it is no longer a paper street. Margaret stated that if the two streets are no longer paper streets then they should not be shown as such on the plan. Dana asked Katie what the college plans to do when the playground lease expires; Katie replied that for now both parties have left it as is and that they will determine it in the future. If the playground is no longer used, Bowdoin will probably green it over.

Margret Wilson opened the meeting to public comment; hearing none, public comment was closed.

Anna Breinich stated that there was a notice of discontinuance on April 25, 2012 by the Town for Hawthorne Street that lies northerly along Longfellow Avenue, southerly of South Street, easterly of Lots 40 and 18 and westerly of Lots 39 and 19 (on the playground side). Margaret Wilson suggested making a condition that Hawthorne Street be removed from the plan.

Dana Totman pointed out that Staff Review had no comment from the Fire Department. Anna Breinich replied that when Bowdoin goes through the building permit process, the Fire Department will review Life Safety.

MOTION BY STEVE WALKER THAT THE SKETCH AND FINAL PLAN BE DEEMED COMPLETE. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

MOTION BY RICHARD VISSER THAT THE BOARD WAIVES THE FOLLOWING REQUIREMENTS:

1. Section 412.2.B.8 – Profiles, cross section dimensions, curve radii of existing streets
2. Section 412.2.B.13 – Profiles of existing water and sewer lines
3. Section 412.2.B.16 – Class A Soil Survey
4. Section 412.2.B.19 – Profile of sidewalks

SECONDED BY DANA TOTMAN, APPROVED UNANIMOUSLY.

MOTION BY DANN LEWIS THAT THE SKETCH AND FINAL PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. That the Board’s review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.
2. The applicant will verify existing paper streets indicated on the plan and revise the plan accordingly to the satisfaction of the Director of Planning and Development.

SECONDED BY STEVE WALKER, APPROVED UNANIMOUSLY.

Other

- Next meeting to be 11/5/12.

Minutes

No minutes were reviewed at this meeting.

Adjourned

This meeting was adjourned at 7:37 P.M.

Attest

Tonya D. Jenusaitis
Recording Secretary

**BRUNSWICK PLANNING BOARD
NOVEMBER 6, 2012**

MEMBERS PRESENT: Chair Charlie Frizzle, Dann Lewis, Dana Totman, and Steve Walker

STAFF PRESENT: Anna Breinich

A meeting of the Brunswick Planning Board was held on Tuesday November 6, 2012 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chair Charlie Frizzle called the meeting to order at 7:00 P.M.

WORKSHOP: The Planning Board will hold a workshop session regarding the Town Zoning Ordinance, Chapter 2, Section 216, relating to the issuance of Certificates of Occupancy for demolitions in the Village Review Overlay Zone.

Charlie Frizzle opened the workshop and reviewed that this workshop is the result of a joint workshop with the Village Review Board as requested by Town Council. Charlie stated that some of the issues they are faced with are inadequacies within the ordinance itself and lack of objective substantive guidance and perhaps even the makeup of the Village Review Board itself. Charlie stated that this review will involve a significant overhaul of the ordinance and will take longer than previously envisioned. In order to be responsive to what the Town Council has asked and to allow for the ordinance rewrite to move forward, Charlie suggested that for the interim period, the Village Review Boards decisions with respect to demolition be made advisory to the Planning Board. Charlie stated that this will alleviate some of the pressure off the Village Review Board. Steve Walker clarified that these changes would mean that the Planning Board would review demolition projects that would not normally come before them and asked if this would increase the Planning Board workload. Charlie replied that this would increase the workload but he does not see that this will be significant increase. Charlie suggested that the Board ask Anna Breinich and the Town Attorney to develop formal language; when that is completed, they will schedule a public hearing. Anna asked if the Board would want to hold another workshop or assuming there is a consensus at the end of the meeting, move toward a public hearing; Charlie replied that assuming they reach a consensus, he would suggest moving toward the public hearing. Steve asked if it would be possible for Village Review Board to weigh in; Charlie replied that the Village Review Board would have time to respond and reply. Dana Totman stated that the Planning Board as well as the Village Review Board for the most part, largely serve as a judicial function; if the Village Review Board will now be more advisory to the Planning Board then they will be more legislative and the Planning Board will making the same decisions with the same lack of criteria. Charlie replied that Dana was correct and that the Planning Board would have to do the best that they could with the vague criteria provided by the ordinance. Dana replied that he is comfortable with the idea but pointed out that they will be lacking in criteria and stated that at a minimum, maybe some of the language that the Village Review Board has should be moved to the planning board section. Anna stated that Sections 216.9 and 216.10 may be helpful, but stated that these sections also need to be reviewed. Dana asked if the only criteria with respects to economic viability was that listed in Section 216.10.C.3; Anna replied yes and stated that if you do meet this, you refer to 216.11.B.

Chairman Charlie Frizzle opened to public comment.

Charlie Wiercinski, stated that it seems to him that most of the building being requested for demolition have been demolished. Mr. Wiercinski asked, how they would enforce someone to keep a building up that they wanted to demolish. Mr. Wiercinski stated that the Village Review Board also does not want to know what will replace the demolished building whereas the Planning Board wants to know the site plan. Mr. Wiercinski suggested that the Town make a list of historically significant buildings that they do not want demolished. If owners wish a building be demolished, they can appeal the list, otherwise the criteria is tough. Charlie Frizzle stated that some of these suggestions are better suited for the ordinance rewrite and not for the interim.

Charlie Frizzle stated that he is an advocate of property rights and recognizes that zoning is an infringement on property rights but one that is probably necessary. Charlie stated that to what extent our zoning wants to go, such as the Village Review Zone, is something that will need to be looked at during the rewrite. Dana Totman agreed and stated that some of this discussion should be reserved for further down the road.

Curt Neufeld, from Sitelines, asked what criteria the Planning Board will use and if the intent is that the Planning Board will be making the final decision. Curt stated that you don't usually demolish a building without having the intent to replace it with something better than what was there and hopefully what is new and in purview of the Village Review Board will go back to them to make sure it fits. Curt asked what would be the expectations of the planning board once they have gone through the Village Review Board as the interim decision maker. Curt echoed the property rights and stated that they help preserve the character and quality. Curt asked how the Town would enforce someone to maintain a building that is being requested for demolition or that has no viable use. Curt stated that this is a problem and it seems inappropriate to say that you cannot demolish a building simply because it fits in the neighborhood. Charlie Frizzle stated that during the interim period, it may be that the Planning Board decision is no better than what has been rendered before but will at least bring in a wider perspective of viewpoints to the process. Richard Visser asked if the Planning Board would also see what is being proposed as replacement; Charlie replied that the Planning Board would be able to bring in whatever level of expertise that they felt was pertinent to the discussion. Anna Breinich stated that right now this is not what is built into the overlay but the Village Review Board knows that proposed plans will come back for review. Steve Walker stated that this could open up another level of review that would typically stop at staff level and noted that they will need some parameters. Charlie stated that there is that danger but that the Planning Board will have the ability to limit these. Anna suggested that they consider demolitions almost like they do with development review within the Village Review Board zone, a two-step process.

Curt Neufeld stated that another concern is if a building/residential or office space is not up to code, has serious issues and has to go through the economic analysis of bring it up to code, is not an option, then what are they to do. Another issue Curt raised is if someone does not have a lot of resources and has a building that is no longer habitable; he hopes that all the issues will be reviewed.

Consensus among the Board that they move forward and wait for Anna and the Town Attorney to develop language to make the Village Review Board advisory to the Planning Board with respects to demolition permits and that a formal public hearing be scheduled when such language is drafted.

Other

- Anna Breinich stated that the Planning Board recommendations in respect to Brunswick Landing had been approved at the Town Council meeting.
- Possible Sketch and Final plan of 12,000 square foot T-Hanger at Brunswick Landing.
- Final plans for Brunswick Subdivision.

Minutes

MOTION BY RICHARD VISSRER TO APPROVE THE MINUTES OF SEPTEMBER 11, 2012. SECONDED BY STEVE WALKER, APPROVED UNANIMOUSLY.

Adjourned

This meeting was adjourned at 7:45 P.M.

Attest

Tonya D. Jenusaitis
Recording Secretary

BRUNSWICK PLANNING BOARD
NOVEMBER 27, 2012

MEMBERS PRESENT: Chair Charlie Frizzle, Vice Chair Margaret Wilson, Dann Lewis, Dana Totman, Richard Visser and Steve Walker

STAFF PRESENT: Anna Breinich, Patrick Scully-Town Attorney

A meeting of the Brunswick Planning Board was held on Tuesday November 27, 2012 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chair Charlie Frizzle called the meeting to order at 7:00 P.M.

Public Hearing: The Planning Board will hold a public hearing to consider an amendment to the Town Zoning Ordinance, Chapter 2, Section 216, relating to the review of demolitions in the Village Review Overlay Zone.

Anna Breinich began by reviewing the history behind the request by the Town Council for the Planning Board to review the Brunswick Zoning Ordinance Chapter 216, relating to the review and approval of demolitions within the Village Review Overlay Zone. Anna stated that the Planning Board has held one joint workshop with the Village Review Board and held a Planning Board workshop on November 6, 2012. Anna stated that after the Planning Board packet has been sent out, Emily Swann, Chair of the Village Review Board, questioned whether the proposed time requirements for submittal of review were adequate to include a meeting of the Village Review Board and potential site visits. Anna noted that she made changes to the drafted language and asked that members please refer to proposed November 27, 2012 amendments. Anna stated that the amendments highlighted in yellow in the 11/27/12 copy are revisions to address the time constraints. Anna reviewed the newest revisions to Section 216.8.A and Section 216.10. Margaret Wilson and Charlie Frizzle suggested adding “and then forward the application to” to Section 216.10. B, for clarification. Richard Visser suggested clarifying in Section 216.2.C to refer to the Village Review Zone. Charlie replied that this is language that has been in the ordinance for a while; demolition is all that has been added. Anna suggested stating “within the Village Review Zone”. Charlie suggested limiting changes to demolitions and reviewing the rest of the language during the ordinance rewrite. Margaret Wilson suggested adding “within the Town” to the remaining sentence for clarification as the meaning has changed. The resulting Ordinance section would read as follows:

Section 216.2.C

Act in an advisory role to the Town Council, Planning Board and other Town bodies regarding proposed demolitions or relocations of structures *within the Village Review Zone* and the protection of historic sites, structures, and artifacts *within the Town*.

Dana Totman noted that Section 261.10.B, states that for simple or routine request, the application goes to staff for approval but noted that the way it reads, if disapproved, the appeal would go to the Zoning Board of Appeals and the Planning Board would never be involved. Dana stated that it sounds like the Planning Board is hearing the appeal because they may be unhappy with the staff’s decision. Charlie Frizzle replied that this language refers to whether or not a project should be deemed minor; if the Chair of Village Review Board or the Chair of the Planning Board feels that the project is not minor, they have the right to take it over. Dana

replied that the way this reads, the applicant can make this determination as well. Dana asked whether the applicant can make their determination before or after staff makes their decision. Patrick Scully, the Town Attorney, replied that he believed that the intent of the language is that the applicant or the Planning Board Chair can request or require the initial review of the plan be reviewed at the planning level and not at the staff level.

Chairman Charlie Frizzle opened the meeting to public hearing.

Emily Swann, Chair of the Village Review Board, stated that she has discussed these revisions with Charlie Frizzle and Emily stated that she is happy to see things moving forward with improving the demolition process and this is a good step as they move towards working on some of the current problems both for the applicant and for the Board. Emily stated that at the initial meeting timing had not occurred to her until she reviewed the ordinance more closely and she realized that this could be an issue as the Village Review Board makes a site visit and she was concerned that a shorter time frame would make this impossible. She suggested that a joint site visit between the two boards might be helpful in making the final decision. Emily stated that she likes the way Anna and Pat have lengthened the overall review process.

Chairman Charlie Frizzle stated that some of the hope of the interim process was to take some pressure off those who volunteered to review the ordinance and allow them the time necessary to do a good job.

Chairman Charlie Frizzle closed the public hearing.

Dana Totman suggested adding a fourth criteria to Section 216.10.E. He suggested that the fourth criteria be *the recommendation of the Village Review Board*. Pat Scully replied that if they add the Village Review Board in as criteria for approval, does that mean that if the Village Review Board recommends denial or approval then the Planning Board is required to follow suit. Pat stated that by adding it in as criteria it suggests that the Planning Board is compelled to act. Dana replied that he was not suggesting that it be binding; they have set the process up so that the Village Review make recommendation to the Planning Board. Margaret Wilson replied that they need to consider the Village Review Board recommendations. Pat suggested adding a sentence to the end of section E that reads “in acting on the application the Planning Board shall consider the recommendation of the Village Review Board”. Margaret Wilson replied that she is generally comfortable with the language because of the work that has been done but noted that the problem, when reading this, is that there continue to be no standards in the ordinance or at least the same difficult standards that the Village Review Board shared that they were unable to apply; this places the Planning Board in the same position of applying the same inapplicable standards. Margaret stated that she is concerned about this issue. Charlie Frizzle replied that they are aware of this but noted that the review by the Planning Board does bring in another set of eyes and perspectives.

MOTION BY STEVE WALKER TO RECOMMEND TO THE TOWN COUNCIL THE REVISED ORDINANCE LANGUAGE AS AMENDED ON 11/27/12. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

Case Number: 12-039 10-Unit T-Hangar: The Board will review and take action on a joint **Sketch and Final Plan** application submitted by MRRA to construct a 10-unit nested T-hangar at Brunswick Executive Airport (**Assessor's Map 40, 0**) in the **Reuse - Aviation Related (R-AR) Zoning District**.

Steve Levesque, Executive Director of MRRA, stated that the project is for a 10 unit T-Hanger on the site of former Hanger 1 that was torn down in 2006. Steve stated that this is part of the overall Airport Master Plan and is the first new construction on the airport. Steve stated that a T-Hanger is essentially a garage for individual private airplanes. Steve stated that for construction they have their site law permit for this and other related activities for this project.

MOTION BY MARGARET WILSON THAT THE SKETCH AND FINAL PLAN BE DEEMED COMPLETE. SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

Steve walker asked why they call it a T-Hanger; Steve Levesque replied that airplanes back in and park in a "T". Charlie Frizzle noted that in the Staff Review Committee meeting minutes, the Deputy Fire Chief requested that no portable heating units be permitted on site. Charlie asked Steve if this was going to be followed through or if there was a reason that they might entertain portable heaters in the unit. Steve replied that they have no desire to put portable heaters in. Steve stated that the hangers themselves will not have any water either, but they will have a bathroom. Margaret Wilson asked for clarification on the impervious surface; the Nils Gonzalez, Engineer, replied that the limits of construction are 100% impervious. He stated that the total parcel itself is 70% and noted that the entire parcel is over 700 acres.

MOTION BY STEVE WALKER THAT THE BOARD WAIVES THE FOLLOWING REQUIREMENTS:

1. Section 412.2.B.8 – Name, location and width of paving for proposed roads
2. Section 412.2.B.14 – Location of proposed cross section of sanitary sewers
3. Section 412.2.B.16 – Class A Soil Survey
4. Section 412.2.B.23 – Landscaping Plan

SECONDED BY RICHARD VISSER, APPROVED UNANIMOUSLY.

MOTION BY MARGARET WILSON THAT THE SKETCH AND FINAL PLAN IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. That the Board's review and approval does hereby refer to these findings of fact, the plans and materials submitted by the applicant and the written and oral comments of the applicant, his representatives, reviewing officials, and members of the public as reflected in the public record. Any changes to the approved plan not called for in these conditions of approval or otherwise approved by the Director of Planning and Development as a minor modification shall require a review and approval in accordance with the Brunswick Zoning Ordinance.

SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY.

Other

No other business.

Minutes

No minutes reviewed at this meeting.

Adjourned

This meeting was adjourned at 7:45 P.M.

Attest

Tonya D. Jenusaitis
Recording Secretary