

**BRUNSWICK PLANNING BOARD
FEBRUARY 26, 2013**

MEMBERS PRESENT: Chair Charlie Frizzle, Vice Chair Margaret Wilson, Dann Lewis, and Steve Walker

STAFF PRESENT: Anna Breinich, Jeremy Doxsee and Town Attorney Pat Scully

A meeting of the Brunswick Planning Board was held on Tuesday, February 26, 2013 at the Municipal Meeting Facility at Brunswick Station, 16 Station Ave. Chair Charlie Frizzle called the meeting to order at 7:00 P.M.

Case Number: 12-031 - Brunswick Landing Subdivision: After tabling deliberations at the February 12th meeting, the Planning Board will review and take action on a Final Subdivision Plan submitted by the Midcoast Regional Redevelopment Authority (Assessor's Map 40, Lot 2) in the BNAS Reuse District.

Anna Breinich introduced the Final Subdivision Plan submitted by the Midcoast Regional Redevelopment Authority (MRRA) and stated that the revised plans are in response to the January 14, 2013, and February 5, 2013 meetings as well as consultations with Planning staff.

Steve Levesque, Executive Director of MRRA, stated that the revised plans consist of 225 acres, 44 lots with 4.9 miles of roadways. Steve stated that the lots are guided by existing development and Finding for Suitability for Transfer (FOST) boundaries. Steve reviewed the FOST overlay and parcels that may be transferred to MRRA in the next 12 months. Steve pointed out and explained Subdivision Plan Notes 6, 12 and 13. Steve noted that they have identified the building envelopes as requested on the plans. Steve Walker said that he did not see the building envelope on drawing 2 of 7; Jan Weigman of Wright Pierce, replied that the drawings are dated February 14 and in subsequent exchanges with staff, research showed that what is called the wildlife habitat line on the drawing as obtained from IF&W as a boundary line came from a boundary line that was 250 feet from the wildlife habitat line. They have offset the building envelope by 250 feet and created a buffer and they have revised the plans to reflect this change; Anna Breinich replied that staff received the revised plans on Friday, February 22, 2013, and after review felt that additional analysis was still needed on lots 1 and 2. Margaret Wilson asked if Mere Brook and Jordan Avenue impaired streams were in Phase 1 and their location; Jan replied that the locations were shown in a previous application packet watershed plan and stated that the bulk of the lower lots are in the Mere Brook watershed.

Chairman Charlie Frizzle opened the meeting to public comment.

Suzanne Johnson, Brunswick resident representative to the Restoration Advisory Board, and author of a letter included in the packet dated February 21, 2013 stated that much of the FOST work has been done by the Restoration Advisory Board, the regulators at DEP and EPA and Navy contractors and has been a huge effort to move these parcels. She stated that groundwater contamination at the site is multi-factored with an array of contaminants of concern, not all of which have been identified. She stated that 1,4 Dioxane has been one of the largest discussed

and stated that it was a solvent frequently used by the Navy; the EPA states that any inhalation exposure can cause vertigo, drowsiness, headache, anorexia and irritation of the eyes, nose, throat, and lungs and has been identified as a probable carcinogen. Suzanne stated that there are serious concerns with the contamination and it was because of this that the Navy has restricted access to groundwater. Suzanne stated that the access to groundwater is not limited to the drilling of wells and can be many things; you don't want to transfer the water or add too much water as it can change the hydrology. Suzanne stated that the groundwater is located shallowly beneath the soil at this site and anyone doing an activity such as landscaping may come in contact with the groundwater. Suzanne stated that when the parcels were transferred with the FOST's and the restriction back in 2009, there was an understanding that there would be a plan set forth by MRRA to address these concerns. Suzanne stated that she is frustrated because MRRA has yet to create a comprehensive plan to manage the risk of exposure to date. She believes that as part of the subdivision plan and as part of a guide for future landowners, MRRA create a plan that sets forth the understanding of the risk of the groundwater and how it can be successfully managed because it is currently being treated by the Navy when it hits the extraction wells which have been installed. Suzanne pointed out that there are no overlays that show the locations of the monitoring wells in the application and noted that the Navy requires that MRRA or the new owners preserve these wells; if they are damaged they have to be replaced by the Navy but at the cost of the landowner. Suzanne stated that as a condition of the subdivision, a mapping of the wells should be included in the plans. Suzanne stated that in addition to the monitoring wells, it is critically important to keep water management running at peak efficiency which may be impacted by stormwater and should be maintained in one plan and not by 44 different lot owners. Suzanne believes that the materials management plan should also be part of the subdivision plan.

Ed Benedikt, Brunswick Area Citizens for a Safe Environment President, stated that he has been involved in the project in some way since 1991 and is frustrated and doesn't understand how you can be against a project that can bring the Town of Brunswick \$14 million in revenue. Ed stated that the transfer of the property has been difficult and pointed out that the Navy will transfer property for which there is no personal risk for contact for people who are on the property; the contamination that is below the surface is considered safe and not of immediate concern. Ed noted that once the property is transferred, the soil contamination becomes the responsibility of the different landowners. Ed stated that the issue of groundwater contamination is difficult and the idea was that with time a dilution of the chemicals would occur. Ed stated that this has not happened and the chemicals have been trapped in the unique soil/sand/clay. Ed stated that one site that the Navy remediated took more than a year to finish because the contaminants had migrated over the limits it had mapped. Ed stated that risks associated with remediation will increase with the addition of lot owners and stated that MRRA needs to create an operational management plan with infrastructure to implement the plan if we don't want to incur risks of contamination of streams and abutting water bodies and towns.

Jacqueline Sartoris, resident of Bowdoin Street and former Town Councilor, stated that she was at the meeting on behalf of John Lemont resident of Maple Street and a Brunswick Shellfish Harvester, who has concerns that the plan does not fully illustrate streams, setbacks and wetlands and is also concerned about the toxics in the soil and groundwater. As a shellfish harvester, John is concerned about the health of Harpswell Cove. John is aware of the plume and would like to see that the ordinance is followed and that a comprehensive stormwater plan is approved and not

a lot by lot analysis. Jackie stated that as a former Town Councilor she supported economic development strongly but she also wants to make sure that the values in the Comprehensive Plan and the standards expected in any subdivision proposal are being met. Jackie stated that there are still lots included in the subdivision that she feels should not be included. Jackie stated that she is also here on behalf of David Lovitch of Freeport Wild Bird Supply, author and birding tour guide with an interest of guiding tours on the former base in the future. Jackie also noted that the next item on the agenda is a zoning amendment and reminded the Board that in March of 2009, MRRA promised that they would use the results of the EIS to request rezoning if they found a greater expanse of the critically imperiled natural community and pointed out that the EIS map shows that the area is much more expansive than what was considered when the zoning was created; she sees that there is a request for rezoning but the promise that was made in 2009 has not come back to the Board for rezoning.

Jim Truziano, Topsham Board of Selectmen, stated that he was part of BRAC and LRA and stated that he was not for or against the proposed plan. Jim stated that he understands the environmental concerns but he knows the rules and regulations of the subdivision which has to meet the Town Standards and DEP stormwater standards. Jim stated that as part of a subdivision it is hard to say what it will be when you don't know your landowners, building elevations, type of building, whether they will have a cellar. Jim stated that this is a step forward so long as MRRA follows the rules and regulations.

Chairman Charlie Frizzle closed the public comment.

Steve Levesque replied to the public comments by stating that there is not groundwater contamination site wide, there are pockets and mostly off site. Steve stated that the plume which has been discussed is not part of the subdivision but may be sometime down the line as remediation continues. Steve stated that the groundwater at the plume site is actively being pumped and sent through a treatment facility. Steve stated that in reference to having their own utility system is simply because the Water and Sewer districts won't take them until MRRA can bring the lines up to a standard and the Town has stated that they won't absorb the roadways. Steve stated that as part of the plan they have made road maintenance agreement that property owners will need to be part of. Steve noted that in the deeds that come to MRRA as part of the FOST, the monitoring wells are listed along with protective conveyance. Steve stated that MRRA does have a stormwater management plan that is the same as the Navy's and noted that DEP has certified it.

Steve Levesque replied to the rezoning that Jackie Sartoris referenced and stated that that there is an area that is in transition where there is bird habitat and some previous development activity. Steve stated that as part of the Airport's wildlife management plan they are doing some additional studies and will be looking at the habitat in this area in conjunction with the airport; if the property is not developable then MRRA would consider rezoning that property. Steve stated that they are in the process of creating a wildlife management plan and the transition property is included in the plan.

Charlie Frizzle asked Steve Levesque if there was a comprehensive plan of all the monitoring wells at least for the lots in Phase I and if MRRA would have any issues with including the map

as part of the Subdivision package. Steve Levesque replied that they would not have a problem. Margaret Wilson asked if they had a rough idea of the number of wells in Phase I. Steve Levesque replied that there are roughly 100. Steve Walker asked what the deed restriction states in terms of the wells. Steve Levesque stated that they have to be protected and if moved they have to be replaced. Steve Walker asked if as individual lot owners put in their own stormwater system, will the overall plan need to be resubmitted; Steve Levesque replied not unless it causes a great change. Steve Walker asked if a lot-by-lot management approach is manageable. Steve Levesque replied that roughly 80% of Phase I already has existing structures that already addresses stormwater with the remaining under light development and will need to be managed and will be a long term project. Steve Walker asked how the Planning Board will know the cumulative effect or contamination movement as developers come in. Steve Levesque replied that it would need to be dealt with as it is dealt with in the community. Steve Walker asked if they notice a shift in contamination within the wells during development, what will that mean. Steve Levesque replied that DEP would have to deal with the issue. Margaret Wilson asked how this would affect developers particularly if DEP felt that there has been an aggravation or movement of the contaminants and stops the developer from doing anything further. Steve Levesque replied that this could happen anywhere, but pointed out that the Navy hasn't transferred any property that has known groundwater contamination.

Charlie Frizzle reopened the public comment period.

Ed Benedikt stated that although he spoke about groundwater contamination on the former Base site, this was not his opinion but the Navy's opinion that every place besides the golf course requires land use controls because the groundwater could be contaminated.

Chairman Charlie Frizzle closed the public comment.

Steve Walker stated that the transition site has been proven to be an imperiled natural habitat and has been found as such by many consultants; Steve would like to see this area as part of the conservation area.

Steve Walker feels that there are still changes that can be made to the proposed project; ones he hopes would also be more defensible. Steve Walker stated that the applicant has requested four waivers but feels that there are still items incomplete that waivers have not been requested for. Steve Walker stated that attempts have been made to show the NRPZ which was done so off of the Town Tax maps but suggested that the applicant request a waiver and place the delineation back onto the future lot buyers. Steve Walker clarified that a comprehensive stormwater management plan is not being submitted and suggested a waiver be requested. Steve Walker stated that wetland delineation, as required, has not yet been conducted and recommends that a waiver be requested for this as well. In addition, Steve Walker suggested a waiver for location of trees over 10" in diameter, Class A Soil Survey and Topography with contour intervals not more than two feet.

Steve Walker suggested the following changes in the notes on the plans:

- Note 6 at locations of wetlands, should mention that “these are approximate and should be considered for planning purposes only and field determinations of wetlands and vernal pools are required prior to any development activity”.
- Note 6 second paragraph should have a statement that “these are approximate and IF&W and now Agriculture Conservation and Forestry (was DOC) should be contacted of any development proposed”.
- Steve Walker suggested that in the legend where it has wetlands, wildlife habitat and vernal pools and that they all state “approximate” location.

Steve Walker stated that he would be comfortable waiving the building envelopes in a few of the lots where wetland setbacks are approximate if a request is made.

Steve Walker suggested removing condition # 3 as it is a little misleading and possibly waiving building envelopes in lots 1 & 2 until field work is completed. Steve Walker suggested specifying in lots 2, 3 and 11 that they be inventoried by an ecologist for rare natural communities and rare natural plants for condition #4. Steve Walker said that he does not believe that all the lots need to come back to the Board, but noted that he would like to see lots 1-4, 8, 11, 35 and 44.

Charlie Frizzle asked staff if they felt that the application needed the waivers that Steve Walker had suggested. Jeremy Doxsee replied that he would want to review Steve Walker’s list but that they sounded like reasonable suggestions.

Charlie Frizzle, with respect to stormwater management, stated that MRRA has a comprehensive plan and it is clear in the Findings of Fact that new development has to come back to the Board; Margaret Wilson and Dann Lewis agreed.

Charlie Frizzle asked the applicant if they had any issues with modifying the plan notes as Steve Walker suggested. Steve Levesque replied that they do not have any issues.

Charlie Frizzle asked Steve Walker to reread the changes he was suggesting for changes to the Conditions of Approval. Anna Breinich stated that Steve Walker did a great job in covering the natural resource issues and noted that one reason why the additional lots were listed was because they directly abut contaminated sites. Margaret Wilson suggested additional conditions of approval.

MOTION BY DANN LEWIS THAT THE MAJOR DEVELOPMENT REVIEW APPLICATION IS DEEMED COMPLETE. SECONDED BY CHARLIE FRIZZLE APPROVED BY DANN LEWIS, CHARLIE FRIZZLE AND MARGARET WILSON. OPPOSED BY STEVE WALKER; MOTION PASSES.

MOTION BY DANN LEWIS THAT THE BOARD WAIVES THE FOLLOWING REQUIREMENTS WITH THE CONDITION THAT THEY BE SUBMITTED AS PART OF AN APPLICATION FOR DEVELOPMENT REVIEW OF ANY PROPOSED NEW DEVELOPMENT IN THE SUBDIVISION:

1. Section 412.2.B.3 – Lot Monumentation: boundaries of all lots and tracts with accurate distances and bearings, locations of all permanent monuments properly identified as existing or proposed.
2. Section 412.2.B.5 - Existing zoning district and overlay zone designation.
3. Section 412.2.B.8. – Profile, cross-section dimensions, and curve radii of all existing streets.
4. Section 412.2.B.12. – Location of features, natural and artificial, affecting the development, such as water bodies, wetlands, streams, vegetation, rail-roads, ditches and buildings.
5. Section 412.2.B.14. – Profile and cross-section of existing sewers.
6. Section 412.2.B.16. – A Class A (high intensity) Soil Survey prepared in accordance with the standards of the Maine Association of Professional Soil Scientists.
7. Section 412.2.B.17. – Location of all existing trees over 10 inches in diameter, and locations of tree stands.
8. Section 412.2.B.25 – A wetlands map drawn by a specialist delineating wetland boundaries in accordance with the methods prescribed by the U.S. Army Corps of Engineers at the time of the application.
9. Section 412.2.B.28. – Building envelopes showing acceptable locations for principal and accessory structures.

SECONDED BY CHARLIE FRIZZLE APPROVED BY DANN LEWIS, CHARLIE FRIZZLE AND MARGARET WILSON. OPOSED BY STEVE WALKER; MOTION PASSES.

MOTION BY DANN LEWIS THAT THE FINAL SUBDIVISION 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. Provision be included in a fully executed Common Area Maintenance Agreement, as described in Note # 8 of Drawing 1 of 7.
3. Lot 13 is excluded from the final, approved subdivision plan and is combined with the remaining Lands of MRRA.

4. As part of the development review process for any future development, a qualified ecologist shall fully document and delineate rare natural communities and rare plant occurrences for Lots 2, 3, & 11.

5. Development review approval by the Planning Board is required for all future development of lots 1-7, 10-12, 35 and 44, in order to demonstrate compliance with the provisions of Section 411.2 of the Town of Brunswick Zoning Ordinance “Preservation of Natural Features”.

6. Development review approval by the Planning Board is required for all future development of lots 1-7, 10-12, 35 and 44, in order to demonstrate compliance with the provisions of Section 411.3 of the Town of Brunswick Zoning Ordinance “Surface Waters, Wetlands and Marine Resources”.

7. Depict locations of all groundwater monitor wells within the Phase I subdivision plan.

8. Stormwater Management Plans will be required for all future development and, to the greatest practical extent, site-specific, Low Impact Development stormwater management strategies and practices are required for all new development, in accordance with Section 504 of the Town’s Zoning Ordinance and the Brunswick Landing Design Guidelines and BNAS Reuse Plan.

9. Plan notes and legends shall be amended to reference “approximate” locations of wetlands, vernal pools, NRPZ boundaries, and all other natural resources that require further delineation, as part of the development review process.

10. In accordance with Section 411.24, Environmental Compliance in the BNAS Reuse and Conservation Districts, the applicant must provide evidence of compliance on a site-specific basis at time of future development.

SECONDED BY DANN LEWIS APPROVED BY, CHARLIE FRIZZLE, DANN LEWIS AND MARGARET WILSON. OPPOSED BY STEVE WALKER; MOTION PASSES.

Case Number: 13-002 - Zoning Amendment Request : The Planning Board will hold a workshop to consider an application by the Midcoast Regional Redevelopment Authority to amend the language for the R-AR (Aviation Related) Zoning District in BNAS Reuse District to allow additional non-aviation-related professional office uses.

Jeremy Doxsee introduced the amendment request and stated that the R-AR Land Use District currently permits Professional Office uses only in conjunction with “aviation-related activities or uses”. Jeremy stated that the applicant believes that they found potential business that may be interested in relocating to some of the existing facilities but the current zoning is too restrictive and does not allow them to lease these facilities to office type uses. Jeremy stated that the applicant is asking that the Town change the zoning so that the zone is not aviation dependent and general office use be permitted.

Charlie Frizzle stated that the zone as originally created restricted any non-aviation uses under the understanding that the FAA required that designation and asked what has changed? Dave Markovchick, Economic Development Manager for MRRRA, stated that they have frequently gone to the FAA for alternative uses and have gotten the permission that non-aviation uses may be permitted with the stipulation that all revenue generated by such uses must be allocated to general operations of the Brunswick Executive Airport.

Chairman Charlie Frizzle opened the public comment.

Ed Benedikt, Brunswick Area Citizens for a Safe Environment President, stated he was very involved in the reuse plan and assumed the designation was done at the behest of the FAA.

Chairman Charlie Frizzle closed the public comment period.

**MOTION BY MARGARET WILSON TO SCHEDULE A PUBLIC HEARING.
SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY AMONG THOSE
PRESENT.**

Case Number: 13-005 - Zoning Amendment Request : The Planning Board will hold a workshop to consider an application by Bowdoin College to amend the MU3 (Mixed Use/Upper Harpswell Road) Zoning District to include “Residence Hall” as a permitted use.

Anna Breinich stated that residence halls are not permitted in the MU3 District, but there are similar uses within the district. Anna stated that Bowdoin College has a purchase and sales agreement for the Stevens Home that was formerly used as a congregate care facility that they would like to reuse as a residence hall; there would be no demolition. Anna noted that congregate care as well as boarding home are permitted uses within the MU3 District.

Katie Longley, Bowdoin College, reiterated that Bowdoin College is seeking to add residence halls to the MU3 Zone and noted that the zone itself is small with only 7 properties including the Smith House which is a college residence that was grandfathered. Katie stated that the college plans to renovate with no expansion and reviewed the property. Katie stated that the college has held a neighborhood meeting and is willing to work with the neighbors to make the facility blend in as much as possible. Margaret Wilson asked how many students would be housed in the facility if zoning were approved; Katie replied roughly 15. Margaret asked which way students would travel to get to campus; Katie replied that they would probably go down Longfellow.

Chairman Charlie Frizzle opened to public comment.

Reed Bartlett, resident of Harpswell Place, stated that the neighborhood has gone through a lot of Bowdoin College expansion, zoning issues and zoning amendments over the past 20 years. Reed stated that in the 1980’s the college only owned 4 properties in his neighborhood but in the 1990’s the college expanded their acquisition of properties and noted that there were several zoning issues. Reed provided an overview of the neighborhood and the history of the struggles that the neighborhood has gone through with the encroachment of Bowdoin College. Reed stated that what he does not like is that every time Bowdoin College purchases a property they seek zoning amendments to meet their needs.

**MOTION BY MARGARET WILSON TO SCHEDULE A PUBLIC HEARING.
SECONDED BY DANN LEWIS, APPROVED UNANIMOUSLY AMONG THOSE
PRESENT.**

Minutes

No minutes were approved at this meeting.

Adjourned

This meeting was adjourned at 9:42 P.M.

Attest



Tonya D. Jenusaitis
Recording Secretary