

**MINUTES OF THE PLANNING BOARD MEETING OF DECEMBER 3, 2007
SUBJECT TO APPROVAL AT THE NEXT REGULAR MEETING**

I. CALL TO ORDER:

Meeting was called to order at 7:00 p.m., Jeff Partington, Chairman, presiding.

Members Present: Jeff Partington, Rick Lemek, Leo Felice, Michael Lupis, Jim Libby, Christopher Desjardins, Jeff Presbrey and Marc Tremblay.

Members Absent: Bruce Ferreira.

Others Present: Tom Kravitz, Town Planner, and Christine Langlois, Deputy Planner/Recording Secretary.

II. ATTENDANCE REVIEW:

The Chairman acknowledged one excused absence.

III. ACCEPTANCE OF MINUTES:

The **minutes of the Planning Board meeting of November 5, 2007** were read. *A motion to accept the minutes as presented was made by Mr. Lupis, seconded by Mr. Desjardins and carried unanimously by the Board.*

IV. CORRESPONDENCE:

- Two RIDEM notices of Insignificant Wetlands Alterations
- Letter from Gates, Leighton Associates regarding Harrisville Village landscaping
- 2008 Planning Board Meeting Schedule
- Planning Commissioners' Journal

V. OLD BUSINESS:

Major Subdivision:

Michael Cabral, Mount Pleasant Road, Nasonville; Map 45, Lot 1: Conceptual Plan Review: Attorney Eric Brainsky, of the Law Offices of Michael Kelly, Erin Gallogly of Marc Nyberg Associates, and Michael Cabral, owner/applicant, were in attendance to represent the request. Attorney Brainsky stated that the project site is located off of Mount Pleasant Road, within the vicinity of Douglas Pike, delineated as Map 45 Lot 1 and contains approximately 61 acres within the F-5 zoning district. He noted that the application is for a Major Subdivision & Major Land Development project presented for Preapplication/Concept review before the Board to solicit comments. He stated that the proposal would subdivide a parcel into six (6) individual lots. The first lot will fully conform to the F-5 zoning requirements and front on Mount Pleasant Road being a single-family lot that will be serviced by ISDS and a well. He noted that the land development aspect kicks in with the five (5) other lots being proposed. These lots will be located at the end of a private road, cul-de-sac, comprising of gravel, meeting the requirements of the rural residential compound ordinance (50-foot minimum frontage, as well as lot size and setback requirements), serviced by ISDS systems and private wells. He pointed out that the proposal would require a wetlands crossing, which they have approached RIDEM and had the wetlands verified, although nothing is available in

writing at the present time. Approximately 36 acres will be designated as open space, mostly upland area, with an easement being provided for access to the open space through one of the proposed lots. The general public will have access to the open space as required by the regulations. He noted that two concept plans were submitted, the preferred concept plan being Conceptual Plan 2. The Conventional layout plan provides the potential for eight (8) house lots, but does not allow for the dedication of open space, greater amount of impervious surface, and roadway to Town standards – more of an impact on the property. The Board questioned the second parcel owned by the applicant immediately adjacent to this proposal. Attorney Brainsky stated that the applicant owns that parcel but has no intention, at this time, of developing it (no plans in place). The Board pointed out that it was a developable piece. Attorney Brainsky said it was. He then turned the presentation over to Ms. Gallogly.

Ms. Gallogly reiterated that Conceptual Plan 2 is the preferred plan. She noted that ISDS systems and private wells would be utilized. The roadway would be private, graveled, 20-feet in width with swales on either side to handle the drainage. She noted preliminary test holes have been dug to determine the location of the detention basins. Draft easements for the detention pond have not been completed at this time. She told the Board that the RIDEM verification of wetlands would be provided to the Board at the next meeting. She added that the proposed open space would be great for the development. She then asked if there were any questions from the Board.

Mr. Tremblay voiced concern, with Conceptual Plan 1, and the roadway's closeness to the property line and the proposed house. He further pointed out that the applicant has quite a challenge with the proposed wetland crossing, noting that it is a significant alteration, and that RIDEM could review the project and suggest that there are other alternatives for this proposal.

Mr. Presbrey questioned whether the plan represented one parcel. Ms. Gallogly stated that the parcel was subdivided into two lots back in or around 2003 by Ed Whipple. Mr. Presbrey suggested leaving an easement off of the proposed road (in the vicinity of the forested wetland) to the adjacent lot for future access to eliminate the need to conduct a second wetlands crossing. Mr. Partington made a suggestion that the applicant could possibly create approximately 500 feet of a public road, to create access for the other parcel, and then develop an RRC off of the public section for the adjacent lot.

Mr. Libby suggested utilizing the existing gravel driveway to access the subdivision as well as the future development of the adjacent parcel, creating one entrance road for both properties. Attorney Brainsky stated that the existing gravel driveway is located on the most easterly portion of the adjacent lot and would result in a non-conforming lot because the lot line would have to be shifted to encompass the driveway, or the lots would have to be merged. Mr. Libby added that if a case was made to RIDEM that there is already an existing drive through the swamp, they would probably look more favorably upon the request vs. creating a new one – the process would be much easier, but that is the applicant's battle to fight.

Mr. Lupis questioned the length of the proposed roadway. Ms. Gallogly stated on Concept 2 it was approximately 1,200 feet. The Board noted that a waiver would be required as the Town's requirements state that a dead-end (cul-de-sac) roadway should be no more than 1,000 feet in length. Attorney Brainsky answered that there was no requirement in the Town's regulation. The Board proceeded to point out **Section 10-9.2 Street Standards, G. Dead End Streets (Cul-de-sacs)** of the Town's Subdivision & Land Development Regulations and the maximum requirement of 1,000 feet. Attorney Brainsky argued that the 1,000 feet limit did not apply to a private road, just public streets. The Board noted that a dead-end street is a dead-end street, no matter who owns it. Attorney Brainsky then stated that the applicant would probably seek a waiver from the regulations. Mr. Lupis then asked if it is a gravel roadway, was there a maintenance plan being prepared. Ms. Gallogly said that there will be a maintenance plan, upheld by the homeowners' association/owners.

Mr. Partington questioned the cuts and fills for the proposed roadway. Ms. Gallogly stated that this hasn't been engineered yet. Mr. Partington added that the Board generally has a chance to see what a developer is proposing when other parcels are involved, that it tends to help the Board with their decision, which is not available this evening. Attorney Brainsky said that he could consult with his client prior to submitting the Master Plan to see if there is any concept as to how the adjacent property to the east will be developed. If something is available, he will present it to the Board.

Mr. Lemek remarked that the rural residential compound ordinance allows for 2-5 house lots, and the applicant is requesting six. Attorney Brainsky stated that this is a Major Land Development project, along with a Major Subdivision, which is subdividing the one lot into 6 individual lots – one lot fully conforming to the Town's regulations, and the Major Land Development is the rural residential compound.

For the record, Mr. Kravitz asked for verification that Conceptual Plan 3 represented a Conventional Plan and Conceptual Plan 2 represented the preferred plan for development. Both Attorney Brainsky and Ms. Gallogly said yes. Mr. Kravitz then questioned whether the submission of Conceptual Plan 2 (the preferred plan) is an attempt to be in compliance with **Subsection H Approval Process (2) of Section 30-208 Rural Residential Compounds** of the Zoning Ordinance. They both said yes. Mr. Kravitz then noted that compounds are to be submitted as Minor Land Development projects, not Major Land Development, which is confusing. Attorney Brainsky stated that the submission is a Major Subdivision of the property into six lots and the rural residential compound, in its own, is typically a Minor Subdivision. Because six lots are being proposed, it would be reclassified as a Major – the compound being a type of land development project under the regulations and state law. The project, as a whole, is the Major Land Development/Major Subdivision. Mr. Kravitz questioned whether the application would have to appear before the Zoning Board. Attorney Brainsky said it did not because it meets all of the requirements for zoning in accordance with the F-5 zoning district and it also meets the requirements of the rural residential compound ordinance pursuant to the Zoning Ordinance. Mr. Kravitz asked if the plan he was referring to was the RRC plan. Attorney Brainsky said yes and proceeded to reference the Subdivision &

Land Development Regulations in regards to the definition of a Land Development project. Mr. Kravitz then pointed out that the applicant was asking to utilize the RRC section of the Zoning Ordinance to justify substandard lot creation to the minor subdivision. Attorney Brainsky said no, the plan creates a complying lot (on Mount Pleasant Road) according to the F-5 district, with the rural residential compound only requiring 50-feet of frontage. With the current amount of frontage, his client could create an 8-lot subdivision as a conventional subdivision, but he has chosen to go with the RRC concept. Mr. Kravitz pointed out that all previously approved compounds have contained existing homes that have become part of the compound. Attorney Brainsky said that he did not believe there was any requirement that there be a prior existing home. He stated that he doesn't believe it is ambiguous in the ordinance, but that it was very good for the F-5 zoning district that a lot requires 450 feet of frontage; and if you're going to pursue a rural residential compound, the requirement is only 50 feet of frontage. A rural residential compound is a type of Land Development project. Because the application is for six-lots, the applicant is just skipping a step of doing an Administrative subdivision and coming before the Board twice, and they're including it all in one plan submission.

As there were no further questions from the Board, Mr. Partington advised the applicant and his representatives that the Board reviews each application based upon what is best for the parcel involved and that he believed several good comments were offered tonight by the Board.

VI. NEW BUSINESS:

Minor Subdivision:

Highland Estates, RKM Investments, LLC, Snake Hill Road, Burrillville; Map 198, Lot 1 & Map 197, Lot 15: *Request for Waiver from Underground Utility Requirement:* Mr. John Mulhearn was in attendance to request a waiver from the requirement of underground utilities. He explained that during the construction of his development, they encountered a great deal more ledge than they had anticipated although many test holes had been dug prior to construction. He stated that he had previously submitted a request to Mr. Kravitz asking to have the utilities run underground for a small portion and then above ground where the ledge is located; however, he was informed by both National Grid and Verizon that they would not allow for mixed construction of the lines. He then requested and received from both National Grid and Verizon an approval for the installation of six utility poles for electrical distribution to the development. He requested that the Board take this under consideration when rendering a decision to the waiver. He noted that the roadway is almost complete, aside from some fencing and guardrail, but the landscaping has been completed. He added that Mr. Bernardo has been out on several occasions conducting inspections. Mr. Partington referenced a memo from Mr. Bernardo, dated October 19, 2007, in which he recommends a waiver from the utilities requirement.

A motion was made by Mr. Libby to grant a waiver from the requirement of underground utilities for Highland Estates submission because of existing site conditions, including ledge outcropping and wetlands that are specific to this site. The motion received a second from Mr. Felice and carried unanimously.

Christopher & Irene Watson, Jackson Schoolhouse Road, Burrillville; Map 171, Lot 8: Preliminary Plan Review: Mr. Norbert Therien, of National Surveyors-Developers, Inc., and Mr. Christopher Watson, applicant, were in attendance to represent the request. Mr. Therien stated that the request was for a minor subdivision of a parcel located on Jackson Schoolhouse Road, known as Assessor's Plat 171 Lot 8, comprising a little over 33 acres within the F-5 zoning district and the A-80 aquifer overlay zone. He explained that the lot is rectangular in size with considerable amount of frontage along Jackson Schoolhouse Road. It currently contains the Watson's residence with associated outbuildings. The additional lot being requested is located in the northeast portion of the parcel as outlined on the plan prepared by National Land Surveyors, as a Class I survey, and wetlands that have been identified and flagged by Scott Rabideau of Natural Resource Sources Inc. He noted that the proposed lot would have 760 feet of frontage, with an area of 5.6644 acres, leaving a balance of 28+ acres for the existing lot. The amount of wetlands that Sub-Lot A contains is approximately 3.3962 acres or 59.96% coverage. In accordance with the Town's Zoning Ordinance regulation in regards to the placement of septic systems from wetland areas, the septic system would be place 200 feet from the wetlands edge. Soil evaluations conducted showed the site to be acceptable for an on-site septic system. The proposal for this property is the construction of a single-family residence, with a driveway having direct access to Jackson Schoolhouse Road, and deeded to Mr. Watson's daughter. The property would be serviced by a private well. He added that they have submitted a request for verification of the wetlands delineation to RIDEM and are awaiting their response.

Mr. Lemek questioned why the property was being subdivided in this area and not on the other side of the residence (to the north) because of the amount of wetlands. Mr. Therien explained that there is an extensive amount of wetlands to the right of the existing residence but it was a family decision to place the new lot in the proposed area. He asked how far the proposed septic system is from the proposed residence. Mr. Therien stated about 80 feet, all down-gradient.

Mr. Felice asked if they had reviewed the location of the septic system and its proximity to the wetlands with RIDEM. Mr. Therien stated that they were still waiting for final approvals and will supply this information prior to final approval. The septic system location meets all the setbacks in accordance with RIDEM ISDS & Wetlands; it is the Town's setback requirement that forces the location.

Mr. Partington questioned site lines from the proposed driveway heading south. Mr. Therien stated the site line visibility allows for safe entering and exiting of the property.

Mr. Libby questioned whether the septic system has to meet the building setbacks. Mr. Kravitz stated that he had asked the building official the same question and was told that the septic system is not a "structure" so it does not have to meeting building setback requirements.

Mr. Presbrey questioned the groundwater elevations. Mr. Therien stated 24 and 25 inches. Mr. Presbrey asked if it would be a conventional system. Mr. Therien said yes.

Mr. Tremblay questioned the location of the septic system and whether it would influence the drainage along Jackson Schoolhouse Road. Why isn't there more separation between the system and the road? Mr. Therien explained that the edge of roadway pavement rises slightly to the face of a stone wall on the property, so the drainage will not get onto the property – it will remain on the pavement. The test holes dictated the location of the septic system to this corner of the property.

Mr. Kravitz questioned whether the applicant would be willing to waive the 65-day rule on the Planning Board rendering their decision.

As there were no further questions from the Board a motion was made by Mr. Felice to table the Preliminary Plan Review for Christopher & Irene Watson until the Board receives all pertinent approvals, including RIDEM verification of the wetlands edges and ISDS approval. The motion received a second from Mr. Lemek and carried unanimously. Mr. Watson stated, for the record, that he waived his right for a Planning Board decision on his request within 65 days as required by law, to allow for receipt of all state approvals.

VII. OTHER BUSINESS:

Report from Administrative Officer:

Mr. Kravitz noted that during the month of November, a Certificate of Completeness was issued for: **Christopher & Irene Watson, Jackson Schoolhouse Road, Pascoag** (Preliminary Minor – two lots). There were no plans rejected as incomplete. The following plan was endorsed: **Town of Burrillville, South Shore Road, Pascoag** (Administrative – merger of lots).

Planning Board Discussions: The Board held a brief additional discussion on the Cabral conceptual plan application. Mr. Kravitz told them that he would get an opinion from the Town Solicitor on how an applicant can utilize the RRC ordinance to circumvent an illegal minor subdivision. The Board suggested that the applicant could have first created a legal conforming lot along Mount Pleasant Road (filed as an Administrative Subdivision) and joined the remaining area (50 feet) to the adjacent lot before filing the plan for a RRC. The Board discussed the possibility of the applicant utilizing the existing gravel driveway as access to both lots and allowing the creation of two rural residential compounds. This provides for a single access point to Mount Pleasant Road and only one wetlands crossing.

The Board questioned the proposed location of Victory Highway in Oakland (adjacent to the Police Station) for the Town's new Senior Center. They voiced concerns with the location not being centrally located in Town and asked of other possible locations. They asked if a subcommittee had been formed to investigate potential locations and report to Council. Mr. Kravitz informed them that a Senior Task Force had been created to make recommendations. The Board suggested a member of the Planning Board serve as a

liaison to this Senior Task Force as well as directed Mr. Kravitz to communicate their desire to participate in determining the Senior Center location. They further requested a proper discussion at their January 2008 meeting.

A motion to adjourn was then made at 8:20 p.m. by Mr. Lupis, seconded by Mr. Presbrey and carried unanimously by the Board.