

MINUTES OF REGULAR PLANNING BOARD MEETING OF NOVEMBER 19, 2012
Planning Board's Meeting Room #315, Town Office Building
400 Slocum Road, Dartmouth, MA

Planning Board

Mr. Joel Avila, Chairman
Mr. Joseph E. Toomey, Jr., Vice Chairman
Mrs. Lorri-Ann Miller, Clerk
Mr. John V. Sousa
Mr. Stanley M. Mickelson

Planning Staff

Mr. Donald A. Perry, Planning Director
Mrs. Joyce J. Couture, Planning Aide

The Chairman called the meeting to order at 7:02 p.m. with all Planning Board members and Planning staff present.

Administrative Items

(1) Approval of Minutes

Regular Meeting of November 5, 2012

A motion was made by Mr. Sousa, duly seconded by Mr. Toomey for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of November 5, 2012 as written.

(2) Correspondence

Legal Notices from Dartmouth Board of Appeals
Legal Notices from Dartmouth Conservation Commission
Letter from Community Preservation Committee dated November 1, 2012

A motion was made by Mrs. Miller, duly seconded by Mr. Toomey for discussion, and unanimously voted (5-0) to acknowledge and file the above referenced correspondence.

(3) Endorsement of Approval Not Required (ANR) Plans

David & Leslie McKinley Horseneck Road dated August 27, 2012

The Planning Director stated this ANR plan is for property on Horseneck Road just past the house with the brick wall. He pointed out the Planning Board has seen this plan before as it was an estate lot that received a variance from the Board of Appeals to reconfigure the estate lot. Mr. Perry stated the plan does not create any new buildable lots, but creates a number of parcels being exchanged between two existing built upon lots.

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Brief discussion ensued.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to endorse the ANR plan for David & Leslie McKinley for property located on Horseneck Road and dated August 27, 2012.

Immediately after the Planning Board vote, the Planning Director realized the Planning Office did not receive the amended covenant which should have accompanied the plan. He mentioned to the Board that the applicant was supposed to deliver the covenant to the Planning Office earlier in the day but it was never received.

After some discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to reconsider the Planning Board's vote on the ANR plan for David & Leslie McKinley for property located on Horseneck Road and dated August 27, 2012.

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to withdraw endorsement of the ANR plan for David & Leslie McKinley for property located on Horseneck Road and dated August 27, 2012.

(4) Planner's Report

- Lincoln Park Subdivision

The Planning Director stated that he was on a site visit at the former Lincoln Park and is very pleased with the road improvements and detention facilities for the Village at Lincoln Park Subdivision. He noted the developers have cleaned up the site which has been derelict for years.

- Hixville Estates Subdivision

Mr. Perry mentioned the Planning Office has formally received the Hixville Estates Definitive Plan which is a follow-up to the preliminary plan which was submitted last Spring.

(5) Discussion of Alternate Planning Board member appointment for Special Permits

Discussion commenced on how the Board wants to proceed with appointing an Alternate Planning Board member for Special Permits. Planning Staff would contact The Chronicle to have a public announcement placed in the newspaper, as well as, placing a request of interest on the Town's website.

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Public Hearings & Appointments

- (6) **7:15 P.M. – PUBLIC HEARING - Definitive (OSRD) Subdivision Plan entitled “King Meadow Preserve” which proposes to create a 2-lot subdivision from a 5 acre tract of land (Assessor’s Map 49, Lot 23) on the south side of Old Westport Road just west of the U-Mass Dartmouth entrance**

In a roll call vote, a motion was made by Mr. Toomey, seconded by Mr. Mickelson and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:21 p.m. in order to go into a public hearing¹ concerning a Definitive (OSRD) Subdivision Plan entitled “King Meadow Preserve”.

Stanley Mickelson – yes; John Sousa – yes; Lorri-Ann Miller – yes; Joseph Toomey, Jr.; Joel Avila – yes.

The regular meeting resumed at 8:07 p.m.

Administrative Items

- (7) **Initial review of Definitive (OSRD) Subdivision Plan entitled “King Meadow Preserve”**

Following the close of this evening’s public hearing, the Planning Director commented this plan has been laid out in accordance with the requirements of the OSRD By-Law and the Subdivision Regulations. Mr. Perry stated approval will require two votes. First, the Special Permit by roll call vote which requires a 4/5th vote. Second, a vote on the Definitive Subdivision Plan under the Subdivision Control Law.

In a roll call vote, a motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve as amended the Special Permit for a Definitive OSRD Subdivision Plan entitled “King Meadow Preserve” in accordance with the following:

Stanley Mickelson – yes; John Sousa – yes; Lorri-Ann Miller – yes; Joseph Toomey, Jr.; Joel Avila – yes.

Certificate of Action for a Special Permit Definitive OSRD Subdivision Plan entitled “King Meadow Preserve”

There was a Planning Board public hearing which was opened on Monday, November 19, 2012 and closed on Monday, November 19, 2012 regarding the application of Long Built Homes, 158 Charles McCombs Boulevard, New Bedford, MA 02745 which requested a Special Permit under the Dartmouth Zoning By-Laws, Section 6 - Open Space Residential Design (OSRD) to allow a reduction in lot frontage, lot area, lot shape, building setbacks,

¹ For more information, see minutes of Planning Board’s Public Hearing of Nov. 19, 2012 “King Meadow Preserve”

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and driveway and parking requirements for house lots shown on a plan entitled "King Meadow Preserve" dated September 25, 2012 for property owned by the Estate of Donald H. King, Donald C. King (Executor), 158 Slocum Road, Dartmouth, MA 02747.

The plan submitted to the Planning Board and Town Clerk on September 28, 2012 proposes to create a 2-lot subdivision from a 5 acre tract of land (Assessor's Map 49, Lot 23) on the south side of Old Westport Road just west of the U-Mass Dartmouth entrance. It also creates an open space parcel and a parcel of land to be conveyed to an abutter. No new roads will be created since both buildable lots have frontage on Old Westport Road.

Complete copies of the minutes of the public hearing and discussion of the Planning Board decision are available in the Town Clerk and Planning Board offices.

DECISION

At its regular meeting of November 19, 2012 and after the close of the above described public hearing, the Planning Board voted – Stanley Mickelson - yes, John Sousa – yes, Lorri-Ann Miller - yes, Joseph Toomey, Jr. – yes, Joel Avila – yes, to grant a Special Permit to the petitioner, Long Built Homes, 158 Charles McCombs Boulevard, New Bedford, MA 02745 for land owned by the Estate of Donald H. King, Donald C. King (Executor), 158 Slocum Road, Dartmouth, MA 02747 for an OSRD development to allow a reduction in lot frontage, lot area, lot coverage, building setbacks, and driveway and parking requirements for house lots in accordance with Section 6 of the Zoning By-Laws.

The Planning Board granted the Special Permit for an OSRD development because it found that the plan met the following purposes of Section 6.100:

- The plan conforms to existing topography and natural features better than a conventional development since frontage is not needed on a new subdivision road which minimizes grade and drainage changes to the land, as well as, consuming less land for development.
- The plan allows for greater flexibility and creativity in the design of this residential development by choosing the most appropriate house sites based on existing site features to preserve.
- The plan preserves a field which enhances the traditional rural character of Dartmouth. In addition, the proposed open space is adjacent to existing preserved open space thereby creating a larger contiguous area of preserved open space.
- The plan eliminates the construction cost and maintenance of a new street, utilities and public services, and develops the site in a more economical and efficient manner in harmony with the site and neighborhood.
- The plan minimizes the total amount of disturbance on the site.

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- The plan preserves open space for passive recreational use.
- The plan does not create more buildable lots than could be allowed by a conventional subdivision plan.

In accordance with Section 6.500, the Planning Board modified the following requirements of the Dartmouth Zoning By-Laws for the lots shown on the plan:

Section 4B.401, Lot Area - to allow 30,000 square feet as the minimum required lot area and the minimum required upland area.

Section 4B.402, Lot Shape - to allow the lot shapes as shown on the plan for the lots.

Section 4B.403, Lot Frontage - to allow 140 feet, minimum frontage.

Section 4B.404, Setbacks - to allow a 15-foot minimum setback from all lot lines or right-of-way lines except that the setback from Old Westport Road shall be at least 60 feet.

Section 4B.407, Driveway and Parking Setbacks - to allow a 5-foot minimum setback from property lines for parking and driveways (also without the requirement for an evergreen screen) on the property.

The Planning Board grants the Special Permit for "King Meadow Preserve" with the following conditions and restrictions:

1. The Planning Board grants the Special Permit for an Open Space Residential Development in substantial conformance with the following plans:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
King Meadow Preserve OSRD, Cover Sheet	--	September 25, 2012
Subdivision Plan of King Meadow Preserve	--	September 25, 2012
King Meadow Preserve, Existing Conditions	2	September 25, 2012
King Meadow Preserve, Site Context Plan	3	September 25, 2012
King Meadow Preserve, Overall Development Plan	4	September 25, 2012
King Meadow Preserve, Detail Sheet	5	September 25, 2012

2. The Planning Board grants the Special Permit in conformance with the Certificate of Action for a Subdivision Plan dated November 20, 2012 for a plan entitled "King Meadow Preserve".
3. The Special Permit is only approved for two buildable lots.
4. A Trust Document satisfying the requirements of Section 6.801 and 6.802 of the

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Dartmouth Zoning By-Laws shall be approved by the Planning Board prior to endorsement of the subdivision plan.

5. In accordance with Section 6.802, a conservation restriction, meeting the requirements of Section 6.802, and consistent with the Board of Health's nitrogen loading restriction and easement requirements shall be provided prior to release of lots in the subdivision plan. The Planning Board may allow release of some lots at its discretion as long as sufficient lots are held to ensure compliance with this condition.
6. The fiberglass boundary posts defining the boundary between the buildable lots and the open space parcels shall not be removed and must be maintained as boundary delineation markers. The markers shall be maintained in good condition, and noted in the Trust Document. At least two fiberglass boundary posts shall be provided on each lot side that abuts open space.
7. All stonewalls on the site shall be preserved. One driveway opening for each buildable lot is allowed through the stonewall along Old Westport Road. The width of each opening not to exceed 20 feet wide. The removed portions of the wall shall be rebuilt perpendicular to each opening using a style and similar height which complement the existing stonewall. This condition shall appear as a note on the Subdivision Plan.
8. Open space areas are not to be used for construction/storage/work areas for construction activities associated with construction of the Subdivision. This condition shall appear as a note on the Subdivision Plan.
9. The OSRD Trust document shall include provisions for:
 - a. Maintenance of the fiberglass open space boundary markers.
 - b. The field areas identified on the plan shall be maintained as a field. In order to keep the land a field, the designated field shall be mowed at least twice a year.
 - c. The wooded areas identified on the plan shall remain in a predominantly natural condition. Clearing for trails (no wider than 5 feet), removal of diseased or dead trees, invasive plant management, and forestry management are allowed. If forestry is undertaken, a forestry plan prepared by a forester shall be approved by the Planning Board.
8. The note on the plan on Section 4B.404 regarding reductions in zoning requirements for setbacks must be changed to reflect the actual requirements voted by the Planning Board (setbacks).

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9. The Open Space Trust document, as well as the Subdivision Plan, and any covenants and restrictions associated with the Subdivision Plan, shall be duly executed and recorded at the Bristol County (S.D.) Registry of Deeds.
10. A bond shall be posted by the developer in an amount determined by the Dartmouth Department of Public Works to mow the field areas twice a year for a 5-year period. This bond shall be securable by the Dartmouth Planning Board and approved by the Planning Board and Town Counsel as to form. This bond shall be posted prior to release of lots for building or sale. The bond will be used only if the Planning Board determines the field is not maintained by the association of lot owners.

All conditions of approval shall be met within one (1) year from the date of filing of the Planning Board decision in the Office of the Town Clerk. A reasonable extension of said time shall be granted by the Planning Board in the case of an appeal to the Superior Court under Massachusetts General Laws (M.G.L.), Chapter 40A, Section 17 or if good cause is shown to the Planning Board for an extension.

Appeals, if any, shall be made pursuant to M.G.L., Section 17, Chapter 40A, and shall be filed within twenty (20) days after date of filing of such notice in the Office of the Town Clerk.

The Special Permit does not become effective until the Town Clerk certifies that no appeal of the decision has been filed in Superior Court within the 20-day statutory appeal period; or that if an appeal has been filed, it has been dismissed or denied and a certified copy of the decision is recorded in the Bristol County Registry of Deeds and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title.

The applicant or petitioner is responsible for filing the certified decision in the Registry of Deeds and for paying the recording fees.

A copy of the recorded decision certified by the Registry of Deeds is necessary before a Building Permit, dependent on the Planning Board's decision, can be issued by the Director of Inspectional Services. Copies of the approved plans and this decision are on file in the Town Clerk and Planning Board offices. Copies of the complete minutes of the public hearing are available upon request at the office of the Planning Board.

Approval of this Special Permit does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

Next, the Planning Board voted under the Subdivision Control Law. A motion was made by Mrs. Miller, duly seconded by Mr. Toomey, and unanimously voted (5-0) to approve the Definitive (OSRD) Subdivision Plan entitled "King Meadow Preserve" in accordance with the following certificate of action:

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**Certificate of Action for a Definitive (OSRD) Subdivision Plan
entitled "King Meadow Preserve"**

Pursuant to M.G.L., Chapter 41, Section 81U, (The Subdivision Control Law), you are being notified that the Planning Board, at its regular meeting of November 19, 2012, approved with conditions the Definitive OSRD Subdivision Plan entitled "King Meadow Preserve" for a 2 lot subdivision on the south side of Old Westport Road just west of the U-Mass Dartmouth entrance.

The plan was prepared by Prime Engineering, Inc. for Long Built Homes, 158 Charles McCombs Boulevard, New Bedford, MA 02745 for land owned by the Estate of Donald H. King, Donald C. King (Executor), 158 Slocum Road, Dartmouth, MA 02747. The plan was submitted to the Planning Board office on September 28, 2012. The applicant is also requesting a Special Permit for Open Space Residential Design, as provided for in Section 6 of the Zoning By-Laws, to allow a reduction in frontage, area, lot shape, driveway setback, and setback requirements for buildings.

The approved Definitive Subdivision Plan consists of the following:

<u>Title</u>	<u>Sheet</u>	<u>Date</u>
King Meadow Preserve OSRD, Cover Sheet	--	September 25, 2012
Subdivision Plan of King Meadow Preserve	--	September 25, 2012
King Meadow Preserve, Existing Conditions	2	September 25, 2012
King Meadow Preserve, Site Context Plan	3	September 25, 2012
King Meadow Preserve, Overall Development Plan	4	September 25, 2012
King Meadow Preserve, Detail Sheet	5	September 25, 2012

The conditions of approval are listed below:

1. This Definitive Plan is subject to an Open Space Residential Design Special Permit dated November 20, 2012.
2. The zoning requirement table needs to reflect the zoning requirements that have been modified by the Special Permit. In particular, the minimum side setback should be titled "minimum setback from other property lines, except Old Westport Road."
3. The plans do not indicate what type of water supply will be used. If public water is intended, the water services should be shown on the plan since the septic systems appear to be in front of the proposed dwellings.
4. All residential buildings in the Aquifer Protection Districts (Zone 2 & 3) are required to recharge roof runoff directly into the ground utilizing artificial recharge infiltration systems. The plans should detail these locations and a typical system should be shown.

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5. All stonewalls on the site shall be preserved. One driveway opening for each buildable lot is allowed through the stonewall along Old Westport Road. The width of each opening not to exceed 20 feet wide. The removed portions of the wall shall be rebuilt perpendicular to each opening using a style and similar height which complement the existing stonewall. One opening is also allowed in the stonewall that separates the open space parcels of King Meadow Preserve and Bethany Estates not to exceed 6 feet in width. The removed stones do not need to be placed perpendicular to the existing wall. This condition shall appear as a note on the plan.
6. A properly executed covenant shall be prepared by the applicant and noted on the plan and recorded at the Registry of Deeds that lots 1 and 2 cannot be separated in ownership until the following occurs:
 - a. The plan is revised in accordance with the conditions above, as well as, any revisions listed in the Special Permit OSRD Certificate.
 - b. Seven copies of the revised plan are delivered to the Planning Office.
 - c. The revised subdivision plan is recorded at the Registry of Deeds and a copy of the recorded plan is delivered to the Planning Office including a copy of the recorded Open Space Covenant and Homeowner's Trust, and Special Permit for an OSRD.
 - d. The Planning Board approves the deed restriction on the open space parcel for conservation purposes. The Planning Board may allow release of some lots at its discretion as long as sufficient lots are held to ensure compliance with this condition.
7. The Director of Inspectional Services shall not issue a building permit for lots 1 and 2 until:
 - a. A lot release signed by the Planning Board is delivered to the Building Department for the lot requested to be built upon.
 - b. The Board of Health confirms all requirements of its Nitrogen Loading Plan have been met.

In accordance with M.G.L., Chapter 41, Section 81-R, and as part of the Board's approval of said plan, the following waivers from its Subdivision Regulations were granted:

- 3.109 Special Account deposit for drainage review
- 3.110 Submission of road maintenance documents
- 3.303 Streets
- 3.304 Curbing

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- 3.305 Shoulders
- 3.306 Pedestrian Circulation
- 3.307 Street Trees
- 3.308 Street Signs
- 3.309 Street Monuments, except monuments shown on the plan shall be installed.
- 3.310 Drainage
- 3.311 Water Service, except as provided on the plan
- 3.312 Sewer Service, except as provided on the plan
- 3.315 Stonewall replacement at 2 to 1 ratio

The above waivers are needed because the applicant is submitting a "subdivision plan" that creates no new roads and has chosen to voluntarily submit to the subdivision process. This has been done in order to apply for the OSRD Special Permit for a subdivision plan. The above waivers are in the public interest in order to develop an OSRD subdivision that provides open space that protects the existing rural character of the neighborhood.

Approval of this plan does not imply compliance with other Town ordinances, standards, and/or requirements administered by other Town agencies.

**(8) 7:30 P.M – APPOINTMENT – Richard Rheume, Prime Engineering, Inc.:
Discussion of drive-thru coffee shop at 532 Russells Mills Road (former CV
Variety)**

Present: Richard Rheume, Prime Engineering, Inc.
Ronen Drory, owner of Prestige Market

Richard Rheume, representing Prestige Market, stated the owner of Prestige Market is still hoping to get the Board's endorsement to allow a drive-thru on-site. He noted the owner is struggling to keep the market and gas station afloat and Mr. Rheume explained that this appointment is for the purpose of seeking Planning Board comment.

General discussion ensued with both Mr. Rheume and Mr. Drory responding to the many questions and concerns raised by Board members on the drive-thru design, queuing, and traffic flow. Even with the reduced use intensity on-site, it was the consensus of the Board that the existing layout of the property will not support a drive-thru.

(9) Discussion of Commercial Solar Farm Bylaw

After brief discussion, the Planning Board suggested a joint meeting be scheduled with the Select Board to discuss whether or not the Planning Board should resubmit the recently proposed Solar Farm Bylaw as is, or if revisions should be considered. The Planning Board also noted that it would like to extend the invitation of a joint meeting to the Board of Appeals, Board of Health, and all other involved Town Boards for this collaborative discussion.

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(10) For Your Information/New Business

- MMA 2013 Annual Meeting & Trade Show
- Letter from FEMA dated October 26, 2012 re: revised Preliminary (FIRM)
- Buzzards Bay Comprehensive Conservation & Management Plan 2012 Update
- Subcommittee Reports
- Board of Appeals decisions
- Planning Director's review for Board of Appeals
- Planning staff timesheets

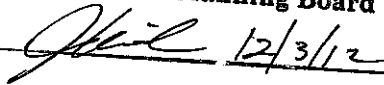
Mrs. Miller reported on the recent SRPEDD meeting she attended. She said the funding for the Faunce Corner Road and Padanaram Bridge is on track.

Mr. Toomey stated that in the past many of the Board members attended the MMA Meeting. He mentioned it is a very worthwhile event and he hoped to attend this year.

With no further business, a motion was made by Mr. Sousa, duly seconded by Mr. Mickelson, and unanimously voted (5-0) to adjourn this evening's regular meeting at 9:29 p.m.

Respectfully submitted,
Joyce J. Couture
Planning Aide

APPROVED BY:
The Dartmouth Planning Board

 12/3/12

