

**MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011**  
**Planning Board's Meeting Room #315, Town Office Building**  
**400 Slocum Road, Dartmouth, MA**

**Planning Board**

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

**Planning Staff**

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

The Chairman called the meeting to order at 7:00 p.m. with all Planning Board members and Planning Staff present.

**Administrative Items**

**(1) Approval of Minutes**

Regular Meeting of December 5, 2011

A motion was made by Mr. Avila, duly seconded by Mrs. Miller for discussion, and unanimously voted (5-0) to approve the minutes of the regular meeting of December 5, 2011 as written.

Public Hearing of December 5, 2011 "The Preserve at High Hill"

A motion was made by Mr. Sousa, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve the minutes of the public hearing of December 5, 2011 "The Preserve at High Hill" as written.

**(2) Invoices**

MA Municipal Association                      dated December 19, 2011 for \$140.00  
re: registration fee for 2012 Annual Meeting & Trade Show

Donald A. Perry                                      dated December 19, 2011 for \$79.92  
re: mileage reimbursement

A motion was made by Mr. Sousa, duly seconded by Mr. Haran for discussion, and unanimously voted (5-0) to approve payment of the above referenced vouchers.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

### (3) Correspondence

Legal Notice from Board of Appeals  
Legal Notices from Conservation Commission

A motion was made by Mrs. Miller, duly seconded by Mr. Sousa, and unanimously voted (5-0) to acknowledge and file the above referenced legal notices.

### (4) Update of Planning Board's F/Y'12 budget through November

A motion was made by Mr. Avila, duly seconded by Mr. Sousa, and unanimously voted (5-0) to acknowledge and file the Planning Board's F/Y'12 budget update through October.

### (5) Planner's Report

- Master Plan Update

The Planning Director informed the Board that he checked with SRPEDD on how much it would cost the Town to update the Master Plan in addition to the 40 hours of SRPEDD staff time allotted to the Town. Mr. Perry said it would cost \$10,000. to update the Master Plan to include new census data. After some discussion, a motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0) to pursue getting the monies for this endeavor with Finance and the Select Board.

- Skate Board Park

Mr. Perry briefed the Board on a proposal to build a skate board park in Town. He stated the Police Department is taking an active roll in establishing the park and a possible site is the former Crapo School property on Slocum Road.

### Public Hearing

### (6) 7:15 P.M. – CONT. PUBLIC HEARING – Definitive (OSRD) Subdivision Plan entitled “The Preserve at High Hill” which proposes to create a 3-lot subdivision with 1 open space parcel from a 6.06-acre tract of land (Assessor's Map 77, Lot 9-1) located on the west side of Faunce Corner Road just north of Flagg Swamp Road

In a roll call vote, a motion was made by Mrs. Miller, seconded by Mr. Haran and unanimously voted (5-0), to recess the Planning Board's regular meeting at 7:21 p.m. in order to go into a continued public hearing<sup>1</sup> concerning a Definitive (OSRD) Subdivision Plan entitled “The Preserve at High Hill”.

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<sup>1</sup> For more information, see minutes of Planning Board's Public Hearing of Dec. 19, 2011 “The Preserve at High Hill”

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

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

The regular meeting resumed at 9:24 p.m.

### Administrative Items

#### **(7) Initial review of Definitive (OSRD) Subdivision Plan entitled “The Preserve at High Hill”**

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 4/5<sup>th</sup> vote. Second, a vote on the Definitive Subdivision Plan under the Subdivision Control Law.

In a roll call vote, a motion was made by Mr. Sousa , duly seconded by Mr. Haran, and unanimously voted (5-0) to approve the Special Permit for a Definitive OSRD Subdivision Plan entitled “The Preserve at High Hill” in accordance with the following:

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

#### Certificate of Action for a Special Permit Definitive OSRD Subdivision Plan entitled “The Preserve at High Hill”

There was a Planning Board public hearing which was opened on Monday, December 5, 2011, continued to Monday, December 19, 2011, and closed on Monday, December 19, 2011 regarding the application of Robert F. Long for Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745 who 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, and driveway and parking requirements for house lots shown on a plan entitled “The Preserve at High Hill” dated October 12, 2011 for property owned by Janice E. Baker, Trustee of Wooler Nominee Trust, c/o Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745. The plan submitted to the Planning Board and Town Clerk on November 10, 2011 proposes to create 3 buildable lots with 1 open space parcel from land (Assessor’s Map 77, Lot 9-1) located on the west side of Faunce Corner Road just north of Flagg Swamp 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.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

### DECISION

At its regular meeting of December 19, 2011 and after the close of the above described public hearing, the Planning Board voted – Joel Avila – yes, John Sousa – yes, Lorri-Ann Miller – yes, John Haran – yes, and Joseph Toomey, Jr. – yes, to grant a Special Permit to the petitioner, Robert F. Long for Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745 for property owned by Janice E. Baker, Trustee of Wooler Nominee Trust, c/o Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745 (Assessor's Map 77, Lot 9-1) for an OSRD development to allow a reduction in lot frontage, lot area, lot shape, 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 the use of a common driveway 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 mature woodland and adjacent wetlands.
- 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 preserves 350 feet of wooded frontage on Faunce Corner Road thereby helping to maintain the rural character of Dartmouth.
- The plan minimizes the total amount of disturbance on the site.
- 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 40,000 square feet as the minimum required lot area and the minimum required upland area.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

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 0 feet, minimum frontage.

Section 4B.404, Setbacks - to allow a 20-foot minimum setback from all lot lines or right-of-way lines.

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 "The Preserve at High Hill" 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>
The Preserve at High Hill, Subdivision Plan	--	10/12/11
The Preserve at High Hill, Common Driveway	1 of 1	10/12/11 rev. 11/17/11

2. The Planning Board grants the Special Permit in conformance with the Certificate of Action for a Subdivision Plan dated December 6, 2011 for a plan entitled "The Preserve at High Hill".
3. The Special Permit is only approved for three buildable lots.
4. A Trust Document satisfying the requirements of Section 6.801 and 6.802 of the 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, 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 split rail fence defining the boundary between the buildable lots and the open space parcel shall not be removed and must be maintained as boundary delineation markers. The fences shall be maintained in good condition, and noted in the Trust Document. See Certificate of Action for a Definitive Subdivision Plan, condition #4, for fencing requirements.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

7. The OSRD Trust document shall include provisions for:
  - a. Maintenance of the common driveway with respect to road surface and vegetation clearance of driveway shoulders. Maintenance of the fence between lots and the open space.
  - b. 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 (to allow 20' not 40').
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.

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.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

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. Sousa, and unanimously voted (5-0) to approve the Definitive (OSRD) Subdivision Plan entitled "The Preserve at High Hill" in accordance with the following certificate of action:

### Certificate of Action for a Definitive (OSRD) Subdivision Plan entitled "The Preserve at High Hill"

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 December 19, 2011, approved with conditions the Definitive OSRD Subdivision Plan entitled "The Preserve at High Hill" for a 3 lot subdivision on the west side of Faunce Corner Road just north of Flagg Swamp Road.

The plan was prepared by SITEC, Inc. for Robert F. Long, Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745 for land owned by Janice E. Baker, Trustee of Wooler Nominee Trust, c/o Long Built Homes, Inc., 158 Charles McCombs Boulevard, New Bedford, MA 02745. The plan was submitted to the Planning Board office on November 9, 2011. 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>
The Preserve at High Hill, Subdivision Plan	--	10/12/11
The Preserve at High Hill, Common Driveway	1 of 1	10/12/11 rev. 11/17/11

The conditions of approval are listed below:

1. This Definitive Plan is subject to an Open Space Residential Design Special Permit dated December 6, 2011.
2. The zoning requirement table needs to reflect the zoning requirements that have been modified by the Special Permit.
3. 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, 2, and 3 cannot be separated in ownership until the following occurs:

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

- 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 covenants and conservation restrictions.
  - 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.
4. Where lot 1 abuts the open space on the east and where lot 3 abuts the open space on the north, an identifiable separation between the lot and open space needs to be provided. It is recommended concrete bounds be set to identify the property line (3 for lot 1 and 3 for lot 3) and a split rail fence of cedar or other durable material, which lasts for at least 15 to 20 years be provided along the boundary. These details need to be added to the plan and the maintenance of the fences included in the Trust Document. Also, include a note that the split rail fence must be installed prior to issuance of an occupancy permit for the abutting lot. A temporary orange snow fence will be required to be installed where the permanent split rail fence will be located, prior to release of any lots for building or sale.
  5. Street trees need to be planted on the south side of the common driveway. Three trees in front of lot 1 and two trees each in front of lots 2 and 3. These trees can be planted on parcel A in front of the lots or on the abutting lots as close to the common driveway as possible. It is suggested a mixture of Sugar Maple and River Birch be used. If existing trees can be saved to satisfy this requirement, a note to this effect should be placed on the plan and Planning Staff must determine if the existing trees are acceptable. However, these street tree planting requirements should still be noted on the plan.
  6. The applicant may want to consider a small permanent subdivision identification sign at the entrance to identify the development.
  7. The drainage pipe culvert at the beginning of the driveway will be less than 1.5 feet deep. Reinforced concrete pipe should be used due to the shallow depth and the D.P.W. generally requires R.C. pipe when open ends are utilized including flared ends.
  8. The common driveway in front of lots 1 2 and 3 shall be 18 feet wide.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

9. All utilities shall be underground.
10. The following notes shall be placed on the Subdivision Plan:
  - a. "No building shall be placed on lots 1, 2, or 3 without prior written consent of the Board of Health."
  - b. "Property owners shall be responsible for their own collection and disposal of trash. Trash may not be placed on a public way other than the frontage of the lot where trash is generated. If in the future the Town develops a new policy and procedure, this requirement may be modified."
  - c. "All utilities shall be underground."
  - d. "Grading around house sites shall not direct surface water to abutting lots to the west, as per State Law."
  - e. "A temporary orange snow fence will be required to be installed where the permanent split rail fence will be located, prior to release of any lots for building or sale."
11. The Director of Inspectional Services shall not issue a building permit for lots 1, 2, and 3 until a lot release signed by the Planning Board is delivered to the Building Department for the lot requested to be built upon.

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:

- |       |  |
|-------|--|
| 3.303 | Streets  |
| 3.304 | Curbing  |
| 3.305 | Shoulders  |
| 3.306 | Pedestrian Circulation   |
| 3.307 | Street Trees, except street trees required on the plan.                  |
| 3.308 | Street Signs   |
| 3.309 | Street Monuments, except monuments shown on the plan shall be installed. |
| 3.310 | Drainage   |

The above waivers are needed because the applicant is submitting a "subdivision plan" that creates no new roads and has chose 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 forest land and the existing rural character of the neighborhood.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

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

### **(8) Request for street determination on Hicks Street/Ohio Avenue, Map 173 (Lot 20)**

Present: Daniel Aguiar, SITEC, Inc.

The Planning Director stated that this street determination is for the extension of Hicks Street and a portion of Ohio Avenue. The applicant is looking to develop a portion of Ohio Avenue to provide frontage for a 3.3 acre lot that fronts on Ohio Avenue. Mr. Perry noted the existing built streets approaching Hicks Street are 24 feet wide and the applicant is proposing an 18-foot wide gravel road. He noted the Subdivision Regulations requires a 12-foot paved road where only one dwelling would have access.

Discussion ensued.

A motion was made by Mr. Sousa, duly seconded by Mr. Avila, and unanimously voted (5-0) to recommend a standard of a 12-foot wide paved road with 3-foot gravel shoulders to provide access and frontage to lot 20 (Assessor's Map 173) which will provide a total usable width of 18 feet for the improvement of Hicks Street and Ohio Avenue.

The Dartmouth Department of Public Works should approve any utilities and drainage, and all improvements should be shown on properly engineered plans. This determination is valid until December 19, 2012.

### **(9) Initial review of Off-Street Parking Plan entitled "A & A Jewelers, 169 Rockdale Avenue"**

At the request of the applicant's engineer, this item was deferred until the Planning Board meeting on January 9, 2012.

### **(10) Planner's Report (cont.)**

- The Planning Director asked if Board members are available to attend a presentation on January 30, 2012 at the Select Board's meeting. The presentation is on the Route 6 Corridor Study recently prepared by SRPEDD. Most Board members were available to attend.
- There is a 114 seat restaurant being considered at the old Packet store which may be called the "Sailoft". It will require a Special Permit from the Planning Board for parking.

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

### (11) For Your Information/New Business

- Reviewer's Meeting update

The Planning Director reported on several topics discussed at the Reviewer's Meeting:

Walmart is seeking a variance request to reduce parking. Such request will be consistent with the Planning Board recommendation that any parking spaces not built, be kept as green space.

The Village at Cedar Dell was discussed and the requirement to transfer an open space parcel to the Conservation Commission.

The reconstruction of Elm Street will include a sidewalk on one side and once the D.P.W. prepares a draft plan, input from the Padanaram Village Review Committee will be sought for guidance regarding materials proposed for the sidewalk such as brick, concrete, etc.

The owner of Brady Estates would like to eliminate the 40B and develop homes under a variance or possible OSRD. This agreement may be similar to one worked out by the Town at Cedar Dell.

- Subcommittee Reports

The Planning Director updated the Board on the recent SRPEDD meeting he attended since the Town's appointed delegates were unable to attend.

Mr. Toomey informed the Board members that the Technical Research Group has cancelled their scheduled meeting of December 20, 2011. He also reported on the Municipal Facilities Committee meeting he attended.

- Information from Joel Avila on certified list of "parties in interest"

Discussion ensued on information provided by Joel Avila which indicates that under M.G.L., Chapter 40A, Section 11, assessors are responsible for certifying the "parties in interest" who are to be notified of public hearings for special permits and variances. A letter shall be sent to Paul Bergman, Administrator of Assessing, to make him aware of this information.

- Letter to Board of Appeals from Planning Director
- Letter to SRPEDD Commission from Planning Director
- Planning staff timesheets

## MINUTES OF REGULAR PLANNING BOARD MEETING OF DECEMBER 19, 2011

### **(12) Long Range Planning – Discussion of Dartmouth Street/Bliss Corner zoning**

Due to the lateness of the hour, this item was deferred until the next Planning Board meeting.

Mr. Toomey noted that the next Planning Board meeting is scheduled for January 9, 2012, in room #315, Town Office Building, 400 Slocum Road. He then called for a motion to adjourn.

A motion was made by Mrs. Miller, duly seconded by Mr. Haran, and unanimously voted (5-0), to adjourn this evening's regular meeting at 10:30 p.m.

Respectfully submitted,  
Mrs. Joyce J. Couture  
Planning Aide