

A VIDEO RECORDING OF THE MEETING IN ITS ENTIRETY IS AVAILABLE THROUGH VERMONTCAM.ORG. THE WRITTEN MINUTES ARE A SYNOPSIS OF DISCUSSION AT THE MEETING. MOTIONS ARE AS STATED BY THE MOTION MAKER. MINUTES SUBJECT TO CORRECTION BY THE SHELBURNE DEVELOPMENT REVIEW BOARD. CHANGES, IF ANY, WILL BE RECORDED IN THE MINUTES OF THE NEXT MEETING OF THE BOARD.

**TOWN OF SHELBURNE
DEVELOPMENT REVIEW BOARD
MINUTES OF MEETING**

November 4, 2020

***Meeting held by teleconference.**

MEMBERS PRESENT: David Hillman (Chair); Mark Sammut, Mike Major, John Day, Anne Bentley, Zeke Plante, Doug Griswold. (Allyson Myers was absent.)

STAFF PRESENT: Dana Hanley, DRB Coordinator.

OTHERS PRESENT: Dave Marshall, Bob Bouchard, Gail Albert, Anne and David Elston, Jack Milbank, Chris Palmer.

AGENDA:

1. Call to Order and Agenda
2. Public Comment
3. Approval of Minutes (10/21/20)
4. Disclosures/Potential Conflicts of Interest
5. Applications
 - Site Plan, Re-Grading, Lots 4, 4A, 5, 5A in Rice Lumber PUD, 4188 Shelburne Road, Pizzagalli Properties, Inc./Rice Lumber Co. (SP17-04R5)
 - Sketch Plan, PUD Subdivision, Two Lots, 161 Dorset Hill Lane, Linton/Elston (SUB20-03)
 - Final Plan, PUD Subdivision, Nine Lots, 1348 Irish Hill Road, Whalley (SUB18-03R1)
6. Other Business
7. Adjournment

1. CALL TO ORDER and AGENDA

Chair David Hillman called the teleconference meeting to order at 7 PM, held rollcall, and explained the procedure to be followed.

2. PUBLIC COMMENTS

There were no comments at this time from the public.

3. MINUTES

October 21, 2020

MOTION by John Day, SECOND by Mark Sammut, to approve the minutes of 10/21/20 with the rewording of Condition #7 for applications CU20-07 and CU20-08 (fire/rescue facility and Healthy Living Food Market at 4188 Shelburne Road) to read: “The applicant shall provide a financial security for landscaping consistent with the provisions of Section 1900.5 of the regulations.” VOTING by rollcall: 6 ayes, one abstention (Doug Griswold); motion carried.

4. DISCLOSURES/POTENTIAL CONFLICTS OF INTEREST

There were no announcements of potential conflicts of interest from the board members at this time. Those present at the meeting were asked if anyone had any concerns about

the participation of any DRB member in any matter on the agenda. No concerns were raised.

5. APPLICATIONS

The function of the Development Review Board as a quasi-judicial board and the hearing procedure were explained. Individuals to give testimony before the DRB were sworn in.

SP17-04R5: Site Plan review to regrade lots 4, 4A, 5, 5A in the Rice Lumber PUD at 4188 Shelburne Road in the Mixed Use District and Stormwater Overlay District by Pizzagalli Properties, Inc./Rice Lumber Co.

Dave Marshall, CEA, and Bob Bouchard, Pizzagalli Properties, appeared on behalf of the application.

Submittals:

- Cover letter from David Marshall, CEA, dated 9/29/20
- Town of Shelburne Site Plan Review Application
- Names and addresses of adjoining property owners
- Site Plan Review Procedure
- General Application Form
- Site Plan Review (summary)
- Email from James Clancy to David Marshall and Bob Bouchard, dated 1/21/20
- Rice Lumber Planned Unit Development PUD Compliance Narrative
- Rice Lumber Campus Re-Development Project, Blasting Protocol Specifications
- ANR, DEC, Best Management Practices for Blasting Activities to Avoid Environmental Contamination
- Burlington Free Press Notice, 10/20/20
- Town of Shelburne Development Review Board Notice of Hearing
- Notice of Application, 11/4/20
- Town of Shelburne Staff Report, dated 11/4/20

STAFF REPORT

The DRB received a written staff report on the application, dated 11/4/20.

APPLICANT COMMENTS

Dave Marshall reviewed the site plan highlighting lots 4, 4A, 5, 5A and showing the four lots above for single-family houses as well as the build-out of the Rice Lumber building.

There was discussion of the cross-section presentation to be shown by the applicant not being submitted prior to the meeting per the on-the-record rules, and the DRB decision to not allow the presentation at this time. Dave Marshall proceeded to describe the topography of lots 4 & 5 (relatively flat fronting Route 7 then sloping up 2 ½ % or five-foot increase in slope every 200' to lots 4A & 5A). The proposal is to excavate and create a rock plateau along the back of lots 4A and 5A. Any development on any of the lots in the PUD will require approval of each site plan by the DRB.

There was discussion of options to deal with the rock cliff that will be created with the excavation. One suggestion was to create a one-on-one slope and add screening and a safety fence.

PUBLIC COMMENT

Gail Neilson, resident, expressed concern about the 12 acres of conservation land being piecemeal. Dave Marshall explained there are significant natural communities on lots 7,8,9,10 which have approvals for single family houses, but no development is proposed on the conserved land. John Day pointed out the application before the DRB does not involve a decision on lots 7,8,9,10. There was mention of the DRB looking at the entire PUD rather than separate subdivision of lots.

Gail Albert, Shelburne Natural Resources Committee, said the committee had concerns about fragmentation of the conservation area in the PUD, and advised that any changes should come before the committee for review/comment. John Day stressed that creating the rock plateau does nothing to impact past decisions on the PUD and the 12 acres of conservation land. The application presently before the DRB only involves lots 4, 4A, 5, 5A. Doug Griswold noted the DRB must be sure that with any changes to the lots the conservation land is available to keep the PUD permit active. Dana Hanley said an amendment to the PUD can be done to look at the development holistically. Dave Marshall assured the application is proceeding consistent with the original intent to provide development opportunities along Route 7 and reduce density moving in a westerly direction to the point of the single-family houses. Within the four lots is a natural community area and buffering being preserved. Nothing is being done in the important green area of lots 7, 8, 9, 10. The PUD requires site plan approval for every lot.

There was continued discussion of the protected land, the encumbered land completely within lots 7,8,9,10, and the 50% lot coverage number calculated overall, not per lot. Dave Marshall said lot coverage is being tracked within the project area. Lot coverage is well below the allowance. Dave Hillman said the application is for re-grading on lots 4, 4A, 5, 5A, but development of the entire PUD must be tracked. Any improvements will require a site plan and review by the DRB. Mark Sammut observed there is a significant amount of area that cannot be developed in the PUD as a whole.

There was further discussion of the fragmentation of the protected area. Dave Marshall stressed the development proposals are consistent with the intent of the PUD. John Day said the DRB would have liked a master plan for the entire PUD, but was told it is not practical or feasible to get all parties for the lots to have joint hearings. Gail Albert said the concern is there was a PUD design and it is being changed without a final plan. Land outside lots 7,8,9,10 and within lots 5, 6, and 2 was not part of the conservation area, but was part of the green space that the Carrolls wanted to save. David Hillman reiterated that nothing in the proposal for lots 4, 4A, 5, 5A adversely affects the integrity of the PUD as a whole.

Mike Major asked how much of the ridge on lots 4A and 5A will be removed prior to the wall. Dave Marshall said the majority is proposed to be removed. There was discussion

of the landscaping percentage for the PUD and requiring a fence or other appropriate safety device for the steep slope. Dave Marshall said there will be opportunity to provide protections as site plans are submitted. The DRB could consider a condition to install a safety fence a minimum of 4' high along all portions of the property with a change in grade steeper than 1 ½ on 1, and amend the site plan to reflect a minimum slope of 1-on-1 in the transition area along the wester portion of lots 4A and 5A. Mike Major asked how close the fence will be to the travel area. Dave Marshall suggested using VTrans standards. The DRB agreed any safety issues above lots 4A and 5A will be handled when a development proposal is submitted for area above lots 4A and 5A.

DELIBERATION/DECISION

Site Plan, Re-Grading, Lots 4, 4A, 5, 5A, Rice Lumber PUD, 4188 Shelburne Road, Pizzagalli Properties, Inc./Rice Lumber Co. (SP17-04R5)

MOTION by Doug Griswold, SECOND by John Day, to finalize the record, close the hearing, and direct staff to prepare a decision approving the re-grading proposal for lots 4, 4A, 5, 5A (SP17-04R5) in the Rice Lumber PUD at 4188 Shelburne Road by Pizzagalli Properties, Inc./Rice Lumber Co. with the following conditions:

- 1. All re-grading shall be done in accordance with the approved plan.**
- 2. Blasting shall be done in accordance with the Rice Lumber Campus Re-Development Project Blasting Protocol Specifications and the Agency of Natural Resources, Department of Environmental Conservation Best Management Practices for Blasting Activities to Avoid Environmental Contamination.**
- 3. Any slope steeper than 1 ½ to 1 shall have a 4' high safety fence at the top of the slope.**
- 4. The vertical wall will be converted to a 1-on-1 slope where the slope itself will have grubbing seeded in support of vegetative growth.**

VOTING by rollcall: unanimous (7-0); motion carried.

SUB20-03: Sketch Plan for a two lot PUD subdivision at 161 Dorset Hill Lane in the Rural District and Stormwater Overlay District by Peter, John, and Edward Linton and Anne & David Elston

Anne and David Elston appeared on behalf of the application.

Submittals:

- Cover letter prepared by CEA, 9/30/20
- General Application Form, received 9/30/20
- Sketch Plan Review Application, received 6/22/20
- ANR Wildlife and Endangered Species Mapping
- ANR Area Well Mapping
- Land Use: 210, Single Family Detached Housing, ITE Manual
- Elston-Linton Proposed Subdivision Summary of Applicable Planning Standards
- Article XIX: Development Requirements and Design Standards
- Elston-Linton Proposed Subdivision Review of Town Plan Housing Objectives

- Drawing C1.0 Existing and Proposed Conditions Plan prepared by CEA, dated 9/29/20
- Drawing P1.2 Lot Subdivision prepared by CEA
- List of abutters
- Burlington Free Press Notice, 10/20/20
- Town of Shelburne DRB Notice
- Town of Shelburne Planning & Zoning Posting Sign Protocol
- Notice of Application
- Town of Shelburne Staff Report, dated 11/4/20

STAFF REPORT

The DRB received a written staff report on the application, dated 11/4/20.

APPLICANT COMMENTS

The applicant explained the proposal to subdivide 33.11 acres at 161 Dorset Hill Lane owned by her family into two lots of 26.87 acres (with an existing house) and 6.25 acres. The plan is to build a new single-family house on the 6.25-acre parcel. The property was surveyed by Civil Engineering Associates.

The DRB concurred the proposed subdivision for one single family house does not need a sidewalk.

PUBLIC COMMENT

Chris Palmer, adjacent property owner to the west, expressed concern about the location of the property line and impact on his 12-acre parcel. Per the applicant's property line there is a reduction of four acres from the 12-acre parcel. The property line must be determined to be accurate. Mr. Palmer said he will have his attorney contact the applicant's surveyor. Other than the question of the property line there is no issue with the proposed subdivision.

DELIBERATION/DECISION

Sketch Plan, PUD Subdivision, Two Lots, 161 Dorset Hill Lane, Linton/Elston (SUB20-03)

MOTION by John Day, SECOND by Zeke Plant, to classify application SUB20-03 as a Minor Subdivision, finalize the record, close the hearing, and direct staff to prepare a decision authorizing the applicant, Anne and David Elston, to file a Preliminary Plan Review Application for SUB20-03, two lot subdivision at 161 Dorset Hill Lane, with the recommendation the actual property lines be confirmed. VOTING by rollcall: unanimous (7-0); motion carried.

SUB18-03R1: Final Plan for a nine lot PUD subdivision at 1348 Irish Hill Road in the Rural Zoning District by Elizabeth Whalley

Dave Marshall, CEA, appeared on behalf of the application.

Submittals:

- Cover letter prepared by CEA, 9/9/20

- Final Plan/Plat Review Application
- General Application Form
- Whalley Subdivision abutters list
- Submittal Requirements
- Whalley Subdivision narratives
- Irrevocable Offer of Dedication
- Easement (Shelburne Fire Department)
- Planned Unit Development Residential Narrative
- Pedestrian Easement Deed
- Drawing No. C1.0 Existing Conditions Proposed Lot Layout Plan, dated December 2019
- Drawing No. P1 Plat of Survey Elizabeth Whalley, dated 11/13/19
- Drawing No. P2 Plat of Survey Elizabeth Whalley, dated 11/13/19
- Overall Stormwater Management Plan (Drawing C6.0) dated January 2020
- Proposed Conditions Overall Site Plan (Drawing C1.0A), dated December 2019
- Overall Proposed Wastewater Management plan (Drawing C1.1), dated December 2019
- Overall Building and Tree Clearing Envelopes Plan (Drawing C1.2), dated December 2019
- Vicinity Map (Drawing C1.3), dated December 2019
- Lots 2 & 3 Driveway Site Plan (Drawing C2.0), dated December 2019
- Lots 4,5,6 Driveway Site Plan (Drawing C2.1), dated December 2019
- Lots 7 & 8 Driveway Site Plan (Drawing C2.2), dated December 2019
- Lot 9 Driveway Site Plan (Drawing C2.3), dated December 2019
- Lots 2 & 3 Water & Wastewater Site Plan (Drawing C3.0), dated December 2019
- Lots 4,5,6 Water & Wastewater Site Plan (Drawing C3.1), dated December 2019
- Lots 7 & 8 Water & Wastewater Site Plan (Drawing C3.2), dated December 2019
- Lot 9 Water & Wastewater Site Plan (Drawing C3.3), dated December 2019
- Lot 1 Water & Wastewater Site Plan (Drawing C3.4), dated December 2019
- Lots 2 & 3 Wastewater System (Drawing C4.0), dated December 2019
- Lots 2 & 3 Water & Wastewater Details (Drawing C4.01), dated December 2019
- Lots 1,4,5,6,9 Wastewater System (Drawing C4.1), dated December 2019
- Lots 2 & 3 Water and Wastewater Details (Drawing C4.02), dated December 2019
- Lots 7 & 8 Wastewater System (Drawing 4.2), dated December 2019
- Lot 1 Wastewater System Replacement Area (Drawing C4.3), dated December 2019
- Lots 1,4,5,6,9 Water and Wastewater Details (Drawing C4.11), dated December 2019
- Lots 1,4,5,6,9 Water & Wastewater Details (Drawing C4.12), dated December 2019
- Lots 1,4,5,6,9 Water & Wastewater Details (Drawing C4.13), dated December 2019

- Lots 7 & 8 Water and Wastewater Details (Drawing C4.21), dated December 2019
- Lots 7 & 8 Water and Wastewater Details (Drawing C4.22), dated December 2019
- Lots 7 & 8 Water and Wastewater Details (Drawing C4.23), dated December 2019
- Lot 1 Replacement & Lot 9 Water and Wastewater Details (Drawing C4.31), dated December 2019
- Lot 1 Replacement & Lot 9 Water and Wastewater Details (Drawing C4.32), dated December 2019
- Lot 1 Replacement & Lot 9 Sewer Profile (Drawing C4.33), dated December 2019
- EPSC Preconstruction Plan (Drawing C5.0), dated December 2019
- EPSC Phase II Plan, Lots 4,5,6 (Drawing C5.2), dated December 2019
- EPSC Phase II Plan, Lots 2 & 3 (Drawing C5.3), dated December 2019
- EPSC Phase IV Plan, Lot 9 (Drawing C5.4), dated December 2019
- EPSC Narrative & Details (Drawing C5.5), dated December 2019
- EPSC Narrative & Details (Drawing C5.6), dated December 2019
- EPSC Details (Drawing C5.7), dated December 2019
- EPSC Narrative & Details (Drawing C5.8), dated December 2019
- Stormwater Details (Drawing C6.6), dated January 2020
- Stormwater Details (Drawing C6.7), dated January 2020
- Site Details (Drawing C7.0), dated December 2019
- Site Specifications (Drawing C8.0), dated December 2019
- Site Specifications (Drawing C8.1), dated December 2019
- Site Specifications (Drawing C8.2), dated December 2019
- Site Specifications (Drawing C8.3), dated December 2019
- Site Specifications (Drawing C8.4), dated December 2019
- Site Specifications (Drawing C8.5), dated December 2019
- Town of Shelburne Staff Report, dated 11/4/20

STAFF REPORT

The DRB received a written staff report on the application, dated 11/4/20. Dana Hanley noted the project is in the Impaired Watershed District so the plans have been submitted to the Wastewater Superintendents in Shelburne and in South Burlington (consultant to Shelburne) for comment.

APPLICANT COMMENTS

Dave Marshall reported the Final Plan application is the same as the Preliminary Plat approval with the addition of an easement for future pedestrian amenities. The PUD includes eight new lots for single family houses and one lot with the existing home. There is over 60% of open land provided. The wastewater system on Lot 7 was moved to a location below the house. The Fire Department's requests for emergency access are shown on the site plan. The stormwater plan was submitted at Preliminary Plat review. The final plan was submitted to the state a month ago and no comments have been

received. The project has a state stormwater permit. There have been no changes made to the stormwater system between Preliminary and Final Plan review. The proposal complies with all the requests of the stormwater review.

PUBLIC COMMENT

Gail Albert, resident, asked about a previously expressed concern by the neighbors across the street about stormwater release. Dave Marshall said the concern was about the town's proposal to change the culvert under Irish Hill Road.

A resident asked about changes to the speed limit on the road. Dave Marshall said nothing will change as part of the project. Residents can approach the Selectboard about the town modifying the speed limit on the road.

DELIBERATION/DECISION

Final Plan, PUD Subdivision, Nine Lots, 1348 Irish Hill Road, Whalley (SUB18-03R1)

MOTION by Anne Bentley, SECOND by Doug Griswold, to finalize the record, close the hearing, and direct staff to prepare a decision approving the Whalley application, SUB18-03R1, for a nine lot Residential PUD at 1348 Irish Hill Road with the following conditions:

- 1. The project must be implemented consistent with the approved plans.**
- 2. Legal documents for the project consisting of the proposed Open Space Agreement, easement documents for the 10' wide pedestrian easement, and the Shelburne Fire Department dry hydrant easement will require final review and approval by the Town Attorney prior to recording in the Shelburne land records pursuant to Shelburne Zoning Bylaws, Section 610(12).**
- 3. The applicant shall provide a copy of the state wastewater permit prior to seeking a building permit for the first building.**
- 4. The applicant must furnish a mylar for the Final Plat for signature by the DRB Chair, and the plat must be recorded in the Shelburne land records within 180 days of the signed approval of the decision pursuant to Shelburne Subdivision Regulations, Section 1050.**
- 5. Prior to beginning construction the subdivider shall provide to the town land use staff one complete set of copies of state approved plans for the subdivision stamped by the engineer of record and, if required, one complete set of copies of state approved plans for stormwater treatment and/or an erosion prevention and sediment control plan stamped by the engineer of record which shall include any and all changes made subsequent to review and approval by the Development Review Board.**
- 6. The placement of all primary structures shall be within the building envelopes.**
- 7. The tree removal plan shall not exceed the limits shown on the approve PUD plans.**
- 8. Total lot coverage shall not exceed 110% of the Lot Data Summary.**
- 9. The management of common infrastructure will be governed by proposed deed language or through a tier of the homeowners association.**

10. The applicant shall provide a financial security for landscaping consistent with the provisions of Section 1900.5 of the regulations prior to the issuance of a building permit.

11. The three waivers requested by the applicant (lots less than five acres in size, gravel driveways, no as-built drawings) are approved.

VOTING by rollcall: unanimous (7-0); motion carried.

6. OTHER BUSINESS/CORRESPONDENCE

Information submitted to the DRB within 7 Days of Meeting

Dave Hillman said the Chair should have the prerogative to allow written evidence to be submitted to the DRB at the meeting if the information is useful to better understand a proposal. Following discussion there was agreement a legal opinion from the Town Attorney on the matter should be solicited.

7. ADJOURNMENT

MOTION by John Day, SECOND by Anne Bentley, to adjourn the meeting.

VOTING by rollcall: unanimous (7-0); motion carried.

The meeting was adjourned at 9:21 PM.

RScty by tape: MERiordan