

**MINUTES OF THE PLANNING BOARD MEETING OF NOVEMBER 4, 2013  
AT THE JESSE SMITH LIBRARY COMMUNITY ROOM  
SUBJECT TO APPROVAL AT THE NEXT REGULAR MEETING**

**I. CALL TO ORDER:**

**Meeting was called to order at 7:02 p.m., Jeffrey Partington, Chairman, presiding.**

**Members Present:** Jeffrey Partington, Mark Tremblay, Rick Lemek, Leo Felice, Bruce Ferreira, Michael Lupis, Dov Pick, Christopher Desjardins, and Jeffrey Presbrey.

**Others Present:** Thomas Kravitz, Planning Director, Joseph Raymond, Building/Zoning Official and Christine Langlois, Deputy Planner.

**II. ATTENDANCE REVIEW:**

Mr. Partington acknowledged that all members were present.

**III. ACCEPTANCE OF MINUTES:**

The **minutes of the Planning Board meeting of October 7, 2013** were read. *A motion to accept the minutes, as presented, was made by Mr. Presbrey, seconded by Mr. Pick and carried unanimously by the Board.*

**IV. CORRESPONDENCE:** Zoning Board November 2013 Agenda.

At this point, Mr. Lupis recused from discussions on the next item.

**V. OLD BUSINESS:**

**Pine Harbor Estates, 2748 Wallum Lake Road, Burrillville; Map 17, Lot 43:** *Preliminary Minor Rural Residential Compound Plan Review/Public Hearing (continued from the October 7, 2013 meeting):* Attorney Scott Partington, Joseph Casali, of Joe Casali Engineering, and Ben Dube, applicant, were in attendance to represent the request. Attorney Partington outlined the plan as a rural residential compound with four lots being proposed on Wallum Lake Road and a fifth lot on South Shore Road, with approximately 39 acres of open space in the center of the property. He turned the presentation over to Mr. Casali.

Mr. Casali noted that the parcel is listed as Assessor's Plat 17, Lot 43 and contains approximately 55-56 acres, with frontage on both Wallum Lake and South Shore Roads. Previously there was a small, non-conforming lot (Lot 41) off of Walnut Hill Road, which has been merged into Lot 43. He noted that the property address (2748 Wallum Lake Road) contains several existing structures as well as a Verizon cell tower, which would require that access be maintained throughout the development process and after the subdivision is created. He pointed out the location of various wetland areas on the property as well as an existing historical cemetery. He stated that in reviewing the property, from a conventional standpoint, it was determined that it should be developed as a rural residential compound, with all lots being serviced by septic systems and private wells, as there are no public services located in this area of town.

Continuing, Mr. Casali told the Board that lot 1 would contain 4 acres and front on South Shore Road with three additional new lots, each with approximately 2 and 3 acres, fronting on Wallum Lake Road and the existing Lot 43 with 5 acres. The remaining area would be maintained as open space, having 39.3 acres. Proposed lot 4 would retain the

existing cell tower. He noted that they are requesting the use of two existing breaks in the stone wall along Wallum Lake Road as access for proposed lot 2 and a shared driveway for proposed lots 3 and 4. As the proposal calls for street access for all of the lots, the result will be zero linear feet of new roadways, impervious surfaces and maintenance for the applicant and the Town. For the benefit of the Board and public, he offered up photos of the stone wall areas along Wallum Lake Road as well as the existing dwellings at 2748 Wallum Lake Road. He then explained the applicant's intent for the existing buildings: the three-bedroom single family home would remain; the dwelling with a portion of the barn will be demolished; the barn is proposed to remain in totality; the one-bedroom apartment is proposed to be vacated. Mr. Partington questioned whether the one-bedroom apartment building would be repurposed. Mr. Dube stated that he had no plans for it at this time. Mr. Kravitz, noting that with a RRC proposal only five units are allowed, questioned whether the three-bedroom dwelling would be the fifth unit. Mr. Casali said that it would. Mr. Casali also stated that the proposed four lots on Wallum Lake Road would be considered development area #1 and the single lot on South Shore Road would be considered development area #2. He noted the plan allows for loaming and seeding the various cart paths and roadways. The drainage, which has been approved by RIDEM, consists of vegetated infiltration systems in accordance with DEM's current regulations. He noted submissions to RIDEM (Preliminary Wetlands Determination) as well as the RIDOT (Physical Alteration Permit) and displayed (on screen) the approvals received. He then asked if there were any questions from the Board.

Mr. Tremblay stated that viewing the plan from a conservation aspect, there is a manageable area with the proposed open space lot. He said that he agreed with the comment from the Town's Conservation Commission that a Forest Stewardship program should be considered in order to enhance any values for the open space as well as the limited access.

Mr. Presbrey had several concerns and outlined the following:

- *A PAP for the shared driveway for proposed lots 3 and 4 was provided but not for proposed lot 2.* Mr. Casali said that he would have to check on it with Anthony Muscatelli, land surveyor of record, as he actually permitted the plan. He added that he believed everything was permitted but if not, they would obtain what is needed.
- *Address all concerns of the Town's engineer in his memo to the Planning Board, in particular:*
  - *Comment 1: "The drainage system relies on infiltration basins in lot 4 & 5. The owner is responsible for maintaining these basins and their proper operation as it is on private property".* He noted that the Town should not be responsible for these drainage areas; the individuals living within the RRC will be responsible. Mr. Casali stated that the homeowners association will be responsible.
  - *Comment 2: "There is a 6 foot wide, 520 foot crushed stone path on Lot 5, running East-West and has a steep portion connected to South Shore Road. Based on property lines the owner of Lot 5 is responsible for*

*maintaining this path*". Mr. Presbrey noted that both comments 1 and 2 should be noted on the subdivision plans and outlined in the Homeowner Association's Covenants.

- *Has the plan been submitted for Subdivision Suitability?* Mr. Casali said they have not applied as of yet; both he and Mr. Muscatelli will be working on the septic system designs shortly. He noted that soil evaluations have been completed that were witnessed and approved by RIDEM. Because there are three or more lots, he stated that RIDEM will want to review the locations of the septic systems, the wells and the drainage systems. After this review, every house and its septic design will have to go back to RIDEM for their approval. Mr. Partington informed the public that if the Board approved the plan, the approval would be subject to receipt of this important information.
- *The access easements on the survey plan do not match what is shown on the subdivision plan. The survey plan will have to be updated.* Mr. Casali said the correction can be made. Mr. Presbrey also noted that the cemetery location must be physically located on the survey plan. Mr. Casali said it would be corrected.
- *On Sheet 9 the berm section details do not match what really needs to happen out there (Lot 4 basin, top of berm – elevation 709; Lot 5 basin – elevation 605). He voiced concerns with the numbers showing that the top of the ware is the same elevation as the top of the berm.* Mr. Casali made note of the error and will make the correction.
- *Concerns with the ware having a pre-cast concrete curb and being buried only one foot in the ground – questioning its longevity.* Mr. Casali stated that he disagreed with Mr. Presbrey's statement, adding that he has utilized this type of unit many times in the past with success. He suggested burying it deeper to alleviate his concerns. Mr. Presbrey said that he would like to see riprap placed to the top of the concrete curb, in the ware area, for reinforcement.
- *Drainage easements will be needed for around the infiltration basins.* Mr. Casali said that mete and bound descriptions will be prepared by the final plan for any and all easements. Mr. Presbrey said the final plan should also reflect the easement locations and are also necessary for the DPW inspection process on occasion.
- *Is there a right-of-way easement in the deeds for that section of South Shore Road that runs over the property?* Mr. Raymond told the Board that South Shore Road is a town-accepted road with a permanent easement recorded into the plan for South Shore Road for both the Rochefort and Dube properties.
- *Does the cell tower location comply with zoning in regards to setbacks from dwelling units?* Mr. Casali noted that the cell tower fall distance to the proposed dwelling unit is in compliance with the Zoning Ordinance.

Mr. Lemek, Mr. Desjardins, Mr. Felice and Mr. Pick were all fine with the proposed plan.

Mr. Ferreira questioned the distance between the base of the cell tower and the proposed driveway to lot 4 and the height of the tower. Mr. Casali responded that the distance is 45-50 feet and the tower is 75 feet in height. Mr. Ferreira requested that the driveway be moved to alleviate blocking access should the tower fall. Mr. Ferreira then voiced

concerns about frost heaves with proposed cement curbing proposed for the drainage areas. Mr. Casali said that if the Board wanted the curbing deep enough, they would have to use cast-in-place curbing. Mr. Ferreira then asked if there would an easement granted for access to the cemetery. Mr. Casali stated that they would have to provide an easement to the cemetery. Mr. Tremblay pointed out that state law provides an easement to any cemetery; a legal easement is not necessary. Mr. Presbrey said it wouldn't hurt to define it. Mr. Casali added that an easement will be shown on the final plan.

Mr. Kravitz noted that the issue of the cart path being used as a public amenity has not been mentioned yet. Mr. Partington said that there may be some discussions as the meeting goes on. Mr. Casali pointed out that although the concept plan had shown a public recreational easement along the cart path trail, it is the owner's intent to keep the open space strictly for the homeowners association use. He noted the discussions at the Conservation Commission and Recreation Commission meetings where they were not in favor of a public trail, as well as a petition that was signed by local property owners. Mr. Partington added that according to the preliminary plan both sides of the property are occupied by proposed lots, prohibiting access to the open space area in the middle of the property.

As there were no further questions from the Board, the public hearing was opened at 7:42 p.m.

Jennifer Mier, of 206 South Shore Road, asked for a reread of the Conservation Commission's comments regarding the cart path. Mr. Tremblay said that the Conservation Commission's recommendation was that the homeowners association should develop a forest management plan for the open space, identify what resources are out there and what steps should be taken manage/protect that resource. Ms. Mier then asked if the Board was aware that both the Conservation Commission and the Recreation Commission had stated that there was no real value to the Town to request a public walking trail on this property. To clarify the issue, Mr. Partington read, into the record, the actual comments from the Conservation Commission; *"Residents of subdivision should have reserved right to use open spaces. Boundaries should be demarcated on new lots to prevent encroachment to the open space. Subdivision Association (HOA) should be required to develop a Wildlife/Forest Management Plan."* Mr. Partington noted that the Board requires every subdivision in Town to follow the requirements for open space allocation; there is nothing requested with this subdivision that is different with any other subdivision that has come before the Board. Ms. Mier asked who would retain ownership of the open space and are there any stipulations regarding its disposition. Mr. Partington said the open space is owned by the homeowners association, and covenants and restrictions are put in place to prevent it from being sold off or subdivided ever. Ms. Mier asked why a public trail is being requested when the property is being held privately.

Mr. Kravitz then suggested that Mr. Partington review his staff report to the Board that contains citations from the Comprehensive Plan, supported by residents, which explain why greenways are important to maintain in the Town. For the benefit of the public, Mr. Partington read the following Comprehensive Plan citations into the record,

- “. . . Coordinate development of circulation systems with the planned development of the community,”
- “Increase the availability of trails and walkways to promote alternative transportation modes to Town residents and to enhance the tourist and recreational values of the Town,”
- “Require the consideration of trails, walkways and bikeways in private development projects,”
- *Recreation, Conservation and Open Space Preservation* “Ensure that open space is retained as a resource for active and passive recreation opportunities, while also providing protection for the physical and natural environment.”

Mr. Casali stated that their understanding of open space ownership in a rural residential compound is either deeded to the Town, a public land trust, or held privately by a homeowners association. Their proposal is to have the five homeowners of the RRC own the open space but to not allow public access onto the open space area. Referring to the December 3, 2012 meeting with the conceptual plan review, Mr. Kravitz pointed out that Mr. Casali had stated *“The proposal then allows for 36 acres remaining as open space, and walking trails would be created running from Wallum Lake Road to South Shore Road – open to town residents.”* To clarify the situation, Mr. Casali explained that at the concept plan they had considered public access to the open space. Subsequent to the various board meetings, the petition that was circulated and the wishes of the abutting property owners to not allow public access, the plan was revised to prohibit public use.

Theresa Couture, of 2740 Wallum Lake Road, questioned whether the existing driveway will be the access for lot 1. Mr. Casali said that it would be. Mrs. Couture then asked where the private walking path would be. Mr. Casali said that there would not be any walking path created.

Debbie Stanton, of 305 South Shore Road, questioned the subdivision plan showing proposed lot 5 ending at South Shore Road and asked what map displayed the lot extending to the water. Mr. Partington explained that the Town’s plat map shows the property extending to the water and that there is an existing easement for the area under South Shore Road. The water side property would be part of proposed lot 5. Mr. Casali outlined the area under question for the benefit of Ms. Stanton’s question.

Mr. Ferreira, noting that the four lots fronting on Wallum Lake Road would not have any access to South Shore Road (through the open space) without trespassing over lot 5. Would the developer consider an easement for the homeowners along lot 5 to allow them access? Mr. Tremblay also questioned why the developer did not want to allow potential owners of proposed house lots 1 thru 4 the ability to hike the open space and have occasional access to the water. Ben Dube, owner/applicant, noted that there is currently three other means of access to the water for proposed lots 1 thru 4 as well as the fact that there is only 65 feet of water frontage, which could become crowded should all five families gather there at the same time. He also voiced concerns with keeping the privacy of the abutting neighbors.

Joseph Galipeau, of 2771 Wallum Lake Road, questioned where “Buxton Road” disappeared to, as it appears to be referenced as a “cart path” on the plan. He also claimed that he had deeded rights for water access over “Buxton Road” or the cart path. Mr. Casali pointed out that Muscatelli & Associates had prepared the Class I property survey, and were a reputable company, having been in business for the past 45 years. During the property review they would have conducted a chain of title and the evidence of “Buxton Road” or deed water access rights would have turned up. Mr. Raymond then proceeded to explain that water access rights became apparent back in the 1960’s when the property was first subdivided, noting that the property has changed hands many times since then. In regards to Buxton Road, he noted that it was never part of this property.

Mr. Raymond also noted that in keeping with the RRC ordinance, the developer should not be allowed to create a situation of no access to the open space lot. The plan appears to show no access, and the Board is trying to come up with a reasonable way to allow access. Mr. Partington suggested that the developer consider possible access to the open space from Walnut Hill Road. Mr. Ferreira noted that an access would be necessary to allow for maintenance of the forest management program.

Raymond Rabitaille, of 173Lynn Lane, Mapleville, stated that the property owners of the development would bring in equipment to maintain the conservation management program thru their properties and questioned why access would be necessary to have a private access? Mr. Partington said that an access to the property is required, not an additional private access for maintenance.

Mr. Felice offered a clarification on the necessity of a physical access to the open space, noting that the access does not have to be publicized. Mr. Kravitz noted that the access request was to maintain a linkage from Wallum Lake Road to South Shore Road. It appears that whether the easement comes from Walnut Hill Road or the original cart path, the intent now is to prevent neighbors from walking to Wallum Lake Road, which could be worse. Mr. Partington stated that the intent is to leave access to the property.

Ann Levelle, of 65 Walnut Hill Road, questioned the actual location of the access as compared with her property. Mr. Casali stated that the parcel has frontage of 50-feet in width on Walnut Hill Road. If an access is requested to the open space from Walnut Hill Road, the width of the access would only be 10 feet, with 40 feet of wooded separation.

Having no further questions from the audience, *a motion was made by Mr. Ferreira to close the public hearing at 8:35 p.m. The motion received a second from Mr. Felice and carried unanimously by the Board.*

Mr. Ferreira then asked if a maintenance program had been established for the homeowners’ association to follow. Mr. Casali stated that a program had been set up for maintenance of the drainage systems, as required by RIDEM’s approval of the project.

Mr. Kravitz told the Board that they did not have to approve the plan tonight as there were still a few outstanding issues, but asked if the Board preferred to see the proposed

ISDS designs at the resubmission. Mr. Casali suggested combining the Preliminary and Final plans for review upon resubmission. Mr. Presbrey stated that he preferred to see a very fine line between the preliminary and final plans. Mr. Casali stated that both checklists would be addressed. Because of some of the issues not addressed, especially access to the open space, *a motion was made by Mr. Ferreira to continue the Preliminary Plan review of the Pine Harbor Estates Rural Residential Compound. The motion received a second from Mr. Pick. Under further discussions, Mr. Presbrey stated that the plan is very unique, with no new roadway development for an RRC, and he stated the it was important to comply with the rules of the RRC and compliance with the Comprehensive Plan in regards to the suggestion of a single access to the open space. He further added that his opinion is that access should be from Wallum Lake Road and continue thru to South Shore Road. Mr. Ferreira argued that passive open space should not propose any type of activity. Mr. Presbrey pointed out a section of the Comprehensive Plan, Implementation Action VI.1.b.1 "Coordinate development of circulation systems with the planned development of the community" and expressed the he needed proof that a single access to the open space area is in conformance with the Comprehensive Plan. Mr. Partington then requested that Mr. Casali design an easement from the Wallum Lake Road side as well as Walnut Hill Road. The motion was amended by Mr. Ferreira to table the review and to include the request for a design with a second means of egress to the open space. The amendment received a second from Mr. Tremblay and the amendment and original motion carried unanimously by the Board.*

Mr. Lupis returned to the meeting.

**VI. OTHER BUSINESS:**

**Report from Administrative Officer:** The Board noted that during the month of October, there was no Certificates of Completeness issued, no plans rejected as incomplete and no plans endorsed.

**Planning Board Discussions:** Mr. Ferreira requested a discussion on the difference between "active" vs. "passive" open space. Mr. Partington stated that a discussion could be held at a future Planning Board meeting.

*A motion to adjourn was then made by Mr. Ferreira at 9:07 p.m. The motion received a second from Mr. Pick and carried unanimously by the Board.*

Recorded by: \_\_\_\_\_  
M. Christine Langlois, Deputy Planner