

Town of North Smithfield Planning Board

Kendall Dean School, 83 Green Street

Thursday, October 10, 2013, 7:00 PM

The Chair called the meeting to order at 7:03 pm.

1. Roll Call

Present: Chairman Lucien Benoit, Mali Jones, Dean Naylor, Art Bassett, and Gene Simone. Absent: Kerri Tunnicliffe Cynthia Roberts. Also present were Town Planner Robert Ericson and Town Solicitor James Lombardi III.

2. Minutes of September 19, 2013

Mr. Bassett pointed out an error on page 6. He wants to add Mr. Flaherty to the last sentence on that page and this was duly noted. Chairman Benoit commented on page 6 the first paragraph, last sentence where it says Mr. Ericson said that the term non-porous was not used, and it is inappropriate to assume that all plastic material is non-porous. Chairman Benoit wanted that sentence to be removed because he feels the agenda item was to be his statement. Mr. Ericson said that these were the words said at the previous Planning Board meeting. Ms. Moneghan verified the words were said and Chairman Benoit agreed they were said but should not have been. Mr. Lombardi said that if the minutes were factual, he does not disagree that it should be in the minutes. Chairman Benoit would like to go on

the record as disagreeing with leaving this sentence in the minutes.

Mr. Bassett made a motion to approve the minutes of September 19, 2013 as amended. Mr. Naylor seconded. A vote was taken. Ms. Jones abstained because she was not present at the September 19 meeting. Vote to approve: Mr. Naylor, Mr. Bassett and Mr. Simone. Nay: Chairman Benoit.

3. Disclosure: This is the point where anyone can disclose potential conflicts related to matters before the Board. No one had comments on the disclosure.

4. Combined Major subdivision Master/Preliminary Plan

Owner/applicant: RAM Investments Assoc LLC

Assessor's Plat 21, Lot 418, Zoning: Land Development Project by Special Use Permit

Mr. Len Bradley, PE, Vice President, Diprete Engineering, appeared representing DiPrete Engineering. He stated that this project is a continuation of the Dowling Village Phase IV project. The purpose of the subdivision is to divide lot 418 into two parcels for open space and public land. The Town Council and the Land Trust have walked the property. Mr. Bradley is requesting the Final Plan of the subdivision be approved administratively.

Mr. Ericson stated that the mylar copies of the Final Plan record sheet

needs to include identification of the open space parcels with specific language. Mr. Bradley verified this would be completed.

Mr. Ericson identified the larger lot as Parcel B to be used for open space with a conservation easement, and the smaller lot as parcel A to be reserved for a public purpose.

Chairman Benoit opened the public hearing at 7:14 pm.

Nicholas Goodier from Attorney Michael A. Kelly's office was present on behalf of Bucci Development, Inc. Mr. Goodier pointed out that the agenda for this meeting indicated that the Master, Preliminary and Final Plans were to be considered for approval. Mr. Bradley presented only the Master Plan and Preliminary Plan and these are the only plans to be considered at this meeting. Mr. Goodier would like the record to reflect that there are certain procedures with respect to the approval of Major subdivisions that contain appropriate appeal periods. He wants to preserve the right to follow the RI General Laws and allow for the appropriate appeal period to lapse between stages. Mr. Ericson stated that there will be no Final approval tonight.

Ruth Pacheco from the RI Land Trust wanted to thank everyone on the Board for being there to process this subdivision.

Atty Sanford Resnick was present representing the applicant, RAM Investments Associates, LLC. It was his understanding that the Master, Preliminary and Final Plans were to be approved tonight. If it

is the Board's decision to approve all three phases tonight, it is understood that the risk of appeal is on the applicant. If the Board approves the Master and Preliminary tonight, it is possible to approve the Final Plan tomorrow. He wanted to confirm the understanding of the applicant.

The Public Hearing was closed at 7:21 p.m.

Mr. Ericson added that the lots (A and B) should be ascribed as to their purpose, on the mylar only. He stated that the review of the Master Plan and Preliminary Plan is simple because nothing is being built and there are no drainage issues. The only reason this subdivision is major is because it is non-residential.

Chairman Benoit asked about the easement to be discussed by the Town Council on Monday night. Mr. Ericson explained that there is a conservation easement completed and agreed on by all parties and delivered to RIDEM with all the necessary signatures. There is another easement that Attorney Rick Nadeau has drafted that states that the tail of snake lot, except for the square at the top, can be accessed by the NS Land Trust. This is acceptable to all parties. The Town and the Land Trust will jointly own the large open space lot and the Town alone will own the smaller lot. That is why an easement is needed. The Land Trust will have direct access to the large 40 acre lot.

Chairman Benoit asked if the Final approval of the permanent access easement by the Town Council is required before the Planning Board can approve the Preliminary Plan. Mr. Ericson said no. Mr. Lombardi stated the easement is not required for Preliminary Plan approval.

5. Preliminary Major Subdivision Plan with public hearing: RAM Open Space subdivision as described above. Discussion, vote or other action by the Planning Board.

Chairman Benoit began the discussion of the waiver of subdivision fees for RAM Investment Associates LLC. He believes sellers are going to walk away with \$925,000, and the Town is going to have to pay off the bond at between \$40,000 and \$50,000 per year. He stated the Town is losing \$5000 in taxable land, although the Town will own nice open space. Chairman Benoit said the Town is using \$400,000 of taxpayer money (the grant), the land is being sold at less than appraised value, and the seller will get a write-off on his taxes. He does not support waiving the fees based on these facts. Mr. Ericson stated that to date the accumulated fees would be \$1250 for the Master Plan and the Preliminary Plan (\$625 each) and \$600 for the Final Plan. The applicant will be responsible for the advertising and abutter notification costs, and these will not be included in the waiver.

Mr. Ericson stated the Final Plan review fees represent the cost of the time spent by the Planner for review, which he estimates will take

thirty minutes and that is not \$600 worth of work. Professionally, Mr. Ericson recommends not requiring the fees for the Final Plan, but that it is up the Board to determine the value for the public purpose and whether to waive all the fees. Chairman Benoit sees the fees as compensation for the Planner being present at the Planning Board meeting and believes the tax payers are owed these fees for their welfare.

Chairman Benoit made a motion to deny the waiver of any of the fees, Mr. Simone seconded. A vote was taken Aye: Chairman Benoit and Mr. Simone Nay: Ms. Jones, Mr. Naylor and Mr. Bassett. Motion failed with a vote of 2 to 3. Chairman Benoit declared the fees waived, but Mr. Lombardi recommended an affirmative motion to waive of the fees. Ms. Jones made a motion to approve the waiver of all the fees. Mr. Bassett seconded. A vote was taken Aye: Ms. Jones, Mr. Naylor and Mr. Bassett. Nay: Chairman Benoit and Mr. Simone. Motion passed to approve the waiver of fees 3 to 2.

Mr. Naylor made a motion to approve the Master Plan submission for Major subdivision with owner/applicant RAM Investments LLC location, off Dowling Village Way, Assessor's Plat 21 Lot418. Ms. Jones seconded with all in favor.

Mr. Naylor asked if the issues that have been discussed need to be added as conditions for approval of the Preliminary Plan. Mr. Ericson answered affirmatively and referenced section 1.5 of the Land

Development and Subdivision Regulations,

The Public hearing opened at 7:43 pm.

Mr. Goodier spoke again to reiterate the comments he made during discussion of Master Plan. Mr. Goodier would like the record to reflect that there are certain procedures with respect to the approval of major subdivisions that contain appropriate appeal periods. He wants to preserve the right to follow the RI General Laws and allow for the appropriate appeal period to lapse between stage

The public hearing was closed at 7:44 p.m.

Chairman Benoit explained that previous policy has been that if there are conditions on the approval of the Preliminary Plan, the Final Plan comes back to be heard by the Planning Board. Because time is of the essence, the Final Plan will be approved administratively.

Mr. Bassett made a motion to approve the Preliminary Plan Major subdivision entitled lot 418 with the condition that the 40 acre lot designated as permanent open space and 2.54 acre lot be permanent reserved for public purpose. Mr. Naylor seconded with all in favor.

6. Final Major Subdivision Plan: RAM Open Space Subdivision as

described above. Certification by the Town Planner as Administrative Officer and signature by an eligible Planning Board officer.

Mr. Lombardi suggested this be continued indefinitely. Chairman Benoit made a motion to continue the Final approval indefinitely. Mr. Simone seconded with all in favor.

Mr. Ericson explained that the Final Plan will come to the Administrative Officer for review. They have submitted tax certification and are ready to pay. Chairman Benoit or Mr. Simone will have to sign the Final Plan.

Mr. Naylor stated that a motion was not made to approve the Plan administratively. Mr. Ericson explained that this does not need to happen.

Ms. Jones suggested making the motion for clarification. Ms. Jones made a motion to approve the Final Plan administratively. Ms. Jones withdrew her motion and made a new motion to reconsider the vote to continue the Final approval indefinitely. Mr. Naylor seconded with all in favor. Ms. Jones then made a motion to allow the Final Plan to be approved administratively. Mr. Bassett seconded. A vote was taken: Aye: Mr. Bassett, Ms. Jones, Mr. Naylor, Mr. Simone. Nay: Chairman Benoit.

7. Planning update: Summary of new developments with Dowling

Village, residential subdivisions, planned bridge work, applications in process, BRV Heritage Corridor projects, Public Facilities Advisory Task Force, related meetings, and meetings schedule.

The next meeting will be November 7, 2013 and will be dedicated to reviewing the Land Development and Subdivision regulations if no plans come in.

RIPTA met with Bob to discuss the new Express Route 59 to include Brigidos , Park Square, Main, School, 146A, past Branch Village, 54 interchange to Lincoln Mall and Providence. This will change the perception of Brigido's Plaza.

The bridge work for Railroad, Great Road, postponed because the P&W Railroad opposed lowering the clearance height.

Work on the Heritage Corridor has been suspended because of the government shutdown.

Navigant is not breaking ground until Spring of 2015. Mr. Ericson will tell them about planned RIPTA 59 express.

The planned closing for Dowling Village Phase IV is October 31, 2013. Al Brien was instrumental in selling the property below market value preserving 130 acres in urban area as open space. This allows for the protection of Booth Pond which is a prime species diversification

location.

Kohls has not picked up their building permit to date. Walgreens has not yet broken ground.

8. Adjournment

Mr. Simone made a motion to adjourn at 7:53 pm. Mr. Bassett seconded with all in favor. Next Planning Board meeting will be November 7, 2013.

Submitted by Bobbi Moneghan, November 13, 2013