



**TOWN OF PORTSMOUTH  
PLANNING BOARD**  
2200 East Main Road  
Portsmouth, RI 02871  
401-683-3717

**PORTSMOUTH PLANNING BOARD  
Regular Meeting  
November 9, 2016**

**Members Present:** Guy Bissonnette, Ryan Tibbitts, Kathleen Wilson, Luke Harding, David Garceau, Edward Lopes and Michael James.

**Members Absent:** none

**Others Present:** Leon Lesinski, Administrative Officer, Portsmouth Planning Board, Atty. Kevin Gavin, Portsmouth Town Solicitor.

The Meeting was called to order by Mr. Bissonnette at 7:00 p.m.

**1. Agenda Continuances/Modifications:** As follows.

**Agenda item # 4: Hope & High Properties, LLC, AP 30, Lots 17 & 17A – Discuss completion of construction and acceptance of Brown Terrace Extension**

Mr. Lesinski reported that the applicant agrees to install a water line and hydrant to the satisfaction of the Portsmouth Water & Fire District. The work should be completed in November. The applicant has submitted as-built drawings for the road, which is completed. The Department of Public Works will not do an inspection until all the utilities are installed. Mr. Lesinski asked that the Planning Board to continue the agenda item to the January regular meeting.

**MOTION:** Mr. Harding made a motion, seconded by Ms. Wilson to continue Hope & High Properties, LLC, AP 30, lots 17 & 17A, to the January 11, 2016 regular meeting. All in favor. So voted.

**2. Minutes for Planning Board Meeting of October 12, 2016**

**MOTION:** Mr. Harding made a motion, seconded by Ms. Wilson to approve the minutes of the regular meeting, October 12, 2016. All in favor. So voted.

**3. Russo Road Subdivision, AP 44, lots 18 & 19 – Discuss completion of construction and acceptance of Russo Road**

John Vitkevich, developer, 119 Hummock Avenue, requested a continuance to the January 11, 2016 regular meeting. He explained that there is a discrepancy between the easement and the as-built drawing, which requires excavation work to determine if what was constructed, is in line with the easement.

**MOTION:** Mr. Harding made a motion, seconded by Mr. Lopes to continue Russo Road Subdivision, AP 44, lots 18 & 19, to the January 11, 2016 regular meeting. All in favor. So voted.

**4. Agenda item #5, Middle Creek Farm, LLC, AP 68, lot 71 & AP 128, lot 73 (Middletown) 114 Cornelius Drive – Resolve matter relating to whether the existing cul-de-sac may remain on Cornelius Drive.**

Mr. Harding recused himself from this agenda item and left the meeting room for the hearing of the item.

Mr. Lesinski explained that the abutters at the end of the existing Cornelius Drive would prefer that the town allow the developer to retain the cul-de-sac with the road extension for the proposed subdivision. Janet and Jason Baptist, abutters, 111 Cornelius Drive submitted a letter to the town, dated October 21, 2016, with their request. Mr. Lesinski further explained that the cul-de-sac is deemed temporary by a defeasible easement. Brian Woodhead, Deputy Director, Portsmouth Public Works Department, in his memo dated November 8, 2016, recommends that the cul-de-sac be abandoned per Article X Section D, Street Layout, Design and Arrangement, Number 4. Cul-De-Sacs and Dead Ends Streets, Paragraph C.

Atty. Neil Galvin, Corcoran, Peckham, Hayes & Galvin, P.C., 31 America's Cup Avenue, Newport, RI appeared representing the developer, Michael Behan, Jr. He concurred that the regulation is clear that the cul-de-sac must be abandoned but that his client would like to address the request of the abutters. He noted that only the Planning Board could grant permission to retain the cul-de-sac. He deferred comment to Mr. Martin, abutter.

Steven Martin, 112 Cornelius Drive, expressed his concern that the removal of the cul-de-sac involves a tapering of the road from 30 feet width to 24 feet, resulting in a loss of street parking. He fears that this will lead to the town posting no parking on the road because of potential difficulties associated with fire and safety vehicles accessing the new development. His understanding, from discussions with the Department of Public Works, is the tapering would begin at the existing eastern point of the cul-de-sac and continue straight through to the point where the 24 foot road width was approved for the new subdivision.

Mr. Bissonnette asked Atty. Galvin, if the tapering could begin further west on the developer's property, would that alleviate the problem.

Garrett Behan, Behan Brothers Inc., 975 Aquidneck Avenue, Middletown, RI explained that Mr. Bissonnette's suggestion would be difficult because two existing utility poles on the west end of the cul-de-sac would have to be relocated, and property would have to be taken from sub lot 1, the location of an existing residence.

Mary Martin, 112 Cornelius Drive expressed her concern that motorists will end up using her driveway as a turn-around with the removal of the cul-de-sac and the tapering of the road width.

Jeff Anthony, 18 Vanderbilt Lane, noted that he recently purchased subdivision lot 11 in the proposed subdivision, which abuts the Baptists' property to the west. He explained that he has no issue with the town retaining the cul-de-sac.

Atty. Gavin, Town Solicitor, explained that the Planning Board could relieve the developer from removing the cul-de-sac without obligating the town to maintain beyond the boundaries of the straight away as per the defeasible easement. He noted that the circumstance is unusual because abutters typically want to acquire the additional land upon the elimination of a defeasible easement and continuation of a roadway.

Mr. Lopes stated that the circumstances are made further unusual due to the Planning Board's approval of the reduced road width and the tapering of the road, resulting in an unintended consequence.

**MOTION:** Ms. Wilson made a motion, seconded by Mr. Lopes, to grant relief to the developer, Middle Creek Farm, LLC, AP 68, lot 71 & AP 128, lot 73 (Middletown) 114 Cornelius Drive, from removing any curbing and pavement in order to retain the existing cul-de-sac at the end of Cornelius Drive, on the western boundary of Raposa Estates in order to address the extenuating circumstance due to the connection of two different road widths and to address the concerns of the abutters at 111 (AP 68, lot 111) and 112 (AP 68, lot 110) Cornelius Drive, who requested and are in agreement with the retention of the cul-de-sac. The motion was carried, 6 votes approving and 1 vote denying. Mr. James voted against the motion.

Mr. Harding returned to the meeting and continued his position on the Planning Board.

**5. Agenda item # 6, Highlands at Prescott Point, LLC (owner: Roman Catholic Diocese of RI), AP 55, lot 1, 2543 West Main Road, request for Informational Hearing and Master Plan Approval for Major Subdivision (11 lots)**

Atty. Laurent Rousseau, Moore, Virgadamo & Lynch, Ltd., Newport, RI appeared representing the petitioner, Highlands at Prescott Point, LLC for an informational hearing and a request for master plan approval for an 11-lot subdivision. The site is along the westerly side of West Main Road, north of the Town of Middletown and the Prescott Point development, and south of the Redwood Farms subdivision. The petitioner has an agreement to purchase the property from the current owners, the Roman Catholic Diocese of RI. The property is 10.17 acres of vacant land covered with trees and grass, located in R30 zoning. The subdivision plan complies with all land regulations with the exception of a request for a 24-foot road width. Atty. Rousseau explained that the plan indicates both a stormwater drainage line and a sewer line, located in the southwest corner of the site, which will connect to the stormwater drainage system, and the sewer system and wastewater treatment plant on the abutting Prescott Point development property. He noted that the connections require permission and easements from the Beach Hill at Prescott Point Condominium Association [BHPPHA] and the Prescott Point Condominium Association [PPCA] for which negotiations are in progress. Atty. Rousseau noted that the City of Newport, Department of Utilities confirms water service availability for the proposed plan in a letter, dated November 2, 2016 from Robert Schultz, Jr., Deputy Utilities Director-Engineering. Atty. Rousseau addressed the questions and issues listed by Gary Crosby, Town Planner, Portsmouth Planning Department in his memorandum dated November 4, 2016. Having previously addressed items 1 & 2, and leaving item 3 to be addressed by the project engineer, Atty. Rousseau confirmed that, under item #4, the

“Area of Vegetative Screening (TBD)” on lots 8, 9, 10, and 11 is maintained through a homeowners association easement and restrictions. Referring to item 5, the connection to the Prescott Point wastewater treatment system, Atty. Rousseau clarified that the negotiations are in progress and further that that Prescott Point LLC and Highlands at Prescott Point LLC are completely separate business entities. Referring to item 6, Mr. Crosby’s suggestion that subdivision access be shared over Brook Farm Lane, which abuts to the south, Atty. Rousseau explained that Brook Farm Lane is private and intended for emergency access only. He deferred to the project engineer to address items 7 and 8 of the memorandum. In response to Mr. Lopes, Atty. Rousseau explained that the proposed site has an impertinent easement “...to continue flowage and drainage of surface water over and across the premises [Prescott Point] to the stream thereon for the benefit of lot 1, Portsmouth Assessors Plat 55 [the proposed site]”, which was created when the Roman Catholic Diocese conveyed what is now Prescott Point to it’s previous owner. Atty. Rousseau noted that the contour lines indicate natural stormwater flow from the proposed site onto Prescott Point and that the proposed line connection to the Prescott Point stormwater system directly benefits the abutting residents in Beach Hill. Also in response to Mr. Lopes, Atty. Rousseau confirmed that Brook Farm Lane is not an improved road.

Mr. Harding inquired about the water line for the proposed plan and whether it could service an orphan lot in the area, which has no water. Atty. Rousseau explained that the water line comes from West Main Road at the proposed entrance and along the proposed road. Mr. Harding inquired as to whether the petitioner would consider a road connection to the abutting Redwood Farms subdivision to the north, possibly at Pioneer Lane in order to facilitate traffic on West Main Road, particularly school bus access. Atty. Rousseau responded stating that the light at Union Street helps control the flow of traffic coming southward and that the proposed site does not have frontage on Pioneer Lane. He agreed to explore any existing easements that provide for the access and crossing proposed by Mr. Harding. Mr. Harding further suggested that if his previous recommendation is not possible, that the petitioner consider emergency access and connection along Brook Farm Lane at the bend along subdivision lot 8. Atty. Rousseau stated that this suggestion requires approval from BHPPHA and PPCA but that he would investigate the possibility. Mr. Bissonnette agreed with Mr. Harding’s suggestions for a second access point, expressing his concern for the number of lots along the proposed cul-de-sac.

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Harding, to accept Lyn Small, P.E. Northeast Engineers & Consultants, Inc., 55 John Clarke Road, Middletown, RI as an expert in the field of civil engineering and a registered P.E. in the State of Rhode Island. All in favor. So voted.

Lyn Small, P.E. Northeast Engineers & Consultants, Inc., Project Engineer gave a review of the site existing conditions noting the grassy area along the western boundary which is maintained for the benefit of the abutting residents of Beach Hill. She noted that all the proposed lots meet the requirements for a conventional subdivision in R30 zoning. She explained that instead of stormwater overflow being discharged over ground from the stormwater detention area located on lot 8, it is be piped underground

connecting to the Prescott Point stormwater system. She noted that all pre-treatment occurs on-site and that there will be no increase in stormwater surface flow onto Prescott Point property in accordance with stormwater regulations. Ms. Small explained the water service line in the proposed public roadway, noting that each house is expected to have its own water meter. Ms. Small described the sewer connection with the Prescott Point wastewater treatment plant and distribution system. She explained that she previously presented the Prescott Point system to RIDEM with a reserve of 5,000 gallons of flow for the proposed plan. The RIDEM OWTS permit for Prescott Point acknowledges this additional capacity feature as subject to an additional permit. Ms. Small stated that the Prescott Point system was designed to capture 65,000 gallons per day. Currently, it is handling 58,000 gallons per day. Ms. Small stated that there is more than enough capacity in the leach fields to handle the flow from the proposed subdivision with surplus in the event of a failure. Ms. Small stated that roadway design requires special attention because of the 50 degree slope change from east to west over the site, however she anticipates meeting road grade requirements. She noted that the proposed road width is 24 feet to reduce impervious surface and vehicular speed; this requires approved relief from the regulation. Sidewalks are not proposed in the plan. Ms. Small noted that the plan requires permits for RIDOT and RIDEM, OWTS and RIPDES. There are no wetlands on the property. It is located in the X zone, outside of the flood plane. Addressing item 3 on Mr. Crosby's memorandum, Ms. Small explained that in calculating buildable area, she removed the areas for the roadway and drainage detention and retention but not the water quality treatment area, which is represented on the plan by a long strip along the western boundaries of lots 5, 6 and 7. She anticipates this area to be reduced with further design. The area of those lots is well over that required in R30 zoning. The entire detention area is located on lot 8, which is over 66,000 square feet, more than twice the amount of required area.

Ms. Wilson inquired as to whether duplex units could be included in the plan. Mr. Harding concurred with Ms. Wilson's idea with the suggestion that it could provide affordable housing. Ms. Small responded noting that the plan maximizes the number of lots given frontage requirements. Mr. Harding suggested that the Planning Board could consider some form of relief if the plan incorporated an affordable housing element. Mr. Bissonnette called for public comment.

Ray Morrisette, 46 Brook Farm Lanes, abutter and resident of Beach Hill, spoke on behalf of the Executive Board of the Beach Hill At Prescott Point Homeowners Association. He noted that the Board supports the design and concept proposed by the developers. He raised the Board's concerns that along the western site boundary, at the location of the proposed stormwater quality area, the land grade drops off about 12 feet, which may require a series of smaller areas rather than one large one as indicated on the plan. Ms. Small stated the design is conceptual and subject to change with the preliminary plan. Mr. Morrisette also noted that the BHPPHA does not have as-built plans for the drainage and sewer system for Prescott Point but has requested them from the developer. Mr. Morrisette inquired about the proposed catch basins along Brook Farm Lane. Atty. Rousseau explained that the catch basins were proposed in the negotiations by Atty. Brian Bardorf, who represents the BHPPHA, as part of the pending agreement with Beach Hill.

Carol Donahue, 2411 West Main Road (AP 55, lot 2A), in addressing Mr. Harding's recommendation, showed the location of her house and explained that many years back she petitioned the Town Council to install an access to her property from Pioneer Lane when her son obtained his license. Mr. Harding commented that the easement she obtained could have wording that permits emergency access. Mrs. Donahue expressed her concerns for traffic in the area along West Main Road.

Robert Steele, 45 Freedom Trail Drive, resident of Prescott Point inquired about how the sewer usage would be billed to the individual lot owners in the proposed subdivision. Atty. Rousseau stated that the issue is under negotiation but will be resolved in the final agreement between the Highlands at Prescott Point, LLC and the Prescott Point Homeowners Association. He noted that parties have discussed a master metering system whereby the future Highlands homeowners association documents would have a mechanism for assessing the individual homeowners.

Dennis Chandler, 120 Stoney Brooke Land, resident of Beach Hill expressed agreement with Mr. Steele's concern over the payment for use of and flow into the Prescott Point wastewater treatment facility.

Christopher C. Bicho, 96 Diane Avenue, developer inquired as to whether the town would consider granting a density bonus in exchange for the inclusion of duplex units as affordable housing. Messrs. Bissonnette and Harding replied with a positive confirmation.

**MOTION:** Mr. Harding made a motion, seconded by Ms. Wilson to grant master plan approval for Highlands at Prescott Point, LLC, AP 55, lot 1, 2543 West Main Road subject to the concerns and comments expressed during the hearing including action on the part to the developer to

1. Explore an emergency access to the proposed subdivision possibly from Brook Farm Lane on Lot 8
2. Consider designating one or two lots for duplex development in lieu of consideration in return on behalf of the Planning Board
3. Determine the existence of an easement for emergency access from Pioneer Lane.

All in favor. So voted.

#### **6. Agenda item # 7, Discuss Aquidneck Island Planning Commission (AIPC) and report of AIPC activities**

Ms. Wilson reported that the AIPC was postponed due to election day. The next meeting is scheduled for November 15.

#### **7. Agenda item # 8, Approve Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Recording**

Mr. Lesinski presented Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Recording, November 9, 2016. He noted that the Town Council has accepted

Lilac Lane and Mare Terrace. He also noted that with regard to item # 1, Northern Waterfront Associates, LP-PUD – The Newport Beach Club, the attorney has not recorded the Decision for the Third Modification, the Amendment to the First Modification to the Development Agreement and an easement agreement. The attorney is waiting for Northern Waterfront Associates to sign off on the three documents. With regard to item # 24, Harkins Development Company, Portsmouth Heights, Mr. Lesinski reported that Mr. Harkins intends to record the subdivision plan shortly in order to begin construction. The road bond is pending for this subdivision.

**MOTION:** Mr. Lopes made a motion, seconded by Mr. Harding to accept the Portsmouth Planning Board Monthly Project Status Reports, Administrative Subdivisions and Plat Plan Filings, November 9, 2016 and to place it into the record. All in favor. So voted.

Ms. Wilson requested that LMI Housing be placed on the agenda for the January 11, 2017 regular meeting to specifically discuss in-law apartments as an LMI option.

At 8:30 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:  
Dede Walsh  
Recording Secretary for:

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Leon Lesinski  
Administrative Office