

DEVELOPMENT REVIEW BOARD

PRELIMINARY MINUTES

ZOOM ELECTRONIC MEETING

**Monday – November 14, 2022
6:00 P.M**

Join Zoom Meeting

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MEMBERS PRESENT

Phil Carter, Chairman

John Boehrer

Julie Nicoll

Doug Sheehan

George Tucker, Jr.

STAFF PRESENT:

Cherry Nicoll

OTHERS PRESENT:

Eric Alden

Nancy Brake

Vinny Cervino

Alan Couch

Cathleen Ellmaker

Lee Ellmaker

Lara Fram

Jackie Geer

Brian Gineo

Russ Hurlburt

Seth Johnson

Carl Lisman

L K Longsworth

C Marechaux

Gerard McGuinness

Tom McGrimley

Elizabeth Mitchell

Gary Rapanotti

Ted Reeves

Leslie Stuart

Mark Stuart

Heather Valade

I. CALL TO ORDER – ELECTRONIC MEETING GUIDELINES

1. Phil Carter opened the meeting opened at 6:01 p.m. All members are present.

II. OPEN THE RECESSED PUBLIC HEARING FOR GERARD MCGUINNESS

1. Phil Carter advised that this is an application for a 9-lot subdivision in the Aquifer Protection District. It was recessed from the meeting on October 24, 2022. He advised that the hearing was recessed for further information. He reminded persons who were sworn in at the last meeting that they are still under oath.

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2. Ted Reeves said there were 2 outstanding issues: the bear corridor and the Source Point Protection Plan. He received that plan from Joe Guadiana and the Water facility. He said that he wrote letters addressing both issues. He read from the letter:
 - a. High Ridge is in Zone 3 of the Source Protection Plan. It is defined as “Zone 3 consists of the remaining area that recharge Zone 2 and where impacts from potential sources of contamination are possible. This is usually, but not always, the area upslope from Zone 2 to the watershed boundary.
 - b. He then read the following: A two-year time of Travel Zone, which is described as “an area where bacteria and virus threats (such as those from onsite disposal of sewage) would reach the drinking water source in less than 2 years by traveling through soils. Two years is the time it takes for most viruses to die off or become non-infectious in a groundwater environment.” ...The SPP identifies the Two-Year Time of Travel Zone for the Ludlow sources a being the edge of Zone 2... In reviewing the SPP and drawing, we estimate that the closest boundary of the proposed High Ridge subdivision lies greater than 2,500 feet from the outer boundary of the two-year time of travel zone.
 - c. He then addressed the issue of the bear habitat. “During the hearing (10/24/2022) it was stated “that the area was listed as a Bear corridor in the past.” He said he researched this and found the following: According to the State of Vermont’s Fish and Wildlife website; “Vermont’s most reclusive big-game animal is remarkably abundant. Black bears inhabit most of the state, other than the Champlain Islands, Vermont has one of the densest black bear populations in the country, approximately one bear for every 3 square miles, most commonly found in the Green Mountains and Northeast Kingdom. We acknowledge that the is likely to be a bear population in the area of the project. He said that there is a map in the Ludlow Municipal Plan that shows a “bear travel” icon located near the intersection of VT 100 and Old Weston Mountain Road. This area is about one mile west of this project. There is also a “bear mast” area located to the west and further south that are also about a mile from the project.
 3. Phil Carter said that in the letter dated March 25, 2022, there is reference: “Although there is a very remote possibility of impact because of effluent flow through mound-related materials as well as the underlying unsaturated fine sandy loams, the associated shallow groundwater system (which would receive these effects) discharges into the Jewel Brook drainage system.
 4. Ted Reeves said that letter adds, that there is a drainage divide that excludes the Jewel Brook from the Ludlow water source. The Jewel Brook diverts the flow. He said that this project is way outside of the 2-year time of travel.
 5. Phil Carter said that in 2008, there was a subdivision, just north of yours, that described the bear corridor at the top of Route 100 and also within the bear habitat. Their permit was conditioned to secure garbage and to leave as much forested area as possible. In 2006, the ANR described the bear range. The bears and other wildlife are all over the area. It is very rural and connected to the Okemo State Forest. He then asked Ted Reeves to respond to the following areas of the Ludlow Municipal Plan:

4.2 Farms and Forests

Forest Resources

Minimizing or preventing forest fragmentation is a key component in promoting the health, viability and ecological function of forests. Large blocks of forests and habitat connectors are beneficial for water quality, flood resilience, wildlife habitat, timber or maple syrup production and recreation.

4.5 Wildlife Habitat

Wildlife is encouraged to thrive in Ludlow’s rich natural environment. The resources

previously defined – clean water, healthy forests, and fields – form the basis for an ecosystem that naturally supports the presence of wildlife. Bears travel in the forested and mountainous corridor areas along the western and southern Town boundaries.

4.7 Scenic Features

State planning goals encourage maintaining historic settlement patterns in villages surrounded by a rural countryside, as well as protecting important scenic and historic resources [24 V.S.A. §4302(c)(1) and (5)]. Scenic and historic resources are among Ludlow's most valued assets. Residents value the small town feel of the Village, surrounded by open fields, the lakes and rivers, hills and large tracts of forested lands. This Plan seeks to encourage future growth that also protects these scenic and historic resources articulated in this chapter.

Ridgelines and Scenic Resources

Certain outstanding scenic resources are an essential component of the rural character that defines the outlying areas and serves as a scenic backdrop for the Village of Ludlow and major roadways. Maintaining these scenic qualities is a very important consideration, especially as the features listed below greatly contribute to the tourism-based sector of the local economy. The dark night sky is also considered as a scenic resource for the purpose of this Plan. Light pollution from development can negatively impact the rural character and quality of life enjoyed by residents. The following are identified as Ludlow's important scenic resources:

- a. The Lakes (Rescue, Pauline, Round Pond)
- b. Tiny Pond
- c. Black River
- d. Buttermilk Falls
- e. State Forest
- f. Cemetery
- g. Forested areas within the Ludlow public water source protection area
- h. Dark night sky
- i. Scenic vistas along VT Route 100
- j. Prominent hills and ridgelines are valued by Ludlow residents, including:
 - Bear Hill
 - The Pinnacle
 - Whetstone Hill
 - South Hill
 - Ludlow (Okemo) Mountain (the portion of which that is within Ludlow)
 - North Hill

Ludlow Municipal Plan Adopted October 2019

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- East Hill
- Terrible Mountain (the portion of which that is within Ludlow)

These ridgelines provide a scenic view from the Village and major roadways in Ludlow (see the Topography Map). In addition, these areas are fragile due to high elevation and steep slopes, and are also valued for their scenic, wildlife habitat and forestry attributes. All applicable development is subject to the Ridgeline Protection Overlay District in the Town of Ludlow Zoning and Flood Hazard Regulations

Aquifer Protection District

This district is shown as an overlay on the Future Land Use Map. The District is designated

to protect the aquifer recharge area and public drinking water source. Although dispersed, very low-density residential uses may occur within the conservation area; future high-intensity development is not suitable and is not allowed in this area.

Forest Resource

The Forest Resource area is comprised of high priority forest blocks and habitat connectors that are beneficial for water quality, flood resilience, wildlife habitat, timber or maple syrup production and recreation. Priority forest blocks are shown on the Forest Blocks Map and reflected in the Future Land Use Map. This area is based on the highest priority interior forest blocks and highest priority connectivity blocks available through VT ANR's BioFinder. A majority of the Forest Resource land area is owned by the state (i.e. Okemo State Forest and Tiny Pond Wildlife Management Area). The remainder includes large tracts of privately owned forestlands. The purpose of the Forest Resource area is to avoid or minimize fragmentation of priority forest blocks. To minimize forest fragmentation, development must be designed and sited in a manner to minimize encroachments and preserve continuous areas of forest blocks by locating structures and roads to the periphery of those areas.

6. Phil Carter said that the site plan does not address these issues. He said that with 8 lots and 5 acres, they could potentially clear cut 40 acres and that would be egregious to the land.
7. Ted Reeves said that he will talk to Mr. McGuinness and will check those citations. He said that the project outlines comply with the zoning regulations for the Aquifer Protection District. He said they were sensitive to those issues.
8. Phil Carter added that storm water protection is also very important. He said that in a major storm, the road at Summit Ridge washed out, down to Route 100. It was fixed and washed out a second time. He asked the grade of the proposed driveway.
9. Ted Reeves said 12% and will be partially paved, in the location where it goes over the big culvert.
10. Phil Carter said that VT. State Conservation lists the highest points of priority to be wildlife connectivity. He said that this project is not dead, but must address the town plan issues and the impact on the ecology. He said that this board had imposed heavy conditions on previous projects in that area. There is one on the same side of the road, about ¼ mile up the road. He said that they will need to address the sensitive areas. He said that, even though he was absent from the last meeting, he watched the tapes and read the minutes and has the authority to weigh in on this. He asked what was meant by the big fill areas.
11. Ted Reeves said it is 1,400 feet from Route 100, in the valley and has an intermittent stream. It will take quite a bit of fill.
12. Phil Carter asked about storm water retention plans.
13. Ted Reeves said yes, we would be using swales. He said it was submitted.
14. Phil Carter asked if the board could get a copy.
15. Ted Reeves said yes, he will get the drawings to them. He added that the State is way behind with storm water and drinking water permits.
16. Phil Carter said that the covenants that were submitted looked like cookie cutter and the same as the other property next to yours.
17. Ted Reeves said it may be the same lawyer.
18. Phil Carter asked Ted Reeves to make the covenants more pertinent to this project.
19. **MOTION by Julie Nicoll and seconded by John Boehrer to recess this hearing until the December meeting. Motion passed unanimously.**

III. **OPEN THE PUBLIC HEARING FOR RUSS HURLBURT**

1. Phil Carter advised that this is an application to amend a Planned Unit Development Permit to change the use from an office space to a Photography Retail store. The project is located in the Village Residential Commercial District.
2. Julie Nicoll advised that the application 51-92UD Amendment #12. Property is located at Lamere Square. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website October 21, 2022 advertised in THE VERMONT JOURNAL on October 26, 2022 and abutting property owners were notified on October 24, 2022. She said we received letters from Fire, Ambulance and Police.
3. Phil Carter administered the oath to Russ Hurlburt and Elizabeth Mitchell.
4. Russ Hurlburt said that he is moving his store to LaMere Square and it is a quiet business. A busy day would be 20 people. He said it is on the left-hand side, unit 2A.
5. Elizabeth Mitchell its former tenant was Slopeside Okemo.
6. George Tucker asked would he be making any interior changes.
7. Russ Hurlburt said just painting.
8. Phil Carter asked the hours of operation.
9. Russ Hurlburt said 7:00 a.m. to 11:00 p.m., seven days per week.
10. Phil Carter said that in his letter, the Police Chief mentioned an alarm.
11. Russ Hurlburt said there is an existing one and he can get it.
12. Julie Nicoll asked if he would be making any changes to the exterior lighting.
13. Russ Hurlburt said no.
14. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

IV. **OPEN THE PUBLIC HEARING FOR LARA FRAM**

1. Phil Carter advised that this is an application for a remand to the DRB, from the Vermont Superior Court, Environmental Division, for its review on the merits of the Applicant's application. He said that we still have all of the evidence from the original hearing and asked Lara Fram if there is any new evidence.
2. Lara Fram said that everything is the same.
3. Phil Carter said this hearing has been remanded to the DRB and was heard through the process. He said that nothing has changed. The board will close this hearing and deliberate on the permit as it stands. He said there is nothing new to hear.
4. **MOTION by Julie Nicoll and seconded by John Boehrer to close this hearing. Motion passed unanimously.**

V. **OPEN THE PUBLIC HEARING FOR VACATION PROPERTIES LLC**

1. Phil Carter advised that this is an application for a 2-lot subdivision in the Village Residential District.
2. Julie Nicoll advised that this is application SUB23-006. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website October 3, 2022 advertised in THE VERMONT JOURNAL on October 5, 2022 and abutting property owners were notified on October 3, 2022. Property is located at 5 Gill Terrance. She said we received letters from Fire, Ambulance, Police and the Water and sewer allocations.

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3. Phil Carter administered the oath to Ted Reeves and Cathleen Ellmaker.
4. Ted Reeves said the property is on Gill Terrace. The parcel is 20,000 square feet. There will be 2 lots, Lot #1 will have an existing house and will be 9,888 square feet. Lot #2 will be 11,753 square feet. Ethan Gilmore did the survey. They will be for single unit dwelling. The lots will conform to front, side and rear setbacks. They will have frontage onto Gill Terrace Road.
5. Phil Carter noted they will need an access permit, with curb cut, tip down and a 30-foot minimum driveway width and about 20 feet paving.
6. Ted Reeves said that is not a problem at this moment.
7. Julie Nicoll said that the grade of that road is steep.
8. Ted Reeves said he doesn't know the grade.
9. Julie Nicoll noted that once there was a fire alarm in the winter and the truck could not get up the road.
10. Ted Reeves said that the water and sewer applications have been approved.
11. Phil Carter advised all in attendance, that this hearing is only for the subdivision, not for development. If there is an issue with a future potential building, when a permit is applied for, is the time for that. Rose Goings will issue a permit and you can appeal that permit. We are not here tonight to discuss that. This is just to determine if the subdivision complies with the standards.
12. Heather Valade said that her property, #4 Gill is not shown on the site plan. She said that #9 High Street is also not shown on the drawing. There was also language about a boundary adjustment that is not shown on the drawing.
13. Ted Reeves said it was required language. He said that the boundary line adjustment is not with this application. He said that this is just about the subdivision.
14. Phil Carter asked why this board would be interested in it.
15. Heather Valade said it is note 2 and it needs to be updated.
16. Ted Reeves said he will do that.
17. Cathleen Ellmaker said that she lives at 3High Street and concerned about the subdivision of the land that's in the Preservation District. She said that the 2 lots could be used for businesses.
18. Phil Carter said this hearing is only about the subdivision and not further development.
19. Heather Valade said that Gill Terrace is steep and the drawing also does not show contours.
20. Leslie Stuart said she lives at 5 High Street and that there are issues with the slope and storm water run-off if the property is developed. It will impact her home and our neighbors' homes.
21. **MOTION by Julie Nicoll and seconded by George Tucker to recess this hearing until December and include the grade of the road. Motion passed unanimously.**

VI. **OPEN THE PUBLIC HEARING FOR LINDA HARRINGTON, TRUSTEE**

1. Phil Carter advised that this is an application for a 2-lot subdivision in the Town Residential District.
2. Julie Nicoll advised that this is application SUB23-004. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website October 3, 2022 advertised in THE VERMONT JOURNAL on October 5, 2022 and abutting property owners were notified on October 3, 2022. Property is located at 744 East Hill Road. She said we received letters from Fire, Ambulance and Police.
3. Phil Carter administered the oath to Gary Rappanotti and Nancy Brake.
4. Gary Rappanotti said the property is on East Hill Road. There is a house being built on a parcel 3.56 acres and the other parcel will be 85 acres. There will be a 50-foot ROW.

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5. Phil Carter said that they will need a state approved potable water permit. He said that a house should not be constructed unless there is required potable water. If the property does not perk, and the house cannot be occupied, the town will not have created the hardship.
6. Gary Rappannotti said they already have the SWW permit.
7. Phil Carter said that will cover town liability.
8. Gary Rappannotti said he has the ability to serve letters, from Fire, Ambulance, Police and Green Mountain Power.
9. Phil Carter asked if there are any conditions on the letters. He said if there are, they would be conditions of the permit.
10. Julie Nicoll asked about well shields.
11. Phil Carter said that it is the policy of this board not to encumber other wellshields.
12. Gary Rappannotti said that the well has been drilled.
13. Gary Rappannotti said it is shown on the septic design.
14. Nancy Brake said that she is an abutting property owner and asked if the subdivision is for the house behind hers.
15. Phil Carter explained that there will be 2 lots. One 85 acre and the other 3.56 acres. The 3.56-acre lot is where the house, that is being built, is located. He said that currently, they are building the house on an 88.56-acre lot.
16. **MOTION by John Boehrer and seconded by George Tucker to close this hearing. Motion passed unanimously.**

VII. **OPEN THE PUBLIC HEARING FOR TOMASZ PAJAK**

1. Phil Carter advised that this is an application for a 5-lot subdivision in the Mountain Recreation District.
2. Julie Nicoll advised that this is application SUB23-003. Posted in the Town Hall bulletin boards and the Post Office Bulletin Board and on the website, October 21, 2022 advertised in THE VERMONT JOURNAL on October 26, 2022 and abutting property owners were notified on October 24, 2022. Property is located at 396 West Hill Road. She said we received letters from Fire, Ambulance and Police.
3. Phil Carter administered the oath to Gary Rappannotti and Brian Gineo.
4. Gary Rappannotti said the lot is 14.7 acres and it will be divided into 5 lots. The access serves 4 of the 5 lots. It will be 600 feet long and have a cul-de-sac at the end. He said that he had met with Chief Kolenda. He said the lots will be 2 to 3 acres each. All of the wellshields are within the property.
5. Phil Carter asked if the road would be a 50-foot-wide ROW – he said it serves 3 lots.
6. Gary Rappannotti said there is an existing driveway off West Hill Road (to the right of the house.) He said that there is a stream and another on the south boundary, mostly off the property.
7. George Tucker said he is concerned about the 2 streams.
8. Gary Rappannotti said he designed the lots and road to stay away from the streams.
9. Phil Carter asked if Ron Tarbell approved the road.
10. Gary Rappannotti said 40 feet with an 18” culvert.
11. Phil Carter said that town specs require water directed away from the road.
12. Gary Rappannotti said he has done that.
13. Brian Gineo asked if an assessment has been done around the stream and wetlands.
14. Gary Rappannotti said they are not on this property.
15. Phil Carter said if they are not on this property, then an assessment is not needed.
16. Gary Rappannotti said that the one is seasonal and the other is year-round.

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17. Brian Gineo asked about impact to other wells.
18. Gary Rappannotti said that they have the state wastewater permit and are according to ANR requirements.
19. Phil Carter said that the State of Vermont is very tough on septic requirements.
20. **MOTION by John Boehrer and seconded by Julie Nicoll to close this hearing. Motion passed unanimously.**

VIII. **MINUTES**

1. Phil Carter advised that the minutes to be reviewed are August 8, 2022 and October 24, 2022
 - A. August 8, 2022.
 - i. Julie Nicoll on page 4, item VII, #12, should read "...He said the top."
 - ii. **MOTION by Phil Carter and seconded by Doug Sheehan to approve the minutes from August 8, 2022 as corrected. Motion passed unanimously.**
 - B. October 24, 2022
 - i. Julie Nicoll said on page 4, item V, #13, should read "This is standard and there..."
 - ii. Julie Nicoll said on page 5, item V, #45 should read "Rose Goings said they need to ..."
 - iii. **MOTION by Julie Nicoll and seconded by George Tucker to approve the minutes from October 24, 2022 as corrected. Motion passed unanimously.**

IX. **OTHER BUSINESS**

1. Next Meeting - will be on December 12, 2022.

X. **ADJOURN**

1. **MOTION by Phil Carter and seconded by Doug Sheehan to adjourn. Motion passed unanimously.**
2. Meeting adjourned at 7:07 p.m.

Respectfully submitted,

Lisha Klaiber

Phil Carter, Chairman

Julie Nicoll

John Boehrer

Doug Sheehan

George Tucker, Jr.

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