
Bradley Holt & Jason Pelletier

1931 Hillview Road
Richmond, VT 05477

2nd October 2023

To: Development Review Board

David Sunshine, Chair
Padraic Monks
David Schnakenberg
Matthew Dyer
Roger Pedersen

Cc:

Tyler Machia, Zoning Administrative Officer

Dear Town of Richmond Development Review Board:

This letter contains our written public comments on the Hillview Heights Final Subdivision application (SUB2023-13) before the Town of Richmond Development Review Board for its October 11th, 2023 hearing date. We understand the deadline for written public comments to be October 6th, 2023 and ask to be informed if this is incorrect. We incorporate our comments on the Hillview Heights Preliminary Subdivision application (PRESUB2023-04), including comments from our attorney.

Master Development Plan

For some time we have had a reasonable suspicion that the application represents only one phase of a multi-phase project. There are extensive lands on the property that remain unassigned with the potential for future development. The plans clearly show an intended connection to other developable lands with an expectation of future development. We maintain that the applicant has not presented a master development plan as required. We ask the Board to consider the following:

- Is the application consistent with other plans on file relating to the property?
- Has the applicant fully disclosed all of its plans for development such that a comprehensive and transparent review of development may be conducted as required by Section 610.1 of the Richmond Subdivision Regulations?
- Has the applicant materially misrepresented the scope of development in contradiction to 24 V.S.A. §4470a and Section 5.3.3 of the Richmond Zoning Regulations?

We ask the Board to further consider the following in relation to the question of a master development plan:

- Does the proposed road to serve Lots 4–7 comply with Section 600.6 of the Richmond Subdivision Regulations which requires dead end roads to terminate in a circular turnaround or in a hammerhead given that the road continues on past the Lot 7 driveway entrance to the Lot 6 driveway entrance and then on to the “field drive?”
- What is the purpose of the “field drive” the continues on past the hammerhead at the Lot 7 driveway entrance and then past the Lot 6 driveway entrance? Is its purpose to serve as a convenient point to connect to future development of lands owned by the applicant?
- What is the purpose of the underground utility that continues along the “field drive” and what is the purpose of the transformer at the terminus of this underground utility? What buildings or structures will be served by the underground utility and the transformer and are the plans for those buildings or structures represented in the master development plan?
- Was the proposed layout of underground utilities presented to GMP consistent with the plans presented in the application? Can the Board and the public see the layout that was presented to GMP? Can the Board ask a GMP representative what they were told in regards to the purpose of the underground utility and transformer that continues along the “field drive” given that this was likely a topic of conversation?
- What is the kVA rating of the transformer along the “field drive” and how does this compare to the kVA rating of the other transformers throughout the subdivision?
- What is the purpose of the well represented on the “Master Site Plan” approximately 120 feet east of the “field drive?”
- What is the location of the barn recently constructed or under construction on the property? Is the location, size, form, and usage of this barn consistent with its Notice of Intent to Build a Farm Structure? Is this the same barn as the barn represented in the master development plan on the proposed Lot 7?
- Why has the applicant installed new windows and made other improvements to the farmhouse on the proposed Lot 7 along Hillview Road that is to remain abandoned? How does the applicant intend to have a new residential house site, a new barn with an apartment, and an existing residential structure (the farmhouse) all on one lot?
- Are clearly-contemplated additional development activities related to the pick-your-own farmstand described in the farm business plan for Hillview Flower Farm, such as a road and a parking lot, represented in the master development plan?
- Are plans for all remainder land accounted for in the master development plan?

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- When does the landowner intend to complete construction of the driveway to serve one residential building and one accessory building under Access Permit #21-17 (approved October 12th, 2021) and Zoning Permit #2021-83 (approved November 2nd, 2021) and when will the landowner comply with the condition put on the Access Permit by the Selectboard to close any pre-existing access (including the proposed Lot 3 driveway)?
 - Why does the Declaration of Covenants and Restrictions reserve the ability to further subdivide the lots if there are no plans for future development?
 - Why does the Declaration of Covenants and Restrictions reserve the rights to construct “model residences” and “sales offices,” as well as the right to erect signs advertising the community? Are these activities consistent with the scale and scope of the project as represented in the master development plan?

Wetland Disturbances

The applicant’s plan to widen the proposed Lot 3 driveway to 12’ represents several hundreds of additional square feet in wetland buffer disturbances beyond what is permitted in the applicant’s State wetland permit, plus the impacts of shoulders grading down to the wetlands. Without these additional and unpermitted wetland buffer disturbances the proposed Lot 3 driveway cannot comply with Section 600.1 of the Richmond Subdivision Regulations, as well as Section 6.2.1(b) and Section 4.1 of the Richmond Zoning Regulations.

The applicant’s claim that “a state wetland permit has been issued for the proposed impacts” is simply untrue. We ask the Board to give Peter Garceau, P.E. of Cross Consulting Engineers an opportunity to review his engineering diagrams within the applicant’s State wetland permit and consider if he would like to amend his previous statements about the wetland buffer disturbances of the proposed Lot 3 driveway.

A section of the applicant’s proposed Lots 4-7 driveway where the driveway crosses wetlands was built within the 50’ buffer for Class II wetlands required in Section 6.9.3.b) of the Richmond Zoning Regulations. These wetland disturbances were permitted by the State as “after the fact” disturbances in conjunction with the applicant’s subdivision plans as represented in the applicant’s wetland permit and therefore should not be considered by the Board as existing wetland disturbances.

Further, the wetland disturbances of installing underground utilities are not included in the applicant’s State wetland permit.

We ask the Board to consider if the application meets the requirements of Sections 6.9.2., 6.9.3.b), and 6.9.4.c) of the Richmond Zoning Regulations and Sections 500(11) and 600.3 of the Richmond Subdivision Regulations.

Traffic and Safety

Hillview Road is a gravel road heavily utilized by bicyclists and pedestrians. Neighbors and visitors of all ages walk and bicycle along Hillview Road. Some neighbors walk the road almost every single day of the year. Any change involving additional traffic, new curb cuts, or traffic patterns must be carefully considered.

The proposed three curb cuts should be consolidated to only one, the applicant has failed to demonstrate that traffic will not exceed 10 vehicle trip ends, and the applicant has not produced an adequate and updated traffic study that addresses the question of a COVID-related reduction in traffic at the time of the applicant's initial traffic study.

The proposed Lots 1–2 driveway does not meet the minimum intersection sight distance of 390 feet specified in the VTrans B-71 driveway standard for a 35 mph road and presents a safety hazard. Simply placing an advanced warning sign is not sufficient to mitigate this unsafe condition. An advanced warning sign provides no mitigating benefit to vehicles exiting the access, and only limited mitigating benefit to vehicles approaching the access.

Further, the terrain and topography do not afford the stopping sight distance of 250 feet claimed within the application for the proposed Lots 1–2 driveway. Vehicles approach this driveway while coming around a blind curve along an upward-sloping hillside which obstructs the line-of-sight.

The application shows 900 square feet of trees and brush to be cleared to provide the claimed site distance of 250 feet. Once the vegetation grows back, which will happen quite quickly as the line-of-sight only clears the upward-sloping hillside by less than 18 inches, the site distance reduces to only 175 feet. The application does not address who is responsible for keeping the trees and brush cleared.

We ask the Board to consider if the application meets the requirements of Sections 3.1.5.d), 4.4, and 6.2.1e) of the Richmond Zoning Regulations and Sections 500, 600.4, and 600.9 of the Richmond Subdivision Regulations.

Stormwater Systems

The applicant has not provided sufficient and compelling evidence that the proposed stormwater system is designed to accommodate a twenty-five year storm as required by Section 650.4 of the Richmond Subdivision Regulations. We ask the Board to require an independent technical review of the proposed stormwater systems per Richmond Subdivision Regulations Section 800.4(2) as this is the only way to ensure compliance with all elements of Section 650 of the Richmond Subdivision Regulations including Section 650.1, Section 650.2, Section 650.3, and Section 650.4.

Phasing

The two main phases outlined in the application are actually up to seven phases comprising phase 1 as described in the application and then the sale and development of each of the six other lots individually (described as phase 2 in the application). The applicant provides no timeline for when all development will be completed and no assurances of their financial capability to complete the project.

Construction related to this project began over two years ago when the landowner built sections of the proposed road to serve Lots 4–7. Additional development activity has included an Access Permit and a Zoning Permit to construct the proposed road to serve Lots 4–7 and, as best we can tell from available information, construction of a barn. We are left wondering for how many more years this project will drag on before it is completed.

Given the potentially lengthy timeline represented by these phases we ask the Board to consider the following:

- How is completion of all infrastructure components of the project in a timely manner guaranteed and how will this be enforced?
- Given that Hillview Heights, LLC (the owner of the property) is a distinct legal entity from its principal(s), what capital and financial resources does Hillview Heights have at its disposal to ensure completion of the project?
- Is the phasing necessary because Hillview Heights does not have the capital and financial resources to complete the project without the sale of the lots?
- Should the Board require that no Zoning Permit be issued for approved land development unless the required infrastructure improvements have been installed per Section 708.1(2) of the Richmond Subdivision Regulations?
- Should the Board condition its approval on the submission of a Security to assure completion of the project per Sections 708.1(3) and 708.1(4) of the Richmond Subdivision Regulations and require completion of required improvements within three years of the start of construction?
- Should the start of construction be considered July 12th, 2021 when the developer first built sections of the road to serve Lots 4–7, or another date in the past when the developer undertook construction on the project?

Additional Comments

We would also like to add that:

- The stormwater detention pond on Lot 5 along Hillview Road does not meet the setback requirements set forth in Section 3.1.4 b) of the Richmond Zoning Regulations.

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- The application shows existing overhead utilities to be abandoned. Section 670.2 of the Richmond Subdivision Regulations clearly states that all utility systems shall be located underground throughout the subdivision.
 - The board should require the applicant to fully documented the natural features and resources on the site as required by Section 310.2 of the Richmond Subdivision Regulations.
 - The Board should conduct a site visit or document the reason it decided a site visit was not necessary for the application per Section 800 of the Richmond Subdivision Regulations.

Requested Conditions

- In accordance with Section 600.6 of the Richmond Subdivision Regulations, we ask the Board to condition any approval on the applicant receiving approval from the Selectboard for the hammerhead on the proposed road to serve Lots 4–7. We submit that such approval is required regardless, though clarity from the Board would be appreciated.
- We ask the Board to condition any approval on the applicant receiving Access Permits from the Selectboard for all roads and driveways that connect to Town highways. We submit that such Access Permits are required regardless, though clarity from the Board would be appreciated.
- We ask the Board to condition any approval on the removal of all existing overhead utilities, even if to be abandoned, per Section 670.2 of the Richmond Subdivision Regulations.
- We ask the Board to condition any approval on the submission of a bond, escrow account, or other surety to assure completion of the project and require completion of required improvements within three years of the start of construction per Sections 708.1(3) and 708.1(4) of the Richmond Subdivision Regulations.
- We ask the Board to declare the start of construction to be July 12th, 2021 when the developer first built sections of the proposed road to serve Lots 4–7, or if not that date another date in the past when the developer undertook construction related to the project.
- We ask the Board to condition acceptance of any Security on approval by the Selectboard per Section 708.1(1) of the Richmond Subdivision Regulations.

Sincerely,



Bradley Holt



Jason Pelletier