
Bradley Holt & Jason Pelletier

1931 Hillview Road
Richmond, VT 05477

10th April 2023

To: Development Review Board

David Sunshine, Chair
Padraic Monks
David Schnakenberg
Matthew Dyer
Roger Pedersen
Ian Bender, Alternate

Cc:

Tyler Machia, Zoning Administrative Officer

Dear Town of Richmond Development Review Board:

Just over two years ago the proposed Hillview Heights subdivision was in front of the Development Review Board in the form of a Sketch Plan review (SUB21-02). We, along with many other neighbors, raised numerous concerns with the project as proposed. The purpose of a Sketch Plan review is “to facilitate an exchange of ideas” (Richmond Subdivision Regulations Article II Section 210). We took the opportunity during the Sketch Plan review to engage in an exchange with the developer as comprehensively as possible. Unfortunately the developer has chosen not to address the concerns that we raised at the time, or concerns that we have raised through public comments on relevant State permit applications since then. The only significant change we can ascertain between the Sketch Plan and the Preliminary Subdivision application is the reduction from nine lots to seven lots, though this was a change that was required due to the presence of Class II wetlands.

Piecemeal Development

Not only has the developer chosen to ignore our concerns, since the Sketch Plan review the landowner has engaged in an apparent pattern of piecemeal development. Several aspects of the proposed subdivision have already been built or are in the process of being built while this Preliminary Subdivision application is under review.

Sections of the proposed road to serve Lots 4–7 were improved without any State or Town permits under the guise of “ag maintenance” (as represented to, and documented by, Richmond’s Zoning Administrator in July of 2021). This work was done within what the developer knew at the time were Class II wetlands, and only later did the developer seek after-the-fact wetland permitting for this work in conjunction with their subdivision plans.

The landowner recently represented to Richmond’s Zoning Administrator that they anticipate starting construction in April or May of 2023 on the same driveway that is proposed as a road to serve Lots 4–7 (see "Re: Enforcement of Conditions of Zoning Permit 2021-83" memo from Tyler Machia, undated though sent to us on January 31, 2023). Note that the Selectboard put two important conditions on their approval of the associated Access Permit (#21-17) for this driveway and to date these conditions have not been enforced:

- “For access to one primary and one accessory structure only. Applicant must reapply before this access may be used to serve additional structures.”
- “Land owner must close any pre-existing access.”

The landowner filed a Notice of Intent to Build a Farm Structure for a barn (initial Notice dated December 20, 2021 and revised Notice signed by the Zoning Administrator on July 29, 2022). As far as we can tell, this same barn is represented as part of the proposed subdivision. It's unclear when they intend to build this barn. The landowner also drilled a well on the property without a permit and before filing any Notice. After constructing the well, the landowner filed a Zoning Permit application, which we appealed. Our appeal prevailed, and the landowner instead filed a Notice of Intent to Build a Farm Structure for this drilled well (dated November 16, 2022).

Concerns

Density and Siting

The housing density of the proposed subdivision is much greater than the surrounding housing density and does not fit the character of our neighborhood. We hope that the developer uses the Richmond Town Plan in guiding revisions to their proposed plans. The current proposal is not compatible with “low density residential development, agriculture and forestry uses,” and the development will negatively impact “scenic views and pastoral landscapes” (quotes from the Richmond Town Plan). The proposed lots are relatively small when compared to other lots in the neighborhood. Where there are smaller lots in the neighborhood, those lots tend to be clustered along Hillview Road or otherwise concentrated so as not to impact scenic views and pastoral landscapes.

We ask the developer to consider eliminating the proposed Lots 1, 2, and 3 and to find an alternative use of these lands that will not impact scenic views and pastoral landscapes, will not impact the Class II wetlands on these lots, and will not risk stormwater impacts to the abutting neighbors. While this may sound extreme, we don't believe that the lots as proposed are reasonable in the context of the Town Plan, Town ordinances, and the project impacts. Such an alternative would result in several improvements to the proposed project, including reducing the number of curb cuts from four to only one (which would be more aligned to what is typical for subdivisions), keeping the viewshed open (the proposed house sites for Lots 4–7 are generally not within the viewshed), opening the possibility of wetlands restoration from preexisting impacts (from the proposed Lot 3 driveway), significantly reducing stormwater runoff, and providing open space that could be made available for the enjoyment of Hillview Heights Homeowners Association members.

Stormwater

While we are not abutting landowners ourselves, we are concerned with stormwater impacts to abutting neighbors. From what we can ascertain, we believe that the proposed stormwater system is designed for a ten-year storm, not a twenty-five year storm as required by Richmond Subdivision Regulations Article VI Section 650.4. Given that State stormwater permitting does not address Richmond's specific stormwater requirements, we ask the Board to require an independent technical review of the proposed stormwater systems (per Richmond Subdivision Regulations Article VIII Section 800.4) to ensure compliance with all of the elements of Subdivision Regulations Article VI Section 650 Drainage and Fill and to ensure that the concerns of abutting landowners are properly addressed.

Light Pollution

We ask the developer to consider adopting Covenants, Conditions, and Restrictions (CC&Rs) relating to outdoor lighting that will reduce light pollution. Model CC&Rs are readily available that the subdivider could consider utilizing. Keeping the nighttime sky dark would benefit current neighbors and new neighbors who are Hillview Heights Homeowners Association members. Our concern is that light pollution from houses will encroach on the viewshed (the hillside and Camel's Hump can often be seen at nighttime) or will otherwise disrupt the dark sky.

Lot 7 (Remainder)

The subdivider states that the proposed Lot 7 (remainder) will be used for agricultural and residential uses. We are happy to see agricultural use of at least some of the property. However, there are no assurances that this land will be used for agricultural purposes in the future. This remainder lot is over 60 acres in size. Concerningly, there is a "road to nowhere" that terminates in this large remainder lot, hinting at potential

future development. Richmond Subdivision Regulations Article VI Section 600.6 requires dead end roads to terminate in a circular turnaround or in a hammerhead, which clearly is not the case for this dead end “road to nowhere.”

There is an old farmhouse on the proposed Lot 7 along Hillview Road. This farmhouse is labeled on the existing conditions plan as to remain abandoned. It is unclear how the developer plans to have two houses on one lot (the abandoned farmhouse and the new house site shown on the proposed Lot 7). This raises a concern in our mind that the developer may plan to further subdivide the proposed Lot 7 in the future, after which these two house sites would be on separate lots.

Relevant Regulatory Provisions

State Permit Recording

The subdivider notes that they have secured the relevant State permits for this project. This includes a Stormwater Discharge Permit, Wetlands Permits, and a Wastewater System and Potable Water Supply Permit. Seeing as the subdivider is relying on, and making references to, these State permits then the Board should not consider the subdivider’s application complete until such time as all of these State permits are recorded in the Town of Richmond Land Records. At this time only the Stormwater Discharge Permit has been recorded in the Town of Richmond Land Records.

Additionally, the conditions of approval on each of these State permits require the applicant to record the permits in land records of the Town of Richmond within 30 days of issuance. The Wetlands Permits were issued on December 13, 2022 and the Wastewater System and Potable Water Supply Permit was issued on April 21, 2022. The Wetlands Permits and the Wastewater System and Potable Water Supply Permit are therefore in violation of their conditions of approval and the applicant has missed the 30 day deadline to meet these conditions.

The material available to the public for the Preliminary Subdivision application (PRESUB2023-04) did not include the complete State permits and it is unclear if these State permits are available in their entirety to the Board for its review. Seeing as State permits have yet to be recorded in the Town of Richmond Land Records, these State permits are not in front of this Board for its consideration and therefore the subdivider’s application is incomplete. Further, no Zoning Permit for land development should be granted until the subdivider has filed these permits and demonstrated that these permits have not been invalidated due to non-compliance with conditions of approval on these permits as required by Richmond Subdivision Regulations Article VI Section 660.

Residential Driveway Width and Wetlands Impacts

The Town standard per Richmond Zoning Regulations 6.2.1 b) for a residential driveway is a 12 foot minimum width and Richmond Subdivision Regulations Article VI Section 600.1 states that the specifications for driveways must meet the requirements established in the Zoning Regulations. However, the driveway proposed to serve Lot 3 is currently at most 10 feet in width. The width of this driveway seems to be somewhere between 8 and 10 feet, based on observation and measurements taken utilizing data from the Vermont Agency of Natural Resources. The subdivider asserted within their wetlands permit application that, “The existing driveway is currently 10-11’ wide, with 1-2’ shoulders on both sides before grading down to the wetland.”

The plan presented in the developer’s wetlands permit differs from the plan presented in their Preliminary Subdivision application. The wetlands permit application presents the proposed Lot 3 driveway as “TRM” or “to remain.” The Preliminary Subdivision application adds that the driveway will be “top dressed” and “reclaimed with new driveway stone.” This is a significant change from what was presented during the wetlands permitting process and a change that would result in wetlands impacts beyond those currently approved in the subdivider’s wetlands permit. The developer was adamant during the wetlands permitting process that the Lot 3 driveway was to remain without any improvements when we raised this issue. They responded that the current driveway “provides plenty of room for a single family residential driveway to be used and be topped with driveway stone without incurring any new wetland or buffer impacts.”

The subdivider claims that, “A state wetland permit has been issued for the proposed impacts.” However, their plan to widen the proposed Lot 3 driveway is outside the scope of wetlands impacts approved in their wetlands permit (not to mention the wetlands impacts of burying utilities). Further, Richmond Zoning Regulations 6.9.4. c) requires a permit from the State Wetlands Program for any development within Class I or II wetlands. The proposed Lot 3 driveway should not be approved given the adverse impact this driveway would have on Class II wetlands and the lack of a wetlands permit for these impacts.

During the wetlands permitting process, we felt that the subdivider did not adequately address our question as to why access to the proposed Lot 3 could not be served by a new branch off of the proposed Lot 4 driveway. This would open the possibility of wetlands restoration through elimination of the proposed Lot 3 driveway and would have the added advantage of eliminating one curb cut.



Photograph taken by a neighbor on April 6th, 2023 showing the proposed Lot 3 driveway that sits within Class II wetlands. This is a narrow driveway that is currently at most 10 feet in width and is in disrepair. Standing water can often be observed alongside this driveway, as can be seen here.

Lot Frontage Dimensional Requirements

Richmond Zoning Regulations 3.1.3 c) requires lots in the A/R District to have at least one hundred feet of continuous uninterrupted lot frontage. The proposed Lot 1 shows a frontage of ± 100 feet. Given that the subdivider has not requested a waiver of Richmond Zoning Regulations 3.1.3 c), the Board should seek clarification on the precise frontage of the proposed Lot 1.

Traffic

Richmond Zoning Regulations 3.1.5 d) requires that traffic shall not exceed 10 vehicle trip ends during the peak evening hours. The provided traffic study is dated July 19, 2021 and states, "The available traffic count data was conducted by a traffic count on May 2021 at the southern intersection of Hillview Road and Huntington Road." This traffic study is almost two years old and was conducted at a time when traffic was significantly reduced with more people staying at home due to the impacts of COVID-19.

Note that the traffic study does not match the details represented elsewhere in the Preliminary Subdivision application, including discrepancies in the numbers of lots and the site plans. We ask that the Board require the subdivider to provide an

updated traffic study that more accurately represents current traffic conditions and that is consistent with the rest of their application.

Preliminary Subdivision Application Submission Requirements

Richmond Subdivision Regulations Article III Section 310.1 requires the Preliminary Subdivision plat to include the following information which is missing or incorrect from the Preliminary Subdivision plat document:

- “(4) boundaries of the proposed SUBDIVISION and the names of the owners of record of all adjoining properties, to the proposed SUBDIVISION”: The property to the south of the proposed project is labeled on the Preliminary Subdivision plat document as “other lands of Atwood.” This is incorrect as Atwood is not the owner of record for this adjoining property. We have not confirmed whether or not other adjoining property owner labels are correct.
- “(6) the zoning district, including overlay districts, in which the property is located and the relevant ZONING REGULATION provisions applicable to the site”: The relevant Zoning Regulation data is not provided on the Preliminary Subdivision plat document.
- “(8) the location of any bridges, drains, drainage ways or culverts which are proposed in the SUBDIVISION”: Per the subdivider’s wetlands permits, the developer has installed several culverts, including those under the proposed Lot 3 driveway and under the proposed Lots 4–7 driveway. These culverts are represented on the existing conditions plan but do not appear to be represented on the Preliminary Subdivision plat document. Based on our observations, we have seen no evidence that a culvert existed previously under the proposed Lot 3 driveway, or that a new culvert was installed as represented by the subdivider during the wetlands permitting process.
- “(9) proposed LOT lines with dimensions and planned locations and uses for buildings, any stream and wetland buffer zones, and any overlay district(s) applicable to the proposed SUBDIVISION”: The Special Flood Hazard Area overlay district represented on the site plan and the existing conditions plan in the southeast corner of the lot is not represented on the Preliminary Subdivision plat document.
- “(10) potential layouts for the SUBDIVISION showing all roads, pedestrian ways, recreational trails, utilities, and all proposed access to the SUBDIVISION”: Two utility poles represented on the existing conditions plan are not represented on the Preliminary Subdivision plat document. These two utility poles are near Hillview Road on the proposed Lot 3 near to the proposed Lots 4–7 driveway and Lot 4 boundary.
- The “survey notes” show the following note: “i. ‘Plat showing a survey of a portion of land of Wesley B. Atwood, 2427 Hillview Road, Richmond, Chittenden County, Vermont,’ prepared by Ronald L. LaRose, LS, 272, dated

April 28, 2020, and recorded in the Town or Richmond Land Records, Map Slide XXX.” Presumably the “XXX” in this note is incorrect and should be updated to ensure that the information contained with the Preliminary Subdivision plat document is complete and accurate.

Richmond Subdivision Regulations Article III Section 310.2 requires the Preliminary Subdivision plan to include the following information which is missing or incorrect from the Preliminary Subdivision plan documents:

- “(3) the location of all natural features or resources on the site such as streams, ponds, wetlands, flood plain, floodway, forest stands, established LARGE ANIMAL HABITAT”: The Preliminary Subdivision plan documents include no indication of established large animal habitat. We would like the subdivider to clarify that this is not an omission and that they are asserting that there is no established large animal habitat on this property.
- “(6) the location and dimensions of any existing wastewater disposal systems, water supplies, culverts, drains, drainage ways, or underground cables on the site”: The Preliminary Subdivision plan documents omit any reference to existing wastewater disposal systems, should they exist, related to the abandoned farmhouse or previous house sites. The Preliminary Subdivision plan documents also omit at least one well on the property, a well that was drilled recently by the landowner for which the Town has on file a Notice of Intent to Build a Farm Structure. State records indicate that other wells might also exist on the property.
- “(11) proposals for maintaining open spaces, natural features and resources on the site”: No such proposals have been put forward by the developer that we can ascertain from the Preliminary Subdivision plan documents.
- “(13) a list of waivers, if any, which the SUBDIVIDER requests from the requirements of these Subdivision Regulations, and the justification for the request”: No such waivers have been requested that we see noted in the Preliminary Subdivision plan documents, though there are several points on which this Preliminary Subdivision application does not meet Richmond Subdivision Regulations.

Alternative Layouts

Richmond Subdivision Regulations Article III Section 330 gives the Board the authority to request alternative layouts and arrangements and to identify key features or provisions which it feels should be recognized in the final layout. We ask the Board to make such requests aligned with our concerns outlined previously in this letter related to density and siting, stormwater, light pollution, and the proposed Lot 7 (remainder).

Addressing Impacts

We ask that the Board require the subdivider to submit information addressing impacts related to the considerations outlined in Richmond Subdivision Regulations Article V Section 500 General Planning Standards.

Adjacent Subdivisions

The subdivider has presented no master plan that includes further development beyond the proposed project. The subdivider has also stated that the proposed Lot 7 (remainder) will be used for agricultural and residential uses. Therefore, we ask that the Board modify the requirement of continuation of roads to facilitate access to adjacent land since compliance with Subdivision Regulations Article VI Section 600.2 is not in the public interest. We ask the Board to consider modifications and/or conditions that would limit further development of the proposed Lot 7 (remainder) including, but not limited to, addressing the “road to nowhere” and the subdivider’s plans to have two houses on one lot. See our concerns outlined previously in this letter related to the proposed Lot 7 (remainder).

Curb Cuts

Subdivision Regulations Article VI Section 600.4 states that access points shall be consolidated to minimize multiple curb cuts. The subdivider has proposed four curb cuts when currently the property is a single lot that is allowed to have only one curb cut, which would result in a fourfold increase from what should currently be one curb cut. See our concerns related to density and siting where we propose an alternative that would reduce the number of curb cuts to one.

Master Development Plan

Please note that subdivider has not presented a master development plan that shows future development and has not included any roads or other infrastructure that the subdivider expects to offer to the Town of Richmond. If the developer has such plans on this land or other nearby lands then they are required under Richmond Subdivision Regulations Article VI Section 610.1 to share that now.

Lighting

Richmond Subdivision Regulations Article VI Section 630 states that lighting shall comply with Richmond Zoning Regulations. We don’t see any plans related to lighting included in the application.

Landscaping

We ask the Board to consider requiring a detailed landscaping plan as it is authorized to do under Richmond Subdivision Regulations Article VI Section 640.2 in order to

minimize noise or visual impacts, conserve existing vegetation, and to implement Richmond Subdivision Regulations.

Underground Installation

The subdivider’s plans as presented show overhead utilities to remain. Richmond Subdivision Regulations Article VI Section 670.2 requires that all utility systems be located underground. We cannot find any proposed underground utilities within the subdivider’s plans.

Site Visit

Richmond Subdivision Regulations Article VIII Section 800 states that the Board shall conduct site visits for proposed subdivisions. If the Board chooses not to conduct a site visit we ask the Board to document its reasoning behind this decision.

Sincerely,



Bradley Holt



Jason Pelletier

See “Addendum: Character of the Neighborhood” on the following pages.

Addendum: Character of the Neighborhood



A scenic viewshed of Camel's Hump shared by many neighbors. The proposed Lot 2 house site is situated on top of the knoll pictured in the forefront, directly within the currently-unobstructed viewshed.



Most houses on Hillview Road that are set back from the road are screened from view by the road.



Many houses on Hillview Road that are situated near the road (such as the house pictured on the left) also have some level of screening.



Some areas with pastoral views and farmlands remain open and can be viewed from the road.



Much of Hillview Road is lined with trees on both sides of the road, even where houses are sited (as shown in this photograph where houses are sited on both sides of Hillview Road).



There are many forests, hills, pastures, and other undeveloped lands alongside Hillview Road.



The knoll is a recognizable natural feature at the base of Owl's Head that is visible to many neighbors and offers pastoral views from this and other vantage points on Hillview Road. The proposed Lot 1 and Lot 2 house sites will both be situated on the knoll within the framing of this photograph.



A pastoral view from Hillview Road with the proposed Lot 3 driveway visible on the left and Class II wetlands visible in the foreground (shown here mowed). The proposed Lot 3 house site will be situated directly within this pastoral view at the base of Owl's Head.



The proposed Lots 4–7 road can be seen where it connects to Hillview Road on the right side of this photograph and then passes through a stand of trees. Once the proposed Lots 4–7 road passes the stand of trees shown in this photograph, the proposed lots that the road serves are much better screened than the proposed Lots 1, 2, and 3, and are generally not within the scenic viewshed.



Hillview Road is a gravel road with undeveloped rolling hills, working agricultural lands, and homes that integrate into the pastoral landscape.