

SUTTON PLANNING BOARD

Meeting Minutes

January 10, 2022

Approved _____

*Note- This meeting was held in person and remotely via Zoom in accordance with recently enacted legislation. The Chair read a notice regarding the hybrid meeting format. (see end of minutes)

Present in person: M. Gagan, R. Largess Jr., W. Baker, W. Talcott

Present remotely: S. Paul

Absent: None

Staff: J. Hager, Planning & Economic Development Director

Public Hearing (cont.) – Unified - Definitive Subdivision – Boston & Providence Roads

The Chairman began by thanking the applicant for providing written responses to comments received that are posted on the Planning Board page on the town's website including those from the Board of Assessors, Graves Engineering, Planning Director, Wilkinsonville Water District and the general public.

The following individuals were present on behalf of the applicant:

Matt Piekarski, Director of Development Kraft Group

Keith XXXX, P.E., Bohler Engineering

Valerie Moore, Esq., Nutter, McClellan & Fish, LLP

Brent MacDonald, Esq., Nutter McClellan & Fish, LLP

M. Piekarski asked if the Board had any follow up questions or clarifications or if the Board wants him to review the responses one at a time. The Chairman said he didn't see the need to review each response individually. He opened discussion to any questions or comments.

W. Talcott asked some follow up questions:

- When will traffic and counts be addressed. J. Hager stated it would be putting the cart before the horse to discuss traffic impacts before the uses are known. Changes which would be required regardless, like a turn lane on Boston Road have been included in the filing.
- What actions are to be taken related to Caplette Road. J. Hager responded there will be an article to definitively discontinue the way as it's no longer used and the action will settle any questions about its status.
- He asked about the retaining wall in the right of way and if the Town would be responsible for that if the road is public. J. Hager stated the Town would likely require it be moved out of the right of way, the right of way line be jogged at this point to keep the wall private, or an easement and agreement established for long term maintenance of the wall.
- Public versus private? currently shown as private with signage dissuading cut through traffic, but the road will not be gated. There is ongoing discussion on whether the road should be public. Ultimately the voters at Town Meeting would decide if it is accepted as a public way.
- Granite on intersections, bituminous curbing everywhere else.

The Board reviewed requests from Wilkinsonville Water District for various conditions.

The Water District requested no sodium be used within the Zone 2. J. Hager stated Sutton uses primarily magnesium chloride occasionally mixed with sodium chloride, and very little sand. Questions remained about what type of deicing should be authorized within the Zone 2 for the Wilkinsonville wellheads. J. Hager will continue to seek this answer.

J. Hager confirmed Wilkinsonville was provided response to their comments directly and they have not had any follow up commentary.

The Water District requested a condition to require a well connection of a particular size, etc. J. Hager read the response from the applicant. M. Piekarski added it's premature to lock in these aspect now as they don't have definitive users so this hasn't been designed. He said it is more applicable to discuss and pin down during site plan approvals. R. Largess Jr stressed the #1 concern is protecting the well and he is fine with other details being worked out as the project proceeds.

The Water District requested monitoring wells and testing. M Piekarski said they have agreed to pay for installation of monitoring wells and their testing, but stated Wilkinsonville should be responsible for the testing as this is what they do.

The Water District asked for fertilizer to be banned in the Zone 2. The applicant asked if they can just fertilize the new trees. The closest street trees are about 500' from the wellhead.

W. Baker stressed regardless of what goes on the lots, trucks should be prohibited from making left turns out of Boston Road. He was happy to see agreement of

S. Paul stated two issues brought up by Graves Engineering should be made into conditions. These include improvements to roadway/turning radii geometry and sight distance. J. Hager read draft conditions that are meant to address these concerns.

There were no additional comments from the public.

J. Hager confirmed Graves Engineering had reviewed waiver requests.

The Board addressed remaining waiver requests:

4.A.2.k. – The roadway cross section is not like that in the appendix: The width of the right of way is 70' as opposed to 50' or 60', the width of pavement is 46-58' instead of 26', the gravel subbase is 12" instead of 18", the top and base courses of pavement are 2.5" and 4" instead of 1.5" and 1.5" respectively.

W. Talcott asked J. Kuchick if the reduction in gravel subbase course is mitigated by the thicker top and base courses of pavement. J. Kuchick confirmed the thicker pavement mitigates less gravel subbase.

Motion: To grant the waiver to allow differences from the typical roadway cross section as detailed having discussed and accepted the reasons for differences, W. Talcott

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

4.A.3. – J. Hager agreed with the engineer that a waiver is not required to have wider pavement, only narrower.

4.F.3. – Temporary construction easements are not shown on land adjacent to the roadway, as the applicant owns all land adjacent to the roadway.

Motion: To grant the waiver to eliminate temporary construction easements adjacent to the roadway having discussed and accepted the reasons for elimination, W. Talcott

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

4.H. – Removal of trees over 12” shall be prohibited in the front setback of proposed lots unless otherwise allowed by the Board. The applicant is proposing the removal of 110 trees with replacement at 1 to 1 as part of the site plan approval process. M. Piekarski responded to a removal timeline question stating most trees are on lot 3 and in the right of way in this area. The roadway and Lot 2 will be built first hopefully starting in the Spring. He added a minimum of 65 of the trees will be installed as part of roadway construction as street trees.

Motion: To grant the waiver to allow the removal of 110 trees with replacement at 1 to 1 having discussed and accepted the reasons for the removals, with 65 tree being installed no later than immediately after top course paving of the roadway before AsBuilt approval, and the remainder shall be installed within 3 years of this subdivision approval date or sooner if required per site plan approval on the subdivision lots, W. Talcott

2nd: R. Largess Jr.

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
S. Paul – aye

5.F.2. – Reduction in gravel subbase layer to 12” from 18”.

Motion: To grant the waiver to allow the reduction in gravel subbase from 18” to 12”, having discussed and accepted the reasons for the removals, W. Talcott

2nd: R. Largess Jr.

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
S. Paul - aye

5.G.1. – Curbing shall be granite. Waiver requested for bituminous cape cod berm with concrete at intersections. Graves Engineering recommended granite at intersections.

Motion: To grant the waiver to allow bituminous berms with granite at intersections, having discussed and accepted the reasons for the substitution, W. Talcott

2nd: R. Largess Jr.

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
S. Paul - aye

5.I.4. – Sidewalks shall be of Portland cement concrete. Waiver requested for bituminous sidewalk.

Motion: To grant the waiver to allow bituminous berms with granite at intersections, having discussed and accepted the reasons for the substitution, W. Talcott

2nd: W. Baker

Vote: 4-1-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - no,
S. Paul – aye – R. Largess Jr. doesn’t feel sidewalks will be used or are consistent with Suttons aesthetic

4.B.2.b. – Reduction in cover over storm drains and size of pipe near Providence Road. J. Kuchick confirmed they will use a higher class of reinforced concrete pipe (RCP) where there is less cover.

Motion: To grant the waiver to allow less cover over drainage pipe is limited locations, having discussed and accepted the reasons for the reduction, W. Talcott

2nd: R. Largess Jr.

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
S. Paul - aye

4.B.2.c. – Increase in distance between catch basins at select locations and elimination of curb inlets.

Motion: To grant the waiver to allow increased distance between catch basins at select locations, having discussed and accepted the reasons for the substitution, W. Talcott
 2nd: R. Largess Jr.
 Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

4.B.2.f. – Flared end sections instead of headwalls at some locations. M. Piekarski stated they want to go with flared end sections at a few locations until they design drainage on the subject lot, at which point the flared end section may be converted to headwalls, etc. through the site plan review process. If they remain in the end, they still meet drainage standards.

Motion: To grant the waiver to allow flared end sections instead of headwalls at select locations, having discussed and accepted the reasons for the substitution, W. Talcott
 2nd: R. Largess Jr.
 Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

5.F.3. – Top and base course of pavement shall each be 1.5”. A waiver request has been submitted for 4” base course and 2.5” of top course considering the industrial use of the roadway.

Motion: To grant the waiver to allow 4” base course and 2.5” top course of pavement, having discussed and accepted the reasons for the substitution, W. Talcott
 2nd: R. Largess Jr.
 Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

W. Baker read draft conditions which were also shared to the viewing screen.

#12 - The Board adjusted operating hours to note typically work shall take place Monday through Friday from 7:00 AM to 3:30 PM, but when necessary may take place Monday through Friday from 6:30 AM to 5:30 PM and Saturday from 7:30 AM to 4:00 PM. Work shall also not take place on New Year’s Day, President’s Day, Memorials, Day, July 4th, Labor Day, Columbus/Indigenous People’s Day, Veteran’s Day, Thanksgiving, and Christmas. Any work to be conducted outside these hours shall occur only if authorized in writing by the Police Chief or Planning Director.

#18 & #19 - Attorney Valerie Moore from Nutter suggested changes in language which the Board agreed to as follows: #18 If at any point the roadway is to be held by an entity not controlled or owned by the applicant, prior to transfer of the roadway, the applicant must establish a legal mechanism approved by the Town, such as a park association, to ensure the perpetual maintenance and upkeep of the roadway and storm water management facilities to include all detention and infiltration basins, all drainage swales, all outlet structures and all water quality inlets. These obligations shall be recorded on the deed or cross-referenced to the deed of each individual lot with legal frontage on the roadway. #19 If at any point the stormwater facilities related to the roadway located on each individual lot are to be held in different ownership than the roadway, a legal mechanism shall be established and recorded to ensure said facilities can be legally maintained.

#21 – The Board through J. Hager will come up with deicing answers by 3/1/22

The Board discussed requests from Wilks Water for conditions. The applicant agreed to install monitoring well(s) and pay for the tests, but Wilks will need to schedule and do them as that’s what they do. The Board agreed no fertilizers should be used in the Zone 2 except directly on new trees. V. Moore asked that the language of a proposed condition about obtaining Wilkinsonville approvals be adjusted to specify “to the extent approvals are actually required”.

#15 - With respect to concerns from the applicant about the timing of this condition, the Board agreed to adjust the condition so the evaluation and formulation of work plan shall occur no later than when the intersections are constructed to approximate road subgrade, and the work shall be completed before the AsBuilt- of the roadway is approved, surety is released, and roadway use commences.

Motion: To grant definitive subdivision approval based on plan sets dated 1/7/22 with the following conditions, R. Largess, Jr.

Prior to endorsement of the definitive plans:

1. Prior to plan endorsement in accordance with MGL, the applicant shall provide a covenant that states the lot(s) shall not be transferred, nor occupancy granted for any structure with frontage on the roadway, until the construction of the roadway and any related site restoration is 100% complete.
2. Prior to plan endorsement all waivers and conditions of approval shall be noted on the plan sheets to be recorded.

Prior to commencement of construction:

3. Approval of all other required local and state departments, boards, and commissions.
4. As soon as the subdivision plan is recorded, an electronic file of the roadway and parcel lines shall be provided to the Assessor's Office in a form determined by them.
5. Prior to commencement of construction the Applicant/Engineer shall submit three (3) full size sets of the endorsed plans, one (1) 11" X 17" reduced set, and one (1) electronic copy in pdf format to the Sutton Planning Office.
6. Prior to commencement of construction the applicant shall attend a preconstruction meeting with the Planning Department, applicable department representatives, and other bodies that have responsibilities relative to the site, as well as the site contractor and other personnel the applicant feels are appropriate.
7. Prior to commencement of construction the applicant shall post a road opening bond as they are impacting existing public roadways.
8. All erosion control measures must be in place, and inspected by the Town's consulting engineer, and maintained throughout the duration of the project. Twenty-four hours to rectify erosion problem, fine of \$200 per day each day after notice of violation of this condition is served in writing via hand delivery or mail to owner, owner's attorney or lead contractor.
9. Prior to commencement of roadway construction, all storm water facilities necessary to control, receive, and contain runoff, (I.E. detention basins, infiltration basins, etc.,) not including the closed drainage system, must be in place, stabilized, and inspected by the Town's consulting engineer.
10. All appropriate off-site construction warning methods, as determined by the Highway and Police Departments, shall be installed including "Trucks Entering" signage on Providence and Boston Roads.
11. Retaining wall design must be approved by the Towns consulting engineer.

During construction:

12. Construction shall typically take place Monday through Friday from 7:00 AM to 3:30 PM, but when necessary may take place Monday through Friday from 6:30 AM to 5:30 PM and Saturday from 7:30 AM to 4:00 PM. Work shall also not take place on New Year's Day, President's Day, Memorials, Day, July 4th, Labor Day, Columbus/Indigenous People's Day, Veteran's Day, Thanksgiving, and Christmas. Any work to be conducted outside these hours shall occur only if authorized in writing by the Police Chief or Planning Director.

13. The applicant shall ensure run off, dirt, and other construction materials are contained to the construction area and shall clean up anything tracked onto adjacent roadways at the end of every work day.
14. The applicant shall coordinate required subdivision inspections with the Towns consulting engineer in a timely manner.
15. The applicant shall rebuild or modify plantings or features that may inhibit sight distance at both the Providence Road and Boston Road intersections, with a follow-up evaluation and approval of sight lines by the Towns' consulting engineer after the modifications are implemented. The evaluation and formulation of work plan shall occur no later than when the intersections are constructed to approximate road subgrade. The work shall be completed before the AsBuilt- of the roadway is approved, surety is released, and roadway use commences.
16. The applicant shall complete the evaluation of the Boston Road intersection including adequacy of geometry for turning movements and implement any improvements prior to transfer of any lot, occupancy of any structure along the roadway, or use of the roadway for daily traffic flow other than intermittent construction traffic.

General:

17. At the conclusion of roadway construction and prior to release of surety for the project, the Applicant shall provide to the Planning Board an As-Built Plan and written certification from the Applicant's project engineer that the road has been constructed in accordance with the approved plans.
18. If at any point the roadway is to be held by an entity not controlled or owned by the applicant, prior to transfer of the roadway, the applicant must establish a legal mechanism approved by the Town, such as a park association, to ensure the perpetual maintenance and upkeep of the roadway and storm water management facilities to include all detention and infiltration basins, all drainage swales, all outlet structures and all water quality inlets. These obligations shall be recorded on the deed or cross-referenced to the deed of each individual lot with legal frontage on the roadway.
19. If at any point the stormwater facilities related to the roadway located on each individual lot are to be held in different ownership than the roadway, a legal mechanism shall be established and recorded to ensure said facilities can be legally maintained.
20. During and after construction a sign shall be installed at the exit to Boston Road prohibiting trucks from turning left. All trucks that need to travel south east shall exit to Providence Road.
21. Deicing materials shall be limited within the Zone 2 and adjacent to wetlands on the site (Stations 11+00 to 49 +00) in accordance with the recommendations of the Planning Board to be determined by 3/1/22.
22. Any material modifications to the Subdivision required by another permitting authority shall be submitted to the Planning Board for its review and action as an amendment.
23. The applicant shall install one monitoring well near the location of TP-210, but adjacent to and closer to the proposed fence at the edge of the proposed stormwater management area #3; and another monitoring well between proposed headwall HW-5B and proposed stormwater management area #2. The applicant shall pay for annual testing at these monitoring wells which shall be conducted by representatives of the Wilkinsonville Water District.
24. Application of fertilizers to the east of the proposed roadway, within the Zone II well head protection area, specifically between proposed roadway stations 12+50 and 37+00. shall be limited to fertilizing of trees only.

25. Prior to commencement of construction, to the extent they are required, approvals shall be obtained from Wilkinsonville Water District to connect to their system.

2nd: S. Paul

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

Motion: To close the public hearing, W. Talcott

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

Action Items

Form A Plan – 47 Lackey Road

Motion: To approve the plan dated Rev. 1/10/22 showing 1 new lot, R. Largess Jr.

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

Form A Plan – 140 Manchaug Road

Motion: To approve the plan dated Rev. 1/10/22 showing 1 new non-buildable lot, W. Baker

2nd: R. Largess Jr.

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul – aye

In response to a question from W. Talcott, R. Nunnemacher, Assessor, stated even though these are non-buildable the similar ones on this lake sold for \$30,000 as they provide access to the water.

Form A Plan – 12 John Road

Motion: To approve the plan dated 10/22/21 showing 2 reconfigured lots, R. Largess Jr.

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye, S. Paul - aye

Earth Removal Exemption – 16R Worcester Providence Turnpike

The Board reviewed an application to remove approximately 8,000 c.y. of earth from the MIG site at 16R John WP Turnpike with access of John Road. The removal is estimated to take about 240 days with 5 dumps and tri-axels making 4-5 trips per day. J. Hager reviewed photos of the site showing the slope of the site that requires the removal to achieve a level pad site for the building and storage areas. The Board discussed concerns with the condition of Deb & John Roads post removal operations.

Motion: To grant an earth removal permit exemption conditioned on the following: S. Paul

1. Approval of all other applicable local or state departments, boards, and/or commissions.
2. Before any earth is removed from the site, the applicant must provide the location and contact information for the receiving location for the excavated earth and receive Board approval for the location and proposed travel route.
3. Prior to any earth removal, the Highway Superintendent and a representative of the property owner shall inspect and document the condition of John and Deborah Roads. The applicant shall post a roadway repair bond in an amount to be determined by the parties. This bond shall guarantee repair of the roadways should they degrade during the earth removal operations.

2nd: W. Baker
 Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
 S. Paul - aye

Housing Choice Act Compliance

J. Hager stated that back in February of 2022, the Governor signed an Act to promote more housing. The Act required that Special Permits for multi-family housing including accessory dwelling units (ADUs) like Sutton's Accessory Apartment Special permit only require a majority vote to approve as opposed to a super majority. This bylaw change was to be tackled this year. However, she noted she was surprised to learn in a bulletin from KP Law last week that Sutton is an MBTA community and there are further requirements for MBTA communities. Sutton is an MBTA community because it directly abuts one or more communities with MBTA facilities and/or services. The additional requirements for MBTA communities include establishing a district of at least 50 acres where non-age restricted multi-family housing is allowed as of right. The housing has to have an effective density of 15 units per acre. If communities do not adopt such a bylaw they will be disqualified for various state funds including MassWorks funding which Sutton has used numerous times including a recent \$2.25 million grant for infrastructure to support Primetals and the industrial park. The Town would also rank lower than compliant communities in other State grant funding requests. Full compliance will not be expected until likely 2024, but there are measures that must be taken now and by next year to be considered in compliance. The Board agreed with J. Hager that they should reach out to Central Mass Regional Planning Commission (CMRPC) to see what they are doing regionally for their MBTA communities and enlist their help if possible in drafting possible bylaws, considering appropriate sites and creating a public process for discussion and input to potential bylaws. Ultimately it will be Sutton voters at Town meeting who decide if they want to allow this type of housing, which the Housing Needs Study shows is needed, or if they will voluntarily forego various forms of funding that have benefitted the Town in the past.

Administrative Items

Motion: To approve the minutes of 12/20/21, R. Largess Jr.
 2nd: W. Talcott
 Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
 S. Paul - aye

Filing – The Board acknowledged the following filings with hearings on January 31st.

- Special Permit and Site Plan Exemption – Retail Store - 25 Providence Road (7:15)
- Site Plan Approval & Use Special Permit – Koopmans - 29 Gilmore Drive (7:30)

Board Business:

Permitting Question – 357 Manchaug Road - J. Hager stated this location used to be an interior designer and related retail. The previous designer sold the property two years ago on the January 31st. Another potential interior designer wants to occupy the space but her operation would be starting after two years have expired since the last use was active on the site. The Planning Directors opinion was she should get a new Special Permit, just to have the assurance of a permit. She recommended more importantly that the potential buyer visit the Building Commissioner and Fire Chief for any requirements they may have that could be expensive. R. Largess Jr. felt she should be allowed to go ahead. M. Gagan and the remainder of the Board wanted to encourage this re-use but felt in terms of precedent and safety she should get the special permit and site plan waiver.

Correspondence:

CMRPC Quarterly Meeting – The next quarterly meeting of Central Mass Regional Planning Commission will be Thursday, January 13th at 7 PM. The main subject will be continued discussion about the next 20-year regional plan.

Motion: To adjourn, R. Largess Jr.

2nd: W. Baker

Vote: 5-0-0: W. Talcott – aye, W. Baker – aye, M. Gagan – aye, R. Largess Jr. - aye,
S. Paul - aye

Adjourned 9:35 PM

Covid Meeting Statement:

Pursuant to Governor Baker’s March 12, 2020 Order suspending certain provisions of the Open Meeting Law, this meeting of the Sutton Planning Board is in a hybrid format with both in-person and Zoom component. To join the meeting visit www.zoom.us/join and enter Meeting ID: 849 6337 7846 Password: 238331. The meeting will be broadcast and recorded on local public access station (Verizon 31 & Charter/Spectrum 191) and live streamed on the Towns YouTube channel when available.