



## Fairhaven Planning & Economic Development

40 Center Street, Town Hall, Fairhaven, Massachusetts 02719

### Definitive Subdivision: Hiller & Timothy St. Subdivision

DS 19-01 Staff Report: revised September, 5, 2019

*Note: New Information is printed in Bold Type*

#### 1. DESCRIPTION

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- 1.1 **Applicant:** Robert Roderiques; **Agent:** Schneider, Davignon, & Leone, Inc. (Engineers)
- 1.2 **Owner(s):** Jimmy A. Papas and Nickolas L. Papas
- 1.3 **Project Location:** Map 28C, Lots 71 and 71A. The proposal is to create frontage for the lots by creating new roads off of Hiller Avenue and Timothy Street. (10.8 acres total).
- 1.4 **Proposal:** The proposal is to create sixteen (16) buildable lots with two drainage parcels on a 10.8-acre parcel of land through the definitive subdivision process. **(Based on Plans received May 28, 2019)**
- 1.5 **Zoning:** RA – Single Residence District. The District requires a minimum of 15,000 sf and 13,500 sf upland. The applicant has not requested any waivers from the Subdivision Regulations.
- 1.6 **Local Permits:** Definitive Subdivision from Planning Board; NOI for roads and drainage from Conservation Commission; Board of Health; Connection to the Wastewater Treatment Facility from the DPW;
- 1.7 **Surrounding Land Uses:** Fairhaven Sewage Treatment Plant, residential neighborhood, Bureau of Public Works yard and offices; wind turbines.
- 1.8 **Project History:**
  - The Preliminary Plan was virtually the same proposal and was denied in December 2018. The proposal has been continued twice without taking testimony. **A Peer Review of the storm water report and plans was received and forwarded to the Applicant on July 18, 2019. No new plans have been received.**
- 1.9 **Project Summary:**
  - To create a sixteen (16) lot subdivision on a 10.8-acre parcel of land.
  - The proposal would create frontage for the 16 buildable lots by constructing three new dead-end roadways off Hiller Avenue and Timothy Street.
    - An approximately 330' long roadway ending in a hammerhead perpendicular to Timothy Street.
    - An approximately 550' long roadway ending in a cul-de-sac perpendicular to Hiller Avenue.
    - An approximately 320' long roadway ending in a hammerhead extending Hiller Avenue.
  - There would be two drainage parcels.
    - Drainage Parcel A, off of Hiller Ave Extension, is a constructed drainage pond of 23,478 sf
    - Drainage Parcel B, off of new roadway is mostly wetlands with constructed drainage pond.
  - At least 90% of the buildable lots and drainage Parcel A would be cleared of trees and filled up to 7' deep, in many cases up to the property line and the wetlands (as shown by the proposed fill lines on the plan).

#### 2. ADMINISTRATIVE SUMMARY

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- 2.1 **Complete Filing Stamped Received:** May 28, 2019
- 2.2 **Advertisement:** June 20 and June 27, 2019; July 25 and August 1; and August 22 and 29, 2019 in the Fairhaven Neighborhood News;
- 2.3 **Site visits:** None yet
- 2.4 **Public Hearing:** July 9, 2019; **continued to August 13, 2019 without taking any testimony; continued to September 10, 2019 without taking any testimony.**

#### 3. PLANNING CONCERNS

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##### 3.1 Key Planning Issues

- **Storm water:** A storm water report was prepared by Keri Williams P.E. A Peer Review of the storm water report **has been** prepared by GCG Associates. **A summation of key concerns is described in storm water section below.**

- **The application said this is 10 acres but the Assessors records show this as 15 acres.**
- Suitability: The proposal is on wooded lowlands with a significant amount of wetlands abutting the sewage treatment plant and transfer/recycling center within the buffer of both wind turbines.
  - The sewer treatment plant (which is scheduled to be expanded) regularly emits noxious fumes detectable in the existing neighborhood. These houses would be closer to the sewer plant and remove most of the existing vegetative buffer.
  - The site is wholly within the buffer of the two town wind turbines. If the homes already existed, the turbines would not be allowed to be constructed due to the required buffer.
- Suitability: The proposal requires a very significant amount of fill throughout almost the entire site to create the roads, driveways and development areas to bring the site out of low-lying land near the water table.
  - How much fill is required?
  - Where will the fill come from?
- Intensity of Use: The proposal creates three new dead end roads off of existing neighborhood streets. The clearing and grading would require many hundreds of truck trips that would cause significant disruption to the existing neighborhood.
- Wetlands: Almost 30% of the proposed site is existing wetlands and another 30%-35% of the site is within the 100' buffer of the wetlands.
  - The Conservation Agent has expressed a concern with several of the lots that are made up of predominantly wetland (e.g. Lots 8, 9, and 12). Many of these lots will need permits through the Con. Comm. for any proposed future work including construction, additions, decks, pools, or patios. There is likely to be encroachment into the wetland and a potential for violations in the future.
  - The majority of the buildable area on lots 8, 10, 11, 12, 13 and 16, and all of lot 9, are within the 100ft jurisdictional buffer zone and will require permission from the Conservation Commission to initially build a house and later make improvements.
  - There is a significant amount of work proposed in the buffer zone near the wetland line. Significantly reducing the amount of vegetation, especially mature trees, in the buffer zone can have negative impacts on the wetland such as increased temperatures and a reduction in the filtration of pollutants.
  - There is grading for a hammerhead within 10 feet of a wetland and paving within 30 feet. Some driveways are located as close as 10 feet to a wetland with grading and tree removal even closer.
- Flooding: The site is lower than the surrounding existing neighborhood and receives and handles a significant amount of storm water during rain storms. The site slopes from east to west from about 11' (from elevation 45' on the west to elevation 34' on the east. The proposal for the existing Hiller Avenue storm water is to capture the existing neighborhood storm water flow in two catch basins and bypass the proposed neighborhood through a 370' long drainage pipe then discharge the storm water at the edge of the site with a 110' long trap rock swale between detention area A and the town sewer plant and then directly into the wetlands. **The Peer Review notes that this flow does not appear to have been adequately addressed.**
- Traffic: 16 new homes can be expected to generate about 160 new daily trips through existing neighborhoods.
- Social Justice: If these houses already existed it is not inconceivable that the residents would protest the Town allowing habitation in an unsuitable location abutting the sewage treatment, wind turbines and wetlands.
- Subdivision of Land:
  - Section 322-16(A)(3), The Plan does not meet the requirements which state that "It is the Board's policy not to approve streets that do not connect to existing neighborhoods or do not provide for connections in the future."
  - Section 322-16(B) footnote 6 states "No part of a hammerhead shall be used for a driveway to the lot(s) or for the parking of cars."
  - Section 322-24 (Natural Feature) states that "all natural features such as large trees...stonewalls...shall be preserved if in the opinion of the Planning Board they will add attractiveness and value to the subdivision". At least 90% of the lot outside of the wetlands would have to be cleared to do the new grading as shown on the plans and all stone walls except those on the property line or in the wetlands would be removed or buried to die to grading and construction plans.
- Comments from other Town Departments:

- Fire Department (Chief Tim Francis): Fire Department has approved the plan as proposed.
- Police Department (Chief Mike Myers):
- Public Works Department (Vinnie Furtado): **Re-submitted concerns from December 2018 Preliminary review noting that the plant regularly emits noxious fumes detectable in the existing neighborhood.**
- Highway Department (John Charbonneau):
- Finance/Treasurer/Collector, Wendy Graves:
- Assessor (Def Garcia):
- Conservation Agent (Whitney McClees): Has submitted a memo with concerns (attached).
- Board of Health:

### 3.2 Environment

- **Vegetation:**

- The site is completely wooded at this time with a mix of mature deciduous and evergreen trees.
- The significant grading required for roads, driveways, house sites and drainage will result in the removal of the vast majority of trees on the site.
- Increasing the number of homes in the area has the potential to increase the amount of fertilizers, herbicides, and pesticides that runoff into the wetland.

- **Wetlands:**

- The property is sloped from west to east with an elevation change of approximately 11 feet, from the west side of the property to wetlands located on the east side.
- The Conservation Commission issued a Determination of Applicability based on Preliminary Subdivision plans dated November 8, 2018 that Lots 1, 2, 3, 4 and 14 were not within their jurisdiction.
- The Commission made no determination on the 11 other lots and other aspects of the proposed project.
- Included in the Determination was a caveat that if any of the lot lines change, it renders the Determination void.
- The Applicant has filed a Notice of Intent with the Conservation Commission to receive a permit to build the roads, stormwater management facilities, and utilities associated with a 16-lot subdivision.
- Both proposed detention ponds are located directly next to the wetlands on the property and portions of all three proposed roadways fall within the 100-foot buffer zone to the wetland.
- 10 of the 16 proposed lots have wetland and/or are within the buffer zone on the lot.

- **Habitat:** The site is not in a Natural Heritage Endangered Species Program (NHESP) Priority Habitat.

- **Lighting:** No lighting plan has been submitted yet.

- **Landscaping:** No landscaping plan has been submitted yet.

- **Noise:** The site would be within the buffer zone of two 500' tall industrial wind turbines that are believed to affect some people.

- **Open Space:** There is no plan to provide any open space.

- **Bicycle/Pedestrian/Trails:** The site abuts the Fairhaven Bike Path.

- **Energy/Sustainability:** The plans do not include any special requirements for energy.

- **Waste Management:**

- **Water/Wastewater/Stormwater:**

- **Water Source:** Town Water.

- **Watershed:** The site is in the Buzzards Bay watershed.

- **Nitrogen Loading:** The 16 houses would be connected to the Wastewater Treatment Facility.

- **Storm water:** A storm water report was prepared by Keri Williams PE. A Peer Review of the storm water report has been prepared by GCG Associates. **The Peer Review has detailed many concerns with the plan including a number of concerns that need to be addressed in the plan. Some of their concerns have to do with requirements of the Fairhaven Zoning Bylaw Section 322.**

- **For example Section 322-14C(18) requires a plan of trees to be retained and those to be removed.**
- **Judging by the proposed grading it would appear that at least 90% of the existing vegetation outside of the wetlands is proposed to be removed.**

- Section 322-14D(1) requires an environmental impact analysis.
- Section 322-14D(8) requires a street lighting plan.
- There are a number of other requirements that need to be met, included in the plans or at least require a response. GCG also made a number of comments on the storm water.
  - Existing abutting Lots 78 and 79 appear to be surrounded by new fill up to 5" higher than the existing lots right up to their property line that would appear to make it likely that storm water will come from the proposed subdivision property back onto Lots 78 and 79.
  - Two retaining walls are proposed next to these two lots (78 & 79), the majority of the walls are located in the proposed right-of-way and partially in the new lot. The walls will become the Town's responsibility after street acceptance. In general, the layout as shown does not meet the drainage setback and local requirements.
  - The Peer Review also questions the size and setbacks of the infiltration basins and storm water control infrastructure. According to the Peer Review the Infiltration Basins need to be set back at least 50 feet from the wetlands. Bigger setbacks will likely require altering the plan.
  - The site slopes 11' from east to west and is lower than the surrounding existing neighborhood to the west. The Peer Review does not seem to believe that this existing storm water runoff is adequately accounted for.

### 3.3 Transportation

- **Access:** Three new dead-end/cul de sac roads. One off of Timothy Street and two off of Hiller Street.
- **Trip Generation:**
  - **Existing:** The site currently produces zero trips.
  - **Proposed:** The proposal for 16 new homes can be expected to generate about 160 new daily trips based upon ITE standards through existing neighborhoods.
- **Nearby Intersections (LOS):** The nearby elementary school on Sconticut Neck Road has congestion issues in the morning and when school lets out.
- **Traffic Summary:** Adding three new dead-end/cul de sac roads onto existing neighborhood streets will add traffic to quiet neighborhood streets. Several curves on the proposed roads do not appear to meet Fairhaven Code standards.

### 3.4 Economic Impact

- The impacts to municipal services such as schools, police and fire should be minimal.
- **The impact of adding a new neighborhood between the existing neighborhood and the sewage treatment plant and wind turbines would impact the existing neighborhood that has already sued the town due to the wind turbines. This proposal would likely exacerbate their situation.**

### 3.5 Scenic Values

- **Visibility:** The site is away from busy public roads. The large amount of clearing required to bring the site up will expose the existing neighborhood more to the sewage treatment plant and the turbines.
- **Building/Massing:** Housing plans or size limits have not been offered.
- **Architectural Detailing:** Housing plans, size limits or architectural details have not been offered.

### 3.6 Local Impact/Abutters

- **Approximately 25 abutters to the proposed subdivision showed up for the scheduled public hearing on August 27 that was continued without taking testimony. Those that have contacted the Planning Department have expressed concern with this development removing what buffer they have now between themselves and the sewage treatment plant and the wind turbines. They fear that cutting down the woods to accommodate this proposal will make their exposure to the sewage and the flicker from the wind turbines worse.**

## 4. CORRESPONDENCE

### 4.1 Town Officials:

### 4.2 Town Organizations:

### 4.3 Public: Wayne Gifford has written with concerns;