



Planning Department

**TOWN OF ACTON**  
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**MEMORANDUM**

**To:** Planning Board

**Date:** April 9, 2012

**From:** Roland Bartl, AICP, Planning Director

**Subject:** Application for PCRC Special Permit @ 12 Summer Street (rear)

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**Location:** 12 Summer Street – rear (West Acton area); access via Central Street  
**Owner:** William D. Chisholm, 390 Goodrich Rd., Lunenburg, MA 01462  
**Applicant:** Mt. Laurel Realty (S. Marsh), 204 Goodrich Rd., Lunenburg, MA 01462  
**Engineer:** R. Wilson & Ass., Inc. (D. Garvin), 676 Great Rd., Littleton, MA 01460  
**Proposed Lots:** 3 lots  
**Proposed Units:** 3 new dwelling units  
**Proposed Streets:** n/a; +/-1,400 feet common driveway  
**Street Length:** n/a  
**Site Area:** 11.94 acres  
**Common Land:** 10.69 acres  
**Map/Parcel:** F2B-106  
**Zoning:** Residence 4 (R-4); GPD Zone 3 (front), Flood Plain (≈ wetlands)  
**Filing Date:** **March 1, 2012**  
**Hearing:** **April 17, 2012**  
**Decision Due Date:** **July 16, 2012**

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The following are the Planning Department's review comments on the application. Please refer to other departmental comments and comments from Acton residents for a full review of the application.

The application is for a Planned Conservation Residential Community (PCRC) special permit pursuant to section 9 of the Acton Zoning Bylaw (ZBL). Three single family dwellings are proposed on three lots with a common driveway off Central Street.

The subject "Parcel 2" of 11.94 acres had 63.87 feet of frontage on Central Street. "Lot 1" at 12 Summer Street shown on the plan with the existing dwelling was divided out by ANR land division in 2011. "Parcel 2" might also be developable

- by right as a building lot for one single-family dwelling under ZBL section 5.3.4 (hammerhead lot with at least 50 feet of frontage and 120,000 square feet in area); or
- as a subdivision for more than one lot with single-family dwellings subject to certain waivers from the Subdivision Rules (e.g. maximum road length to exceed 500 feet). It is

doubtful that such a subdivision could yield three lots; two lots seem more feasible. Such a subdivision would cause significantly greater wetlands impacts unless it was approved under the Residential Compound section of the Subdivision Rules. Generally, I think a driveway or common driveway more or less as proposed is sensible as opposed to a full-blown subdivision street. There are significant wetlands issues under any scenario that need to be sorted out before the Conservation Commission.

When considering a PCRC special permit application, the Board must consult ZBL sections 9.5 and 10.3.5 for general guidance and required findings:

**9.5 Planning Board Action** – In evaluating the proposed PCRC, the Planning Board shall consider the general purpose and objectives of this Bylaw; the existing and probable future development of surrounding areas; the appropriateness of the proposed layout of STREETS, ways, LOTS, and STRUCTURES; the proposed layout and USE of the Common Land; the topography; soil; and other characteristics and resources of the TRACT OF LAND in question. The Planning Board may grant a special permit for a PCRC if it finds that the PCRC:

- a) complies in all respects with the applicable requirements of this Bylaw;
- b) enhances the purpose and intent of PCRC Development;
- c) enhances the goals of the Open Space and Recreation Plan;
- d) is in harmony with the character of the surrounding area and neighborhood; and
- e) complies with the requirements of Section 10.3.5.

9.5.1 The Planning Board shall consider the recommendations, if any, of the Board of Health, the Conservation Commission, and other town boards and staff in making said findings.

9.5.2 The Planning Board may require changes to the "PCRC Site Plan" and impose additional conditions, safeguards and limitations as it deems necessary to secure the objectives of this Bylaw, including without limitation, any conditions, safeguards or limitations listed in Section 10.3.6<sup>1</sup>.

**10.3.5 Mandatory Findings by Special Permit Granting Authority** – Except for a Site Plan Special Permit, the Special Permit Granting Authority shall not issue a special permit unless without exception it shall find that the proposed USE:

10.3.5.1 Is consistent with the Master Plan.

10.3.5.2 Is in harmony with the purpose and intent of this Bylaw.

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<sup>1</sup> 10.3.6 Special Permit Conditions – The Special Permit Granting Authority may impose such conditions, safeguards and limitations as it deems appropriate to protect the neighborhood or the Town including, but not limited to:

10.3.6.1 Dimensional requirements greater than the minimum required by this Bylaw;

10.3.6.2 Screening of parking areas or other parts of the premises from adjoining premises or from the STREET by specified walls, fences, plantings or other devices;

10.3.6.3 Modification of the exterior features or appearances of the STRUCTURE(S);

10.3.6.4 Limitation of size, number of occupants, method and time of operation, and extent of facilities;

10.3.6.5 Regulation of number, design and location of ACCESS drives, drive-up windows and other traffic features;

10.3.6.6 Requirement of off-STREET parking and other special features;

10.3.6.7 Requirement for performance bonds or other security; and

10.3.6.8 Installation and certification of mechanical or other devices to limit present or potential hazard to human health, safety, welfare or the environment resulting from smoke, odor, particulate matter, toxic matter, fire or explosive hazard, glare, noise, vibration or any other objectionable impact generated by any given USE of land.

10.3.6.9 Installation of sidewalks along the entire FRONTAGE of a LOT and of other walkways and paths as it deems necessary to accommodate the safe movement of pedestrians and bicyclists. Such a sidewalk or other walkways or paths may be located on the LOT or within the layout of the STREET and shall be designed to connect with existing sidewalks on adjacent LOTS, if any. Sidewalks, walkways or paths shall be designed and constructed according to standards established in the Town of Acton Subdivision Rules and Regulations, except when otherwise approved by the Special Permit Granting Authority.

- 10.3.5.3 Will not be detrimental or injurious to the neighborhood in which it is to take place.
- 10.3.5.4 Is appropriate for the site in question.
- 10.3.5.5 Complies with all applicable requirements of this Bylaw.

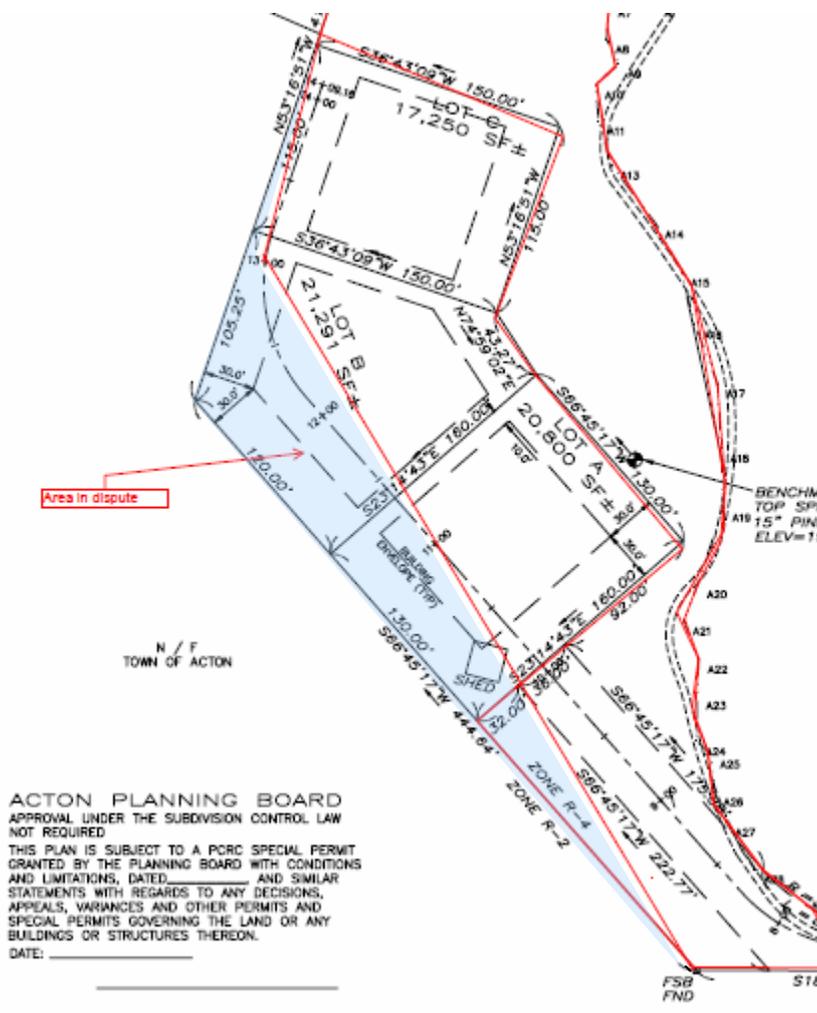
Where a PCRC special permit is granted, the normal dimensional regulations of the ZBL that apply in the zoning district are suspended. The dimensional regulations of ZBL section 9 come into force instead, which do not have minimum requirements for lot area and frontage.

Comments:

1. One the proposed PCRC plan, "Parcel 2" would be further divided into three lots (A, B, and C) and common land parcel.
2. The areas for proposed lots A, B, and C and the proposed common land area add up to the total area that exceeds "Parcel 2" by 4,993 square feet.
3. The Proposed Common Access Easement would need to be extended across proposed Lots A and B to reach proposed Lot C. Using the ZBL residential common driveway standards (s. 3.8.1.5) the minimum easement width must be 20 feet.
4. The building setbacks on proposed Lots A and B from the common driveway easement must be dimensioned to show a minimum of 15 feet in compliance with ZBL section 9.6.2.2.a); and the building envelopes on the lots must be redrawn accordingly.
5. On proposed Lot C, the westerly building envelope line must be retracted to 30 feet off the proposed lot line; see section 9.6.2.2.b) - minimum setback to common land boundary.
6. With the building envelopes as shown on the plan and corrected as above, the maximum gross floor area of each dwelling unit, including garage, will be limited to 3,000 square feet. For larger houses the building envelopes will have to be shrunk further; see section 9.6.2.2.d).
7. Per section 9.6.2.3, the maximum number of dwelling units for a PCRC on "Parcel 2", at least in theory, is ten. Three single-family dwellings are proposed.
8. Using the Adobe spatial analysis tool, it appears that the proposed layout of lots and common land complies with the common land dimensional requirements of ZBL, section 9.6.3.1.
  - The overall proposed common land amounts to +/-465,830 square feet or +/-89.5% (subject to any corrections that may be needed pursuant to comment 2 above), where a minimum of 60% or 312,107 sq. ft. are required.
  - Additionally, the ZBL requires that the minimum common land area shall contain no greater percentage of wetlands than the percentage of wetlands encountered in the overall tract of land (here "Parcel 2"). Based on the table provided on plan sheet 1 and checking with Adobe spatial analysis tool, it appears that this requirement is also met (subject to any corrections that may be needed pursuant to comment 2 above); the overall percentage of wetlands is +/-68%; +/-68% of the minimum common land amounts to +/-212,233 sq. ft., meaning that the minimum common land area must contain at least  $(312,107 - 212,233 =)$  +/-99,874 sq. ft.. Using the spatial analysis tool, it appears that the upland area within the common land comes to +/-103,500 sq. ft.
9. However, there is one problem with all this:
  - The proposed upland common land area includes the Proposed Common Access Easement, which as shown comprises more than 30,000 square feet.

- Under the rules for the uses of the common land (ZBL, section 9.6.3.2), the Proposed Common Access Easement is not allowed on the common land; it would have to be deducted from the common land total area and the common land upland area.
- Even if the Proposed Common Access Easement is narrows to the minimum required 20 feet (now shown at 30 feet wide or more), the common land calculations would fall far short of the minimum requirements.

10. An additional complication: The property boundary between the adjacent Town of Acton lands (Mt. Hope Cemetery) has been in question; Cemetery Commissioners and local historical experts claimed the boundary of Mt. Hope Cemetery is further into the site of the proposed PCRC. In fact, the shed shown on proposed lot A is actually one that was erected by the Acton Cemetery Department years ago; it is now in poor shape and essentially unused. Last year at the time of signing the ANR plan that split off Lot 1, it appeared that there was insufficient documentation to dispute the boundary line. Most recently, however, the Engineering Department surfaced old documents that corroborate the Cemetery Commission's claims. While there is nothing on record at the Registry of Deeds, it appears that more than 100 years ago deeds and agreements were executed locally and Town Meeting records show acceptance of land in the area in question. For more detail, see Engineering Department comments. This matter must be resolved before final development plan approval.



11. The sidewalk committee recommends a sidewalk funding donation. The usual formula of \$50 per linear feet of frontage and \$20 per linear foot of driveway/roadway would amount to +/- \$31,200, which seems somewhat out of proportion to the relatively small scale of the proposed development. If a PCRC is approved here, this number would need a reasonable downward adjustment.
12. I will be awaiting Fire Department comments on the proposed development and their reaction to a long driveway, the limited turn-around (the t-turnout at the garage for Lot C seems a little too short for a SU-30 fire engine to comfortably make a 3-point turn), and well water supply (including, I presume, supply for fire flows).
13. The proposed common driveway overlaps with the driveway for Mt. Hope Cemetery at Central Street. The applicant needs to have a conversation with the Town Engineering and Cemetery Departments to figure out a workable arrangement.
14. The applicant must provide a common driveway maintenance agreement and covenant in forma and content that has customarily been approved in Acton for similar situations.
15. Trails traverse this Site, which have been used by the general public. Does the applicant have any plan to acknowledge these trails and to formalize their public use?

cc: Engineering Department

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