

APPROVED: 7/16/09
MINUTES OF THE
TOWN OF HIGHLANDS PLANNING BOARD
JUNE 18, 2009

A regular meeting of the Town of Highlands Planning Board was held in the Court Room, Town Hall, Highland Falls, New York, on Thursday, June 18, 2009, at 7:00 P. M.

THERE WERE PRESENT:

Board Members:

Erik Smith, Chairman

Terry Holt

Cathy Kelly

John Hunter

Absent:

Chris Dyroff

M. Justin Rider, Esq. (Rider, Weiner & Frankel, P.C.)

Paul Pelusio, P. E. (J. Robert Folchetti & Associates)

ALSO PRESENT:

John Hager, John Blanc, Roy Hannawalt, Phil Hannawalt, Karl Yoon, Sung Yoon, Charles Yoon, Marjorie Weber, Marvin Weber, and John Bennett.

The meeting was called to order at 7:06 P. M. with the Pledge to the Flag. It was noted that a quorum was present.

At 7:07 P. M., the Public Hearing was opened.

RMH Marketing & Development Corp. (Hannawalt) (Subdivision R-1 Mountain Residence/S17 B1 Lots 32.14)

The Chairman addressed the audience asking them to state their name and address for the public record if they planned to comment at this time.

Mr. Hannawalt stated that the purpose of the subdivision is to have one parcel of property that he intends to keep and use for his own purposes. They would subdivide away from the larger piece of property (some 140 acres) and that would allow the remaining piece to, at a point in the future, be sold free and clear of what he owns. It is a simple subdivision. It is his intention for the remaining piece of property to eventually be turned into State Park land and become part of the New York State Park System. They are going through the legal procedure to accomplish this.

The Chairman asked for public comment, stating the plans are available for review.

Mr. Marvin Weber, 37 Dry Creek Road, feels it is a simple accommodation for the use of the area.

said that he will be meeting the conditions of the approval. What he needs from his engineer is a calculation saying that it meets requirements. Financially, he would rather pay for replacing the structure than pay for engineering costs with no resolution.

Mr. Pelusio felt that there would be a resolution if the two tests were completed and documented. He stated that there are two methods one coming back that it is not satisfactory for an H2O load, and the other would be the truck testing. He also stated that they required well established parameters as to what they wanted to see.

The Chairman indicated in an effort to satisfy the #6 condition for your final approval, your engineer would have to say that they witnessed the test and that would satisfy that condition.

Mr. Hager stated that in his conversations with Mr. Blanc, it was said that he would not mind replacing the structure as long as it is done at the time when the house is built so that he does not have to have mobilization done twice, one for the house and one for the bridge. One option in his mind would be to put a restriction on a building permit when it is issued, a condition that the bridge has to be brought up to H2O standard before the building can be started.

Mr. Blanc questioned the calculation issue. He would like something in writing as to what is needed. The Chairman stated that this is just an issue of these tests being witnessed by the engineer so they can verify that a super H2O loaded 10 wheel dump truck passed over the bridge and there were no problems. The Chairman has the letter from the Planning Board engineer stating that it would be acceptable as long as correspondence from his engineer specifically describing the test and that it was witnessed. In the Board's opinion, Mr. Blanc has what was required. The other option of changing the condition can also be done.

Mr. Rider stated that the Board has the ability to amend resolutions by motion by some other condition.

Dr. Kelly indicated that she saw no reason to require an option that said the bridge had to be replaced. The main concern is the safety of the bridge long term. If that means it has to be replaced before the concrete trucks travel over the bridge to begin to build the house, the Board needs to know that. The Board needs to know that the bridge over the culvert to handle the weight would be safe to access the lot to build the house. The basic requirement was that someone with certification look at the bridge and say that it can handle what is to be used in the construction. Her concern is if something has to be done, it should be done before construction begins. If it takes another letter that states that Restriction #6 requires that this bridge be certified safe to handle the loads of an H2O vehicle or greater, we should send such a letter.

The Chairman reiterated, and Mr. Pelusio concurred, that if Mr. Blanc arranged for the truck to drive over the bridge and his engineer sent the Planning Board Engineer a letter stating the test was witnessed and the weighted vehicle did not cause any problems, it would satisfy the condition.

Gregg Lawless (Site Plan Approval B1 Lot 23) – Not present.

Hannawalt (Subdivision R-1 Zone/S17 B1 Lot 32.14) - Dry Creek

The new map was discussed. The Chairman stated that the stipulations that were asked for had been included and are satisfactory, including septic location, house location, access to the house, and the change about the 280A. It shows a two lot subdivision with topographical information and potential site for the new home and perk. The perk tests were witness by Mr. Hager, who stated that there was suitability for a septic system, and he is comfortable with the location.

Mr. Pelusio was satisfied with the map after conferring with Mr. Hannawalt that the total acreage is 163.

Mr. Rider is satisfied with all the changes that were made and provided the Board with standard draft resolutions.

A motion was made to approve the adoption of the SEQR Designation and Determination for Dry Creek Subdivision.

RESOLUTION

OF

JUNE 18, 2009

RESOLUTION OF SEQR DESIGNATION
AND DETERMINATION – RMH MARKETING & DEVELOPMENT CORPORATION AND
ROY R. HANNAWALT APPLICATION FOR A SUBDIVISION APPROVAL OF A 162.99 ACRE
PARCEL INTO
TWO (2) RESIDENTIAL LOTS

Planning Board Member1 Cathy Kelly presented the following resolution which was seconded by Planning Board Member John Hunter.

WHEREAS, an Environmental Assessment Form (the “EAF”) was prepared December 17, 2008, for the application for a subdivision approval of a 162.99 Acre Parcel into two (2) residential lots on property located at Mine Road and Dry Creek Road in the Town of Highlands and designated on the Tax Map as Section 17, Block 1 Lot 32.14 (the “Action”); and

WHEREAS, the Planning Board has determined that the Action is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law the Planning Board determined to conduct an uncoordinated review; and

WHEREAS, the Planning Board has heretofore designated itself lead agency; and

WHEREAS, the Planning Board has heretofore reviewed the EAF together with any other supporting information, and analyzed and considered any relevant areas of environmental concern and the probable environmental impacts of the Action to determine if the Action may have any significant adverse environmental effects.

NOW THEREFORE, BE IT RESOLVED:

1. The Planning Board does determine that the subdivision approval of a 162.99 acre parcel into two (2) residential lots at Mine Road and Dry Creek Road, is an unlisted action under Part 617 of the General Regulations adopted pursuant to Article 8 of the Environmental Conservation Law and the Planning Board did conduct an uncoordinated review of the project.
2. The Planning Board as lead agency for the purpose of conducting a review of this Action determines that said Action will not have a significant adverse environmental impact and, therefore, does issue a negative declaration.
3. The Planning Board hereby authorizes the Chairperson to execute and file the Environmental Assessment Form and Negative Declaration attached hereto in accordance with the applicable provisions of law.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call, which resulted as follows:

<u>Terry Holt, Member</u>	voting <u>___Aye___</u>
<u>John Hunter, Member</u>	voting <u>___Aye___</u>
<u>Cathy Kelly, Member</u>	voting <u>___Aye___</u>
<u>Christopher Dyroff, Member</u>	voting <u>___Absent___</u>
<u>Erik Smith, Chairperson</u>	voting <u>___Aye___</u>

The resolution was thereupon declared duly adopted.

State Environmental Quality Review

NEGATIVE DECLARATION Notice of Determination of Non-Significance

Project Number N/A

Date: June 18, 2009

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

The Planning Board of the Town of Highlands, as lead agency, has determined that the proposed action described below will not have a significant effect on the environment and a Draft Environmental Impact Statement will not be prepared.

Name of Action: RMH Marketing & Development Corporation (Hannawalt) 2 Lot Subdivision.

SEQR Status: Type I
Unlisted

Conditioned Negative Declaration: Yes
 No

Description of Action:

The action consists of the subdivision of a 162.99 acre parcel into two (2) residential lots.

Location: (Include street address and the name of the municipality/county. A location map of appropriate scale is also recommended.)

Mine Road and Dry Creek Road, and designated on the Tax Map as Section 17, Block 1 Lot 32.14 in the Town of Highlands, Orange County, New York.

Reasons Supporting This Determination:

(See 617.7(a-c) for requirements of this determination; See 617.7(d) for Conditioned Negative Declaration)

The Planning Board has considered the action and reviewed the environmental assessment form and other supporting information. The action is an unlisted action.

None of the criteria set forth in Section 617.7 of Part 617 and any other supporting information identify relevant areas of environmental concern which would lead to a determination that the action may have a significant effect on the environment either in the short term, long term or cumulatively given the likely consequences, setting, probability of occurrence, duration, irreversibility, geographic scope or magnitude and the number of people affected. No relevant areas of environmental concern are identified.

With respect to the criteria that are considered indicators of significant effects on the environment, the lead agency has considered the following:

Impact on Land

The proposed project will result in the subdivision of one building lot into two building lots. The site is located adjacent to existing residential development. The project site does not have any unique or sensitive features which could result in potentially large impacts on the physical environment. Based on the fact that the plan is in compliance with the zoning law requirements for the proposed use in the R-1 Mountain Residence Zoning District, the Planning Board accordingly finds that there are no significant unmitigated impacts on land associated with this action.

Impact on Water

Through erosion control measures implemented at the time of any construction, it is not likely that the proposed subdivision will have any significant effect on water quality. Potential harmful impacts associated with surface, groundwater and stormwater management will be mitigated through the implementation of the project design.

Impact on Air

The action is not anticipated to have a significant impact on air quality. Prudent measures will be taken during any construction to avoid suspended particulate (i.e. dust) impacts.

Impact on Plants and Animals

No significant impact on threatened or endangered species, non-threatened or non-endangered species or habitat, either riparian or on land, is anticipated as a result of the project.

Impact on Agricultural Land Resources

Agricultural activities do not take place in or around the subject site. The project area is currently zoned for residential development and accordingly no significant harmful impacts are anticipated on agricultural land resources as a result of the project.

Impact on Aesthetic Resources; Visual Impacts

The Planning Board considered potential project impacts on visual and aesthetic resources. The site will not be visible from most local roadways. Because the site area and surrounding site properties are developed in a manner consistent with the R-1 zoning district, the proposed action is visually consistent with the site area. No significant harmful impacts are anticipated on aesthetic or visual resources as a result of the project.

Impact on Historic and Archeological Resources

No significant harmful impacts are anticipated in regard to historic or archeological resources as a result of the project.

Impact on Open Space and Recreation

Although the project site is currently partially undeveloped and therefore could be considered to be open space, the land is privately owned and located within the R-1 zoning district. No recreational facilities or significant open space area available to the public is being lost and accordingly the Planning Board finds no significant harmful impacts are anticipated in regard to open spaces and recreation as a result of the project.

Impact on Critical Environmental Areas

The proposed project is not within a Critical Environmental Area.

Impacts on Traffic and Transportation

The action involves the use of existing town roads and it is not anticipated that the proposed action will have any significant, unmitigated impacts on the subject area.

Impact on Energy

No significant impact would be expected in the area of energy resources as a result of the project.

Impact on Noise and Odor

The Planning Board finds that the proposed action would not create any significant noise or odor impacts.

Impact on Public Health

The Planning Board has considered site access, such that emergency vehicles can maneuver around the site adequately. No significant harmful impacts would be expected in the area of public health and safety as a result of the project.

Impact on Growth and Character of Community or Neighborhood

It is not anticipated that the subdivision from one to two lots will lead to any significant growth or subsequent development.

Any other long term, short term, cumulative, or other impacts not identified above

No additional long term, short term or cumulative or other impacts are anticipated.

In reliance upon the EAF and after a hard look at the potential impacts it indicates may be reasonably expected in comparison to the criteria set forth in the SEQOR regulations, the Town Board determines there is no indication that the action may have a significant impact on the environment.

If Conditioned Negative Declaration, provide on attachment the specific mitigation measures imposed, and identify comment period (not less than 30 days from date of publication in the ENB)
N/A.

For Further Information: Town of Highlands

Contact Person: Erik Smith, Planning Board Chairperson

Address: 254 Main Street,
Highland Falls, New York 10928

Telephone Number: (845) 446-4280

For Type 1 Actions and Conditioned Negative Declarations, a Copy of this Notice Must Be Sent to:

Chief Executive Officer, Town of Highlands
The Lead Agency

Other involved agencies (if any):

Any person who has requested a copy:

Applicant (if any):

A Copy of the Notice Only Must Be Sent to:

Environmental Notice Bulletin, Room 538, 50 Wolf Road, Albany, New York 12233-1750

For Unlisted Actions, a Copy of the Negative Declaration Must Only Be Sent to *The Lead Agency*

A motion was made for final approval for the RMH Marketing & Development Corporation and Roy R. Hannawalt.

RESOLUTION OF APPROVAL

TWO LOT SUBDIVISION

FINAL

FOR

RMH MARKETING & DEVELOPMENT CORPORATION

AND ROY R. HANNAWALT

Nature of Application

RMH Marketing & Development Corporation and Roy R. Hannawalt have applied for a subdivision approval allowing them to divide a 162.99 acre parcel into two (2) residential lots.

Property Involved

The property affected by this resolution is shown on the Tax Map of the Town of Highlands as parcels 17-1-32.14 which property is located at Mine Road and Dry Creek Road.

Zoning District

The property affected by this resolution is located in the R-1 zoning district of the Town of Highlands.

Plans

The subdivision materials being considered consist of the following:

1. Completed application form and Environmental Assessment Form.

2. Plans prepared as follows:

<u>Author</u>	<u>Title</u>	<u>Last Revision Date</u>
Daniel P. Yanosh, NYSLS	Subdivision Survey	May 29, 2009

History

Date of Application

The application was filed with the Planning Board on December 17, 2008.

Public Hearing

A public hearing on final subdivision approval was convened on June 18, 2009 and closed on the same date.

SEQRA

Type of Action:

This matter constitutes an unlisted action under the State Environmental Quality Review Act.

Lead Agency:

The Town of Highlands Planning Board is the lead agency in regard to this action. The Planning Board's status as lead agency was established on February 19, 2009.

Declaration of Significance:

A negative declaration was issued on June 18, 2009.

GML 239 Referral

The application does not contain any of the conditions listed in General Municipal Law Section 239, and therefore, does not require referral to the Orange County Planning Department.

Findings

The Planning Board has determined that approval of this subdivision will substantially serve the public convenience, safety and welfare in that the land to be subdivided is of such character that it can be used safely for building purposes without danger to health or peril from fire, flood or other menace. Further, the topography of the land, water supply, sewage disposal, drainage, lot sizes and arrangement, are all appropriate and consistent with the requirements of the Town of Highlands Subdivision Regulations and applicable zoning regulations, subject to compliance in full with conditions hereinafter imposed.

Resolution of Approval

NOW, THEREFORE, THE PLANNING BOARD RESOLVES to approve the final subdivision application of RMH Marketing & Development Corporation and Roy R. Hannawalt as said proposal is depicted on the plans identified above and upon the modifications outlined below, and the Chairperson (or his designee) is authorized to sign the plat upon satisfaction of those conditions below noted to be conditions precedent to such signing.

Specific Modifications

1. The applicant shall comply with the requirements of Chapter 210 of the Code of the Town of Highlands, Zoning, at all times.
2. The applicant shall comply with the requirements of Chapter 101 of the Code of the Town of Highlands, Erosion Control, at all times, including application for a permit if same is required.
3. The applicant shall comply with the requirements of Chapter 173 of the Code of the Town of Highlands, Subdivision Regulations, at all times.
4. As a condition of this approval, the applicant shall be required to authorize town officers, employees or agents to enter onto the site to perform appropriate surveillance required by the Code.
5. The applicant shall pay outstanding Town of Highlands consulting fees incurred in connection with the review of this application prior to the Chairperson or his designee signing the plans.
6. As-built plans for septic design and well locations shall be provided to the Building Department prior to the issuance of a Certificate of Occupancy.

General Conditions

This approval is conditioned upon the applicant submitting all necessary copies of the plans to be signed, including mylars when required, to the Town of Highlands Building Department within one hundred eighty consecutive calendar days of the date of this approval.

A full set of the plans to be signed shall simultaneously be submitted to the designated Planning Board Engineer. The plans shall not be signed until the consulting engineer has reported to the Chair that all conditions of this resolution required to be satisfied before the plans can be signed have, in fact, been satisfied.

This approval is further conditioned upon the applicant delivering (prior to signing of the plans) proof, in writing, that all fees—engineering, planning, legal and otherwise—in regard to this

project have been fully paid. The plans shall not be signed until proof, satisfactory to the Chair, has been presented showing that all such fees have been paid.

A FAILURE to comply with the general conditions immediately above in a timely manner shall result, without further action, in a lapsing of this approval

In Favor 4 Against 0 Abstain 0 Absent 1

Terry Holt, Member voting Aye

John Hunter, Member voting Aye

Cathy Kelly, Member voting Aye

Christopher Dyroff, Member voting Absent

Erik Smith, Chairperson voting Aye

Dated: June 18, 2009

Erik Smith, Chairperson
TOWN OF HIGHLANDS PLANNING BOARD

STATE OF NEW YORK)
)ss:
COUNTY OF ORANGE)

I, _____, Secretary to the Planning Board of the Town of Highlands, do hereby certify that the foregoing is a true and exact copy of a Resolution adopted by the Planning Board at a meeting of said Board held on June 18, 2009.

_____, SECRETARY
TOWN OF HIGHLANDS PLANNING BOARD

I, JUNE PATTERSON, Clerk of the Town of Highlands, do hereby certify that the foregoing Resolution was filed in the Office of the Town Clerk on _____.

JUNE PATTERSON, Clerk
TOWN OF HIGHLANDS

Hannawalt (Subdivision – R-1 Zone/S 13 B1 Lots 14.12 & 4) – Weyant Road

Regarding the currently approved location for the proposed cul-de-sac, Mr. Hannawalt explained that the hole that was being dug was not going to work out. It is in the wrong spot. He decided to fill the hole back in. He looked at the original design (cul-de-sac location further to the west) and asked his excavator to probe that site. They also looked at the grade on the road coming up and on the other side of McArthur's house. The existing road comes up and levels off and comes up to his garage. Those preliminary readings indicated that they could end up with 14 1/2 or 15 percent slope on the road, which he feels is acceptable. He will go back to an engineer. He is looking for some direction from the Board and what his next step would be.

The Chairman explained that changing it at this point would require an amended site plan. Originally the cul-de-sac was planned further up and its proposed location was moved. There is an issue of the length of the road. Mr. Hannawalt said that he felt that 14% was acceptable, but a memorandum from Tony Squicciarini states anything steeper than 12% is not acceptable. He asked that the road be built to the Town specs of 12%. The Chairman stated that this Board does not have the ability to change the law. 12% was decided upon by input from the Fire Department the Ambulance Department, the highway superintendent, and others.

The Chairman stated that Mr. Hannawalt would have to draw up another set of plans amending this site plan. His reservation on this is that the location of cul-de-sac changed for a reason. It was not because the Town Engineer at the time arbitrarily changed it. It was to make this road fit the town road standards. The road was too steep as proposed at that point. Mr. Hannawalt came back with a cul-de-sac shorter that made more of a slope for the private driveways. The driveways became the real steep part. Mr. Hannawalt agreed.

The Board would look at the new plans and solicit input from everyone else involved. This is not a minor change, because it was moved. Logistically it was a problem at the location that you are proposing to bring it back to.

The site visit will be set up as soon as possible to include the engineer and the highway superintendent. The proposed new location is approximately an additional 80 feet. A new map is needed to clarify.

Mr. Hager discussed the drainage pond where construction has begun. He is only working on preliminary work. He asked if more road is added, would that pond be changed? He would like some direction on this. Mr. Rider discussed the road dedication procedures stating that there would be a bond in place. Mr. Hannawalt stated that they have not cut into the cul-de-sac and they are aware of the concern for the turnaround area. The neighbors have signed off on the dedication papers.

Mr. Hannawalt will set up the site visit and begin the work on the new site plan.

John Bennett (Subdivision – R-1 Zone/S10 B3 Lot 9).

Mr. Bennett began the discussion saying he has been trying to get the well/septic separation settled with Mr. Simms of the County Department of Health. He has also had discussions with Culligan Corporation. He had previously put a UV sanitizer on the well which Culligan stated was the level of sanitation device that Orange County required. Mr. Simms stated that he would accept that as a solution, but they wanted it upgraded to a commercial unit. Mr. Bennett's question to the Board is: Would it satisfy the Board if he put the commercial unit in?

The Chairman gave some background information. He stated that he had contacted Mr. Simms last month, who stated that Mr. Bennett had not made an application. Mr. Bennett confirmed that, stating that the problem is if the Board would rephrase the letter to the County, Mr. Simms would just look at the well/septic separation. He needs a letter that the Town of Highlands Planning Board as the Lead Agency is only asking him to look at the well/septic separation. Without that letter, the only way he can approach that project is to start over again. A ruling could be made if that letter is sent. The Chairman further stated that he had outlined in his letter to Mr. Simms that a Preliminary Approval had been granted. The Chairman will call Mr. Simms to see what is necessary to complete the review of the well/septic separation and completion of the project.

Mr. Hager stated that he believes the issue is that Building Code requires that these subsurface systems are required to meet the State DOH standards that are applied by the County DOH in this case. It has been recognized that there is a discrepancy in this system that was built. The Building Department and the Planning Board have no ability to accept a standard that are less than what the County and State mandate. Only someone at the County level can give that approval.

The Chairman asked the Board if they would approve him writing a letter to the Health Department stating that their review found that the separation distance was inadequate, and that he could to mitigate the issue.

The Chairman also noted that the Preliminary Approval for the project has a time frame. Mr. Bennett requested that that time frame be extended.

Mr. Bennett also noted that he has recent water testing and the system where it is working fine and has no contamination. The Chairman noted that by referring it to the County the right agency is making that determination.

A motion was made to extend the Preliminary Approval for Mr. Bennett for six (6) months.

Motion: Dr. Kelly

Seconded: Mr. Hunter

Approved

Mr. Hager stated that before the Building Department can issue a Certificate of Occupancy is that he needs for the file is a letter from Mr. Bennett's engineer stating that the unit installed meets the requirements. What his engineer needs is a copy of whatever he gets from the County that says if he does get a variance from the State regulations, so that his engineer can reference that in his certification letter. He will have to provide a letter stating

that although it does not meet standards, we have been able to obtain a variance for an exception.

The Chairman agreed, stating that what he would like is a variance for the separation distance being that he will use UV treatment to their satisfaction as specified by them to mitigate that separation distance issue. What the Building Department will need from his engineer is that he installed the UV system as specified.

Mr. Hager will need a statement that the system is built as it was designed and that it meets the requirements of the County Health Department, which will be a modification from their normal standard. He recommends that he meet with his Design Engineer for the Certificate of Occupancy.

Gregg Lawless (Site Plan Approval B1 Lot 23) – Not present.

The Chairman stated that Mr. Lawless did submit a site plan. Copies have been sent to the Board Members. The Board will be ready to proceed at the next meeting.

NEW BUSINESS - None

PUBLIC COMMENT - None

The Chairman will put a copy of the Hidalgo/Ott determination in each Board Member's mailbox.

At 8:40 P. M., a motion was made to adjourn the meeting.

Motion: Mr. Holt Seconded: Dr. Kelly Approved

Respectfully submitted,

Fran DeWitt, Recording Secretary

The next Regular Planning Board Meeting is July 16, 2009.