

APPROVED

**Huntington Planning Commission
July 14, 2009**

Commissioners Attending: Tom Bailey, Everett Marshall, Eric Silman, Gordon Miller, Lucinda Hill

Commissioners Absent: Beverly Little Thunder

Others Present: Anne Connell, Zoning Administrator Cathleen Gent, Margaret Taft, Mary Taft

Minutes: Heidi Racht

7 pm Minutes of May 26 & June 9
Mail

7:15 pm Public Comment

7:20 pm Review materials for next three agenda items

7:30 pm LeBrun Final Subdivision Amendment Review

8:15 pm Bretschneider Decision - Review FOF, etc

8:30 pm Zoning Administrator / Taft family members

9 pm Begin: review fees and costs for Hearings and make adjustments

9:15 pm Member Business

9:30 pm Adjourn

RECEIVED *[Signature]*
DATE August 13, 2009

The meeting was called to order at 7:03 pm, chaired by Everett Marshall.

Items for Discussion	Discussion	Action
Minutes of May 26, 2009	Tom Bailey moved to approve; seconded by Eric Silman.	Approved with changes.
Minutes of June 9, 2009	Tom Bailey moved to approve; seconded by Lucinda Hill.	Approved with changes.
Mail	Mail reviewed: <ol style="list-style-type: none"> 1. Act 250 Notice Minor Application <ol style="list-style-type: none"> a. Nancy Bretschneider 2. Wastewater Permit <ol style="list-style-type: none"> a. Jason Webster, Ross Hill b. Nancy Bretschneider 3. Land Use Permit Amendment <ol style="list-style-type: none"> a. Mark & Marijke Smith; Nils Smith & Jennifer Baer 4. Wastewater application notification <ol style="list-style-type: none"> a. Andre and Diane Robert, 440 East Street b. Ian Wyatt, 555 Camels Hump Road 5. Public Service Board memorandum <ol style="list-style-type: none"> a. John Petell, 410 Sunrise Drive 	
Public Comment	No public was present.	
Review materials for	The Commission briefly reviewed the materials in the folders	

Items for Discussion	Discussion	Action
next three agenda items	for the next three agenda items.	
Douglas LeBrun Final Subdivision Amendment Review	<p>Present: Anne Connell</p> <p>The hearing began at 7:31 pm, chaired by Everett Marshall.</p> <p>Anne Connell appeared before the HPC as the agent for Douglas LeBrun who wishes to build a seasonal dwelling on a piece of land that was a deferred lot in the Mary Lou Kenfield (Cummings) subdivision in 1997.</p> <p>Connell began by asking whether the building should be addressed by the building permit and not under Subdivision Review.</p> <p>Everett Marshall replied that the original subdivision was for open land and the proposed building was not addressed in the original permit. Further, when the Administrative Officer for Zoning gets a building permit application, s/he looks at the minutes and the Findings of Fact for a decision.</p> <p>Connell said that the Planning Standards (Chapter 5) and the Required Improvements and Design Standards (Chapter 6) have been met. She asked that the HPC address the waived conditions from the original permit and not the building on land.</p> <p>Connell did a summary of the project by reviewing the plan with the HPC:</p> <ol style="list-style-type: none"> 1. the proposed seasonal building will be off the grid and not a primary residence; 2. the applicant had components for the project not on the plan, including an eventual woodshed, storage shed, sugarhouse (remote) and garage. Connell said the deed allows for a garage; The Commission looked at the Findings of Fact, etc., from 1997 for the list of waivers; 3. no improvements will be made to the access road, which is limited by choice, conditions and winter conditions. The applicant parks on the easement and walks into the property; 4. the project requires a new Act 250 Land Use permit. The applicant had received one in May 2002 where he had indicated a three-year project which was included as a condition, but didn't show substantial progress. The applicant 	

Items for Discussion	Discussion	Action
	<p>will be “looking for open ended permits.”</p> <ol style="list-style-type: none"> 5. water and wastewater permit has already been recorded; 6. letter from Fish and Wildlife regarding deer habitat stated that the state did not agree with the applicant’s expert and the proposed project is indeed located in the deer habitat. The letter indicated that the project won’t have an impact; 7. because a Land Use Permit is needed, limits will be regulated at the state level; <p>Marshall responded that the town had opportunities at this point, based on “our regulations.” He went on, “it’s exceedingly rare that a town comments at the state level. The town needs to shape the project at the local level.”</p> <p>Impact on the deer wintering area was discussed.</p> <p>The access road, which is a logging road, was discussed.</p> <p>Eric Silman noted that parking was 400-500 feet from the proposed building site. Connell said that the applicant could “skid things up” in the winter. Marshall also noted that driving up to the site in the summer won’t impact the deer wintering area. Connell stated that the applicant would need vehicular access in the summer to get building materials to the site. She said that a complete prohibition would be “onerous.” Construction would have a “temporary impact.”</p> <p>A condition for approval is no improvements on the access road.</p> <p>Fire truck access was discussed. Since Connell had earlier stated that the applicant would waive fire protection, Tom Bailey suggested that this be a condition and that town require a written statement for the waivers for fire protection services or emergency services.</p> <p>Outdoor lighting was briefly discussed. Connell stated that since there was no electricity at the site, there would be minimum opportunity for outdoor lighting.</p> <p>The checklist was reviewed and all applicable components were met.</p> <p>The original item waived in 1997 for a letter from the school district superintendent was again waived since the structure will not be a permanent residence. Road access letter from the</p>	

Items for Discussion	Discussion	Action
	<p>road foreman is not applicable since the access to the property is from Cummings Drive, a private road.</p> <p>The public hearing closed at 8:30 pm.</p>	
<p>Bretschneider Final Subdivision Deliberations</p>	<p>Present: Nancy Bretschneider</p> <p>The Commission reviewed a draft of the Findings of Fact, Conclusions and Decision.</p> <p>Two items were discussed:</p> <ol style="list-style-type: none"> 1. letter from Fire Chief Tate Jeffrey regarding fire protection. The HPC decided to incorporate road access recommendations in document. 2. statement from surveyor Ron LaRose concerning language on plat. <p>At 8:50, a motion to accept Findings of Fact as corrected was made by Eric Silman; seconded by Lucinda Hill.</p>	<p>Motion to accept FOF with changes approved unanimously. (Tom Bailey left the meeting at 9:40 pm, so did not vote.)</p>
<p>Discussion of Taft property</p>	<p>Cathleen Gent, Mary Taft and Margaret Taft appeared before the HPC to discuss properties acquired by the Taft family and what constituted a merged lot or a separate lot.</p> <p>Administrative Officer Cathleen Gent gave an overview of a document she had sent in advance of the meeting, outlining five lots on the Taft Farm. Margaret Taft also explained the layout of the farm and the history of the land acquisition. Lot 1 and Lot 2 are the original farm separated by Town Road #4 (Taft Road); Lots 3 and 4 are 162 acres from the estate of Audra Taft, separated by Town Road #22 with Lot 4 having the house and Lot 3 being open land; Lot 5 was purchased from John Teal in 1991 and has the dairy barn and other farm infrastructure.</p> <p>At issue are:</p> <ol style="list-style-type: none"> 1. no provisions in zoning regulations for housing for non-family farm help; 2. the sections in the Zoning Regulations that describe a merged lot and the definition of a lot. 	

Items for Discussion	Discussion	Action
	<p>Under Section 5.9.2, “in the event that an undeveloped lot is or becomes under common or affiliated ownership with an adjoining lot, and is not, with its adjoining lot, a part of an approved subdivision, such lot shall be considered merged with such adjoining lot and no longer retain its separate identity for subdivision and zoning purposes.”</p> <p>Under definition of lot: “a parcel of land under single, common, or affiliated ownership, and not divided by a state or town road, with defined boundaries pre-existing this regulation’s adoption or created by subdivision approval or merger.”</p> <p>The Tafts’ main concern is the need to provide housing for farm laborers. They questioned whether Lots 4 and 5 are considered merged or continue to be separate. Due to the fact that the housing will exceed 30% of the house on Lot 5, an accessory residence as defined in Section 5.7 of the Zoning Regulations would not be an option.</p> <p>After some discussion on what constituted a merger, it was determined the Lots 4 and 5 were separate lots as each had a separate septic system.</p> <p>A motion was made by Eric Silman: Per tax maps, the Teal lot (5) on Camels Hump Road and the Audra Taft lot (4) are considered separate lots because they both have pre-existing development; Lot 1 to the west of Taft Road is a separate lot; Lots 2 and 3 to the east of Taft Road are considered merged. The motion was seconded by Lucinda Hill.</p> <p>The HPC agreed that farm housing needs to be examined in updating the Zoning Regulations.</p> <p>Cathleen Gent also pointed out the inconsistency in the definitions.</p> <p>Margaret Taft questioned the size of the septic system as they might want to replace the system for Audra Taft’s house and combine it with one for the farm housing. She was told that this would be done through the state.</p> <p>Another question from Margaret Taft had to do with family members purchasing or acquiring land from each other. The reply was that since they would need to go through subdivision, the properties would be considered separate.</p>	<p>The motion passed unanimously.</p>

Items for Discussion	Discussion	Action
Member Business	<ol style="list-style-type: none"> 1. Cathleen Gent reported that the FEMA DFIRM maps are here and there is a 30-day comment period. The Huntington base data weren't updated. The maps are ortho with buildings. 2. Eric Silman said that he would forward material from Stephanie Smith. 3. Agenda items include: <ol style="list-style-type: none"> a. July 28 – Municipal Planning Grant application due in September; b. July 28 – master list of items to be revised in the regs and a timeline; c. August 11 – LeBrun deliberation 	

Adjournment	Lucinda Hill moved to adjourn; seconded by Eric Silman. The meeting adjourned at 9:49 pm.
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Date UNAPPROVED minutes submitted to HPC: July 20, 2009

Date minutes APPROVED by the HPC: August 11, 2009

Date Approved Minutes submitted to Town Clerk: August 13, 2009

Huntington Planning Commission
4930 Main Road
Huntington, Vermont

RE: Application of Nancy Bretschneider
Application No. 2009-2

FINDINGS OF FACT, CONCLUSIONS, AND ORDER

FINAL SUBDIVISION HEARING FOR:
Nancy Bretschneider, 189 Cummings Drive, Huntington, VT 05462

Based upon the application of Nancy Bretschneider (hereinafter the "Applicant") and the testimony and exhibits presented prior to and at the June 9, 2009 hearing pursuant to the Final Subdivision Amendment Review which was held at the Huntington Town Office in Huntington, Vermont, and, after due deliberation at its July 14, 2009 meeting, the Huntington Planning Commission (hereinafter the "Commission") makes the following Findings of Fact, Conclusions, and Decision of Approval and Conditions in accordance with the Town of Huntington Subdivision Regulations, effective March 3, 2009 (hereinafter the "Regulations") which are applicable to this matter:

FINDINGS OF FACT:

1. On May 22, 2009, the Applicant filed an Application for Final Subdivision Approval for a project described as a three-lot subdivision on Cummings Drive. This parcel of land is part of a prior duly approved subdivision and is subject to an existing Act 250 Permit. As a part of her application, the Applicant attached and filed the following:
 - a. The completed required subdivision Information form filed May 22, 2009. (Exhibit A)
 - b. Summary dated April 30, 2009 of compliance of project with the Huntington Town Plan (adopted June 18, 2007). (Exhibit B)
 - c. Survey entitled "Survey Plat Subdivision of lands Nancy J. Bretschneider, 189 Cummings Drive, Town of Huntington, Chittenden County, Vermont" dated December 23, 2008 and revised May 19, 2009, and prepared by Ronald L. LaRose, Licensed Land Surveyor. (Exhibit C)
 - d. ANR (Vermont Agency of Natural Resources) Environmental Interest Locator – Map Center: 460846, 202042, dated April 30, 2009. (Exhibit D).
 - e. Septic design plans entitled Nancy Bretschneider, 189 Cummings Drive, Huntington, Vermont" dated December 23, 2009 and prepared by Kevin R. LaRose, Licensed Designer. (Exhibit E).

Also received between the date of filing of the Application and the conclusion of the subdivision final review hearing (and also considered by the Commission in its deliberations) were:

- a. Act 250 School Impact Questionnaire for Residential Projects dated April 15, 2009 and executed by James G. Massingham, Co-Superintendent. (Exhibit F)
 - b. Act 250 Municipal Impact Questionnaire dated April 2, 2009 and executed by Edward Wildman, Huntington Town Administrator. (Exhibit G)
 - c. Letter dated June 7, 2009 executed by Tate Jeffrey, Chief of the Huntington Volunteer Fire Department. (Exhibit H)
 - d. Letter dated May 26, 2009 executed by John Gobeille, Wildlife Biologist of the Vermont Fish and Wildlife Department, Agency of Natural Resources. (Exhibit I).
2. On June 9, 2009, at the Final Subdivision Review hearing, the Applicant Nancy Bretschneider appeared before the Commission and presented evidence in support of the project.
 3. In accordance with the Regulations and state law, notice of this hearing was published in the newspaper, posted in the community and mailed to adjacent property owners.
 4. The project is located at Cummings Drive and is in the following two zoning districts the Village District, zoned for one acre, and the Rural Residential District, zoned for five acres. Most of the project is in the Village District with only a small portion in the Rural Residential. The project is located on Town Tax Map # 5.
 5. The Applicant owns 10.2 acres which will be divided into Parcel 1-1 (existing residence and 4 acres); Parcel 1-2 (5.1 acres); and Parcel 1-3 (1.1 acre (See the survey referenced as Exhibit C above).
 6. The Applicant seeks approval for a proposed single-family house, septic system and well on proposed Lot 1-2 and Lot 1-3 and access to the proposed lots by a proposed driveway from Cummings Drive.
 7. The Applicant has represented that property is located near a deer wintering area and all construction will be outside a 300' buffer and will maintain required setbacks from the habitat.
 8. The Applicant has represented that the property contains the Cummings family cemetery and that her deed included access to the cemetery. The cemetery is clearly delineated on the map, showing the present access, which would be maintained.

9. The survey shows poles coming up Cummings Drive to the Bretschneider residence. A note will be made on the survey that all future utilities would be buried from the last pole.
10. The Applicant has represented that rights-of-way are shown on the survey.
11. The Applicant has represented that natural features on the property include a brook, a stream and a seepage area in the gravel pit. In discussion about the gravel pit, it was determined that evidence showed that the area doesn't hold water, so even though it is a Class III wetland, there is no breeding habitat for amphibians.
12. Cummings Drive, a private road providing access from the main road to seven residences plus three more approved house sites, is on the Bretschneider property. The right-of-way is 50', as established by deeds from Mary Lou Cummings (Kenfield) through subdivision approval dated December 3, 1997. Deeds from the parent parcel require a shared maintenance by all the users.
13. A letter from Huntington Fire Chief Tate Jeffrey (Exhibit H) made recommendations for driveway radius requirements and residential sprinkler systems, since the access to the new houses was considered remote and a house fire would be engaged before it was seen. In response to the road access for fire fighting equipment, the Applicant has said that the road to the gravel pit will be built to accommodate firefighting vehicles.
14. The Planning Commission members present during the hearing on June 9, 2009 referred to above were Everett Marshall (Chair), Eric Silman, Gordon Miller and Tom Bailey (constituting a quorum), and the members present during deliberations on July 14, 2009 were Everett Marshall (Chair), Lucinda Hill, Tom Bailey, Gordon Miller and Eric Silman (constituting a quorum).

CONCLUSIONS:

After deliberations on July 14, 2009, the Commission has concluded the Applicant has provided materials in her application and up to and during the hearing on June 9, 2009 (referred to as Exhibits A-I above) that satisfies the requirements of Articles 4-7 of the Regulations (subject to the conditions set forth below). In addition, the Commission has considered the materials referred to above in the light of the requirements of Articles 4-7 of the Regulations and conclude that the requirements of Articles 4-7 are satisfied subject to the conditions set forth below. The Commission's conclusions with regard to each subparagraph of Articles 4-7 are set forth (by subparagraph number) as follows:

1. The project is suitable for subdivision as proposed and will not be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas.

2. Subject to the conditions set forth below, the proposed subdivision shows due regard for the preservation and protection of existing natural features, trees, brooks, rock outcroppings, water bodies, or other natural and/or historical resources.
3. Subject to the conditions set forth below, the potential for erosion and runoff into nearby surface waters during construction is adequately remedied.
4. The project appears to comply with the Huntington Town Plan, the Huntington Zoning Regulations amended March 3, 2009 and other applicable Town regulations, subject to the conditions set forth below.
5. The project is not in a floodplain.
6. This area has single family residences, open fields and wooded areas. The subdivision meets the minimum lot size of one acre for the Zoning District. The Commission concludes the project complies with the provision of compatibility with surrounding properties.
7. The project is suitable for the proposed site density.
8. Based on an examination of the items referenced Exhibits F-H above, the town and schools will be able to provide adequate services and facilities, subject to the conditions set forth below.
9. Based on the Applicant's testimony, there will be sufficient water to meet the needs of the proposed project for the reasonably foreseeable future.
10. This subdivision as proposed will not cause highway congestion or unsafe conditions, subject to the conditions set forth below.
11. There are no deeryards impacted by the proposed project.
12. The portion of the property located in the Rural Residential District is a steep bank down to the brook.

DECISION OF APPROVAL AND CONDITIONS

Following deliberation on July 14, 2009, Final Subdivision Approval was granted on July 14, 2009 by a unanimous vote of the Huntington Planning Commission with the following conditions:

1. The Applicants shall allow representatives of the Town access to the lots, at reasonable times and with prior notice, for the purpose of ascertaining compliance with the Regulations and the conditions of this permit.
2. All conditions specified in this "Decision of Approval and Conditions" shall be satisfied prior to the issuance of a Certificate of Occupancy pertaining to the project (See Section 4.1.3 of the Zoning Regulations last amended March 3, 2009), and no structure may be used or occupied until all of the conditions specified in this "Decision of Approval and Conditions" shall be satisfied.
3. The project shall be completed, operated and maintained in accordance with: (a) these Findings of Fact, Conclusions, and Decision of Approval and Conditions; (b) the plans and exhibits on file with the Commission; and (c) the conditions of this permit.
4. Within 180 days of the issuance of this decision, the Applicants shall submit for signature by the Chair of the Planning Commission and file for recording in the Town Clerk's Office an 18" x 24" mylar (otherwise in compliance with state statutes) of the survey referenced as Exhibit C above, corrected as follows:
 - a. The survey shall accurately reflect the easements and rights of way, including those to properties located beyond Cummings Drive, now owned by Lothrop and LeBrun;
 - b. Survey note #4 to be replaced with "I certify that the Huntington Planning Commission may rely on the easements and rights-of-way depicted hereon as accurately representing all applicable easements and rights-of-way of record."
5. Applicants shall obtain all necessary local, state and federal permits, including a driveway access permit to be obtained from the Huntington Selectboard prior to construction of the proposed driveway.
6. Applicant shall provide to the Town copies of all Wastewater System and Potable Water Supply Permits pertaining to this project when granted and shall abide by and comply with all terms and conditions thereof and any amendments thereto.
7. Applicant shall provide to the Town copies of all Act 250 amendments granted with respect to this project and shall abide by and comply with all terms and conditions thereof and any amendments thereto.

8. Appropriate erosion control measures shall be implemented during construction of the proposed houses, garage/barn, septic system, well and driveway.
9. All future utilities will be buried from the last pole and will be shown on the survey (Exhibit C);
10. Natural vegetation will be maintained for 50 feet from the brook, located on the west border of the property in the Rural Residential District, shown on the survey (Exhibit C);
11. All dogs will be fenced or leashed to avoid adverse impacts on deeryard.
12. The access to the Cummings family cemetery will be retained in deeds for the subdivision, as a condition of approval.
13. The bank rim of the former gravel pit area shall be left in a naturally-vegetative state and no re-contouring of the former gravel pit will be done without prior review by the Planning Commission pursuant to a subdivision amendment or site plan review.
14. The requested waiver of a separate utility plan (Section 4.1.1 (23)) has been granted.
15. Per the recommendation of Huntington Fire Chief Tate Jeffrey (Exhibit H), the driveways to Lots 1-2 and 1-3, shall be a minimum of 12' wide with a maximum slope of 15%; horizontal curves shall have a minimum radius of 45 feet. Roadway structure should be constructed to support emergency vehicles year round weighing 40,000 lbs.
16. The applicant shall pay the recording fees associated with the filing of the survey (referred to in Condition # 4 above) and permit decision with the Town of Huntington.
17. Construction plans and construction of the proposed project shall comply in all respects with the Zoning Regulations as amended on March 3, 2009.

Everett J. Marshall

Everett Marshall, Chair
Huntington Planning Commission

Dated this 21st day of July 2009.