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APPROVED

**HUNTINGTON PLANNING COMMISSION**  
Minutes of January 23, 2012

**PRESENT:** Tom Bailey, Dana Cummings, Gordon Miller, Heather Pembrook, Everett Marshall, Julia Austin

**ABSENT:** Ginger Lubkowitz

**OTHERS PRESENT:** Ralph Towers, Rachel Towers, Justin Willis (engineer), Tim Towers, Joe Spence, Beverly Spence, Ben Bush, Knox Cummin, Rich Lachapelle, Mike Pendriss, Bernie Young, Morris Knight, Lori Nyland, Spencer Harris

**MINUTES:** Heidi Racht

**Agenda:**

- 7 pm Minutes of January 9, 2012
- Mail
- 7:20 Public Comment
- 7:30 Towers Final Subdivision Review deliberations
- 8 pm Knox Cummin sketch plan review
- 8:20 Changes to Zoning and Subdivision Regs
- 9:30 Member Business
- 9:40 Adjourn

The meeting was called to order at 7:05 pm; chaired by Tom Bailey.

<b>Minutes of January 9, 2012</b>	Heather Pembrook moved to approve the minutes of January 9, 2012; seconded by Everett Marshall.  <b>The minutes of January 9, 2012 were approved unanimously with changes.</b>
<b>Mail</b>	1. Towers Wastewater Permit, dated January 18, 2012.
<b>Public Comment</b>	The public present at the meeting did not wish to comment at this time.
<b>Final Subdivision Review: Ralph and Rachel Towers Minor Subdivision, Mayo Road</b>	Deliberations began at 7:20 pm, chaired by Tom Bailey.  After reviewing the draft Findings of Fact, Conclusions and Order, Tom Bailey offered to waive the letter from the CESU Superintendent addressing school capacity, stating that the schools had capacity. This was accepted by the Commission.  Long discussion ensued about the deer wintering area and buffer. The Commission discussion Section 5.22.5 of the Zoning Regs and as well as 6.7 of the Subdivision Regs.

	<p>Everett Marshall proposed that the Conclusion state that all buffer requirements in Section 5.22.14 must be met as a condition of approval. He noted that the applicant had the option to either go before the ZBA for a variance or wait to see if the buffer changed in the next revision of the regs.</p> <p>Revisions were made to the document (proposed Findings, Conclusions and Order).</p> <p>Dana Cummings moved to approve the minor subdivision in accordance with the Findings of Fact, Conclusions and Order as discussed at the meeting; seconded by Gordon Miller.</p> <p><b>The motion to approve the Towers Minor Subdivision with conditions was approved unanimously.</b></p> <p>The deliberations concluded at 7:53 pm.</p>
<p><b>Knox Cummin Sketch Plan Review</b></p>	<p>Knox Cummin appeared before the Commission for his third Sketch Plan for the property on Main Road, south of the Lower Village. In this presentation, Cummin showed a plan for Phase I, located on the south end of the property. The project shows a residential development around an agricultural green. Cummin said that he had spoken with a couple of neighbors, who were interested in the agricultural aspect of the project. Earlier sketch plans placed the development closer to existing neighbors at the north end.</p> <p>Other highlights include:</p> <ul style="list-style-type: none"> <li>- the septic is located on the NW corner of the green</li> <li>- 8 dwellings would be located in four single family residences and two duplexes</li> <li>- there is a wetland, but it is not on the Vermont State Wetlands Inventory maps</li> <li>- the residential area and green is aimed toward ag and farming</li> <li>- there will be a homeowners association and each member would have a lot where the owner could build a garage or shed</li> </ul> <p>In answer to a question from Tom Bailey about the type of activity, like tennis courts, that could take place on the green, Cummin responded that there would be a relationship with the farmer/master gardener. However, if seven out of eight of the homeowners wanted to play tennis, "they may decide differently."</p> <p>Bailey asked how it would be built out. If two years go by and only three houses have been built, what happens?</p> <p>Cummin responded that it might take longer than proposed. The plan now was to clear-cut the area of the green and get the garden prepared.</p>

	<p>Morris Knight asked about determination of the deer wintering area. He said he had spoken to Bill Crenshaw and “he said it wasn’t done by aerial” observations. Initial deer winter area habitat maps were based on field observations, not aerial photos.</p> <p>Cummin said he would build the whole road into the project at the existing curb cut.</p> <p>In answer to questions, Cummin provided the following information:</p> <ul style="list-style-type: none"> <li>-the line of sight was addressed since this curb cut was approved already</li> <li>- the wetland is not a vernal pool</li> <li>- the soil is excellent for the proposed septic system</li> <li>- each phase would have its own wastewater system</li> <li>- the site already has a drilled well</li> <li>- the well shield is shown on previous maps</li> <li>- a shared well can be drilled between houses</li> <li>-septic design is conventional with leach field</li> <li>-utilities will be buried</li> <li>-fire hydrants have not been considered yet. Cummin will talk with Huntington Fire Chief Tate Jeffrey</li> </ul>
<p><b>Changes to Zoning and Subdivision Regs</b></p>	<p>At 8:20 pm, the Commission began work on the revisions to the Zoning Regs by reviewing an email that was sent by Dana Cummings. Deer Wintering Habitat and Critical Wildlife Habitat were addressed extensively in Cummings’s email in which he made several suggestions that were directed toward ensuring that variances many be granted in some circumstances; modifications to definitions to aid landowners.</p> <p>Everett Marshall said that all Class III wetlands similar in size to Class II are presumed to be Class II under the newly-revised wetlands law. He had talked to the State Wetland Ecologist who said the State regs are very strict. The Huntington regs could mention the State significant wetlands. He went on, “Our regs are duplicative and no longer needed. The State Ecologist said, ‘It’s not necessary.’ We can mention the State Wetlands Map. It was less broad than it is now.”</p> <p>Marshall then said, “The State has a greater potential for protection of wetlands.” He also said that the property owners have to get the wetland permit whether “we point to it or not.”</p> <p>A question was raised about what constitutes a significant wetland. Heather Pembroke responded that the State Wetlands Section gives criteria for soils, vegetation, hydrology, etc.</p> <p>Marshall then said that it was now a permit process with the State. There is no setback for wetlands. He proposed leaving the 50-foot buffer.</p>

Pembrook said that she was concerned with people “missing out” on the fact that they need to get the State permit.

Julia Austin remarked that the distance in the Huntington regs needs to comply with the State Wetlands regs.

Tom Bailey suggested deleting Section 5.22.1.c:

Setback - 50 feet from delineated wetland boundary. Wetlands shall be identified on the through site investigation by a qualified wetland ecologist.

**The Commission deleted Section 5.22.1.c.**

**The Commission added 5.22.7 Projects must meet the minimum distance setbacks and must comply with the most recently amended Vermont Wetland rules.**

**Section 2.6.1 was revised to read:**

**Stream and Wetland Setbacks:** All structures including accessory structures shall meet the minimum distance setbacks needed to comply with State Wetlands rules. The criteria about the 100’ setback from banks of streams and waterbodies for septic systems were removed because the town does not have jurisdiction.

1. Water quality and stream values shall be protected.
2. Expansion or improvements do not impact adjoining uses in any manner.
3. A reasonable alternative expansion or improvement location is not available.

**Section 5.22.4 was revised to read:**

At least 50 feet of the setback area, as measured from the top of bank or mean water line shall be maintained as a natural vegetated buffer. The Commission removed the language about Delineated Wetland Boundary.

The discussion then moved on to deeryards (deer wintering habitat) as addressed in Section 5.22. Currently, property owners cannot build in a DWH and not in a setback. Does this address the building envelope and driveway?

Bailey suggested, “Once the HPC has seen the project and says it is reasonable to build here and permits the building envelopes, it is good to go.”

Marshall said that it made sense to drop the 300-foot buffer. It’s onerous on the landowners.” The HPC can increase the buffer if it makes sense, he said, “If a project is close to a sensitive area, it makes sense for a wildlife biologist to look at it.”

Pembrook said that the Zoning Administrator reports show that most development takes place outside HPC oversight. She wanted the Town to have the ability to consult with State experts.

Pembrook read from the Vermont Fish and Wildlife webpage section on how to protect wildlife.

Marshall said if a big subdivision is located near a deer wintering area, it can disrupt. Dispersed development works better. Also, location of the development can disrupt deer activity. "Deer will use areas around human habitation, if they aren't being disturbed. Coyotes certainly do disturb deer in DWH."

Marshall said the Commission should discuss Conditional Use. He said he thought that additions to existing structures should be allowed.

Bailey added accessory dwellings to the list of allowed uses.

Cummings asked about conditions when structures are already located in deer winter habitat.

Marshall again said that additions should be allowed.

Bailey argued, "The ZBA would view that nothing is allowed in the deer wintering area."

The Commission then suggested that attached structures, agricultural buildings and accessory structures should be allowed.

Bailey suggested that 5.22.3 be modified with the following taken out:

"where proposed structures" to "whose opinion shall be given."  
Add in "except for additions, attached structures, barns and sheds."

He added that all other development should go through Conditional Use. He added, "The ZBA needs some guidance."

Pembrook said she thought that development should not be allowed in the deer wintering habitat except for accessory structures and structures that are a permitted use. This addresses new development; existing structure are considered to be in compliance.

Bailey asked, "Are we trying not to have new structures in the DWH?"

Joe Spence interjected, "The whole town is a deeryard. If you are going to have to go before the state and if they can prove it's a deeryard then they can't

build. You need to allow them to not have to go to the State.”

Members of the Commission clarified that the Town’s zoning regs were under discussion, not the State’s regs.

Beverly Spence asked for the definitions of deeryard and deer wintering habitat.

Marshall said, “The conversation tonight has been about making the [town’s] regs more flexible.”

Joe Spence again talked about the State regs and again it was disputed.

Morris Knight said he thought the Commission was moving in the right direction. He added that the town doesn’t have a say in the Act 250 conditions.

He then asked if a biologist said it wasn’t DWH, would that change the map? No one had an answer to the question.

Spence said he didn’t want to have permits for “everything.”

Justin Willis said, “The purpose of subdivision regs is that it enables the board to take a look” at projects and make arguments for thoughtful development.

He went on, “The VSWI (Vermont State Wildlife Inventory) maps are a vague guide now. You have to look at [all wetland regardless of type].”

Marshall responded, “Class II wetlands have saturated soils and wetlands plants, and not necessarily standing water.”

Rich Lachapelle clarified that the Commission was moving toward eliminating the 300’ deer habitat setback. He then advocated for an exemption from regulation for alternative energy installations.

Starksboro resident Spencer Harris stressed that DWA and wetlands in the Zoning Regs has a “huge implication on existing houses. It is not feasible for the Zoning Administrator to enforce.”

Bailey responded, “The goal was to take it out of the regs.”

Austin said that the regs should mention the term so it is seen by the people who are wanting to build and they are aware.

Knox Cummin asked, “If someone buys a wooded lot, where are you with that?”

	<p>Bailey responded, "Once it's permitted, it's ok."</p> <p>Harris asked, "What is the deer map?" He was told that the State has the map.</p> <p>Cummin then said, "So the burden is on the landowner to retain the biologist."</p> <p>Rich Lachapelle asked about projects that had come before the Commission and how many had been rejected because of deer wintering habitat. No projects have been rejected because of DWA.</p> <p>Cummings said, "We haven't addressed when someone buys an undeveloped lot and wants to build."</p> <p>Marshall said, "Any new house that will not have undue impact will need to go to the ZBA and get a variance."</p> <p>Cummings then said, "Small development within a large parcel makes sense."</p> <p>Gordon Miller asked about the difference between deer habitat and a deeryard. Pembroke will research and inform members before the next meeting about difference, if any.</p> <p>Cummings argued for balance, stating there should be ongoing discussion about Critical Wildlife Habitat.</p> <p>Austin added that it was "important to define the terminology."</p> <p>Marshall replied that the deer wintering habitat and deeryard terminology was used interchangeably by the State. He then talked about the aspects that make an area suitable: low snow depth, thermal advantages.</p> <p><b>The Commission reached consensus that any decisions about changing the criteria for the deer areas in the regs will wait until the next meeting.</b></p> <p><b>All agreed, though, that renewable energy should be included and allowed and should be discussed further.</b></p> <p>The discussion concluded when Pembroke asked Miller if the discussion had fulfilled "some of your worries" and he concurred that some of his concerns had been addressed.</p> <p>Cummings has partial language to address existing structures in DWA and will share with members before the next meeting.</p>
<p><b>Member Business</b></p>	<p>1. Tom Bailey reminded the Commission about the Form-Based Code meeting on Thursday, February 26, at 7 pm, in the Town Office.</p>

	<p>2. Everett Marshall talked about the regional effort to reduce forest fragmentation through land use planning. He was reminding the Commission to choose a member to represent Huntington on the tech committee of the project. Phase I in the first year is to test in the Mad River Watershed; Phase II will develop a manual for land use planners. The emphasis of the project is to minimize impacts to forested landscapes.</p> <p>3. Ginger Lubkowitz's suggestion that the Commission adopt the Existing Town Plan and then start work to develop a good re-write while still meeting the State deadline of a new town plan every five years.</p> <p>4. Bailey offered to help the Commission after March 6 on a project-by-project basis.</p> <p>HPC clerk Heidi Racht brought in the total hours (45 hours) she had worked since July 1. After some discussion, Heather Pembroke moved to pay Racht at a rate of \$15 per hour; seconded by Julia Austin. The amount is within the \$1500 budgeted by the Commission, so the cost will be within budget.</p> <p><b>The Commission voted unanimously to pay Heidi Racht at a rate of \$15 per hour beginning July 1, 2011.</b></p>

**Adjournment:** Heather Pembroke moved to adjourn; seconded by Everett Marshall. The Commission voted unanimously to adjourn at 10 pm.

**UNAPPROVED MINUTES TO THE HPC:** January 31, 2012

**MINUTES APPROVED:** February 13, 2012

**APPROVED MINUTES TO THE TOWN CLERK:** February 14, 2012

Huntington Planning Commission  
4930 Main Road  
Huntington, Vermont

RE: Application of Ralph and Rachel Towers  
Application No. 2011-2

**FINDINGS OF FACT, CONCLUSIONS, AND ORDER**

FINAL SUBDIVISION HEARING FOR:  
Ralph and Rachel Towers Minor Subdivision  
Mayo Road, Huntington, VT 05462

Based upon the application of Ralph and Rachel Towers (hereinafter the "Applicant") and the testimony and exhibits presented prior to and at the December 12, 2011 and January 9, 2012 hearing pursuant to the Final Subdivision Review which was held at the Huntington Town Office in Huntington, Vermont, and, after due deliberation at its January 23, 2012 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 November 21, 2011, the Applicant filed an Application for Final Subdivision Approval for a project described as a two-lot subdivision on Mayo Road.
2. The Applicant filed the following:
  - a. The completed required Subdivision Information form filed November 21, 2011. (Exhibit A)
  - b. Survey entitled "Site Plan Two Lot Subdivision for Ralph and Rachel Towers, Mayo Road, Huntington, Vermont" dated November 14, 2011, and prepared by Willis Design Associates, Inc., Richmond, Vermont. (Exhibit B)
  - c. Letter from Vermont Wildlife Biologist John Gobeille, dated May 29, 2009, said that the wooded area near the house site has rock outcroppings at least 20 feet high that has "the potential to serve as a natural buffer" between the houses and any deer wintering habitat on the property. (Exhibit C)

- d. Letter from Errol C. Briggs of Gilman and Briggs Environmental, Inc., Barre, Vermont, dated December 31, 2011, addressing deer wintering habitat and buffer zone on the property. (Exhibit D)
  - e. Letter from Amy Alfieri, ANR Wildlife Specialist, dated September 18 2009, that recommended permit conditions from the State, including
    1. dogs on leash;
    2. no motorized vehicles in DWH between December 1 and April 14;
    3. no tree removal without prior ANR approval and/or forest management plan;
    4. no new establishment of recreational trails;
    5. no future subdivision of DWH or 300-foot buffer.(Exhibit E)
3. On December 12, 2011, and January 9, 2012, at the Final Subdivision Review hearing, the Applicant appeared before the Commission and presented evidence in support of the project.
  4. In accordance with the Regulations and state law, notice of this hearing, dated November 29, 2011, was published in the newspaper, posted in the community and mailed to adjacent property owners. (copy in file)
  5. The project is located at Mayo Road and is located in the zoning district named the Rural Residential District, which is zoned for five acres. The project is located on Town Tax Map # 2.
  6. The Applicant owns 21.18 acres in Huntington on the east side of Mayo Road which will be divided into Lot 1 (5.10 acres); and Parcel 2 (16.08 acres).
  7. The Applicant seeks approval for a proposed single-family houses and septic systems on proposed Lots 1 and 2.
  8. The Applicant has represented that natural features on the property include a deer wintering habitat.
  9. The Applicant has represented that houses proposed on the property are located near a deer wintering area and all construction will be within a 300' buffer.
  10. A letter from Vermont Wildlife Biologist John Gobeille, dated May 29, 2009, stated that the wooded area near the house site has rock outcroppings at least 20 feet high that has "the potential to serve as a natural buffer" between the houses and any deer wintering habitat on the property. (Exhibit C)
  11. The Applicant engaged Environmental Engineer Errol C. Briggs of Gilman and Briggs Environmental, Inc., Barre, Vermont to make a determination as to the deer activity in the 300-foot buffer of the deer wintering habitat. A determination was issued in a letter dated December 31, 2011 that the development would not impact the deer wintering area. (Exhibit D)

12. All future utilities will be buried.
13. The Applicant stated that covenants would be placed on Lot 2 that would prevent future subdivision.
14. Class 3 wetland shown on Site Plan.
15. The Applicant stated that this parcel of land is not subject to an Act 250 permit.

The Planning Commission members present during the hearing on December 12, 2011 referred to above were Gordon Miller (chair), Julia Austin, Dana Cummings, Ginger Lubkowitz, Everett Marshall, Heather Pembrook and Tom Bailey (constituting a quorum); the Planning Commission members present during the continuation on January 9, 2012 referred to above were Tom Bailey (chair), Julia Austin, Dana Cummings, Ginger Lubkowitz, Everett Marshall, Gordon Miller and Heather Pembrook (constituting a quorum); and the members present during deliberations on January 23, 2012 were Tom Bailey (chair), Julia Austin, Dana Cummings, Everett Marshall, Gordon Miller and Heather Pembrook (constituting a quorum).

### **CONCLUSIONS:**

After deliberations on January 23, 2012, the Commission has concluded the Applicant has provided materials in the application and up to and during the hearing on December 12, 2011 and January 9, 2012 (referred to as Exhibits A-E above) that satisfies the requirements of Section 5.1 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 Section 5.1 of the Regulations and conclude that the requirements of Section 5.1 are satisfied subject to the conditions set forth below. The Commission's conclusions with regard to each subparagraph of Section 5.1 are set forth (by subparagraph number) as follows:

- 5.1.1. 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.
- 5.1.2. 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.
- 5.1.3 – 5.1.6. The project satisfied the requirements of the subparagraph adequately.
- 5.1.7. Subject to the conditions set forth below, the potential for erosion and runoff into nearby surface waters during construction is adequately remedied.

5.1.8 – 5.1.12. The project satisfied the requirements of the subparagraph adequately.

5.1.13. The project complies 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.

In addition, the Commission concluded that:

- A. The project is not in a floodplain.
- B. This area has single family residences, open fields and wooded areas. The subdivision meets the minimum lot size of five acres for the Zoning District. The Commission concludes the project complies with the provision of compatibility with surrounding properties.
- C. The project is suitable for the proposed site density.
- D. Based on the Applicant's testimony, there will be sufficient water to meet the needs of the proposed project for the reasonably foreseeable future.
- E. This subdivision as proposed will not cause highway congestion or unsafe conditions, subject to the conditions set forth below.
- F. Impacts on deer winter habitat and buffer were addressed by Wildlife Biologist Errol C. Briggs in letter dated, December 31, 2011. (Exhibit D)

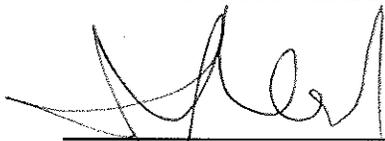
### **DECISION OF APPROVAL AND CONDITIONS**

Following deliberation on January 23, 2012, Final Subdivision Approval was granted on January 23, 2012 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/site plan referenced as Exhibit B above.
5. Applicants shall obtain all necessary local, state and federal permits.
6. Applicant shall abide by and comply with all terms and conditions thereof and any amendments thereto for all Wastewater System and Potable Water Supply Permits pertaining to this project.
7. Appropriate erosion control measures shall be implemented during construction of the proposed houses, garage/barn, septic system, well and driveway.
8. All dogs will be fenced or leashed to avoid adverse impacts on deer winter habitat.
9. A letter from Fire Chief Tate Jeffrey addressing and approving the access for fire protection will be a condition of approval.
10. A letter from CESU Superintendent John Alberghini addressing the school district's capacity at all levels will be a condition of approval was waived upon the recommendation of the Planning Commission chair.
11. 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.
12. Construction plans and construction of the proposed project shall comply in all respects with the Zoning Regulations as amended on March 3, 2009.
13. All buffer requirements in the Zoning Regulations related to Critical Wildlife Habitat shall be met.



Tom Bailey, Chair  
Huntington Planning Commission

Dated this 24<sup>th</sup> day of JANUARY 2012.