



**SMITHFIELD PLANNING BOARD
RESOLUTION APPROVING THE MASTER PLAN: PHASE III OF A
COMPREHENSIVE PERMIT/MAJOR LAND DEVELOPMENT PROJECT
KNOWN AS “THE SAND TRACE”**

**AP 46 / Lot 10 – 8 Mann School Road and Log Road
Owner/Applicant: Sand Trace, LLC**

WHEREAS, the Smithfield Planning Board met on March 12, 2020 to consider an application for a Comprehensive Permit/ Major Land Development project known as “THE SAND TRACE” located at 8 Mann School Road and Log Road, on approximately 54+ acres, in a R-80 Zoning District. The project site is also specifically listed in *Table H-25 Selected Properties for the Construction of Low and Moderate Income Housing* (Site ID #21) and, as such is subject to the density provision established in *Table–H-25 and Zoning Ordinance Section 12.5 Review Process for Projects Listed in Table H-25 Selected Properties for the Construction of Low and Moderate Income Housing* and the dimensional provisions of the R-20M Zoning District; and

WHEREAS, the record includes: Application for Comprehensive Permit – Phase III (A.P. 46, Lot 10, 8 Mann School Road) received on January 2, 2020; Master Plan set – DiPrete Engineering, revision #10 dated December 31, 2019; Master Plan Narrative and Supporting Material, DiPrete Engineering, dated January 2020; Comprehensive Permit - Affordable Housing Development - Pimentel Consulting, Inc., July 17, 2018, revised December 2019 and March 11, 2020; Technical Memorandum - Traffic – prepared by BETA dated June 14, 2019; Letter of Eligibility – RI Housing, dated September 18, 2018 and Letter of Eligibility RI Housing, dated March 21, 2019 allowing units to be sold to homeowners with household income at or below 120% of Area Median Income; Fiscal Impact Study, prepared by JDL Enterprises, dated October 2018, modified October 11, 2019; Report of Findings for Freshwater Wetland delineation, Natural Resource Services, Inc., dated July 11, 2018; Certificate of Completeness, dated January 31, 2020; Floor Plans & Elevations – HPA Design, Inc. Architects, dated November 18, 2019; Availability of Water Letter – Greenville Water District, dated July 15, 2018; Availability of Gas Letter, National Grid, dated June 28, 2018; Smithfield Sewer Authority confirmation of sewer availability letter, dated July 16, 2018; Peter M. Scotti & Associates, Inc. report dated November 15, 2018; Master Plan - Phase II - Technical Review Committee Meeting notes dated November 25, 2019; Notice of Master Plan Public Hearing, December 5, 2019, published in the Valley Breeze November 21, 2019; Staff Memo dated March 5, 2020; Abutters List; Master Plan Phase II Planning Board Decision, recorded January 30, 2020; and

WHEREAS, Attorney William Landry, with Blish & Cavanagh, represented the applicant stating that the third phase of this project has been reduced in density as a result of a more detailed evaluation of the site topography. Attorney Landry that this site is unique in that it is specifically listed in the Town’s Comprehensive Community Plan as a site suitable for the development of housing at a density of up to 5 units per acre with 25% of the units meeting the LMI standard set forth in the Low and Moderate Income Housing Act. Attorney Landry also points out that the project exceeds the standards for conservation development as far as the amount of open space provided.

WHEREAS, Chris Duhamel, Professional Land Surveyor and Engineer with DiPrete Engineering, stated the development of Phase III consists of 25 acres having 40 units, exceeding the required amount of open space, and being serviced by public water and sewer. In response to Attorney Landry’s question regarding the level of design of the project, Mr. Duhamel replied that the level of design is consistent with what is considered normally at Master Plan stage, which is to say that

it is conceptual in nature and that much more detail will be required in all aspect of the project at the Preliminary Plan stage.

Attorney William Landry stated that Scott Rabideau's wetlands report was submitted at the Master Plan and that all proposed improvements were outside any RIDEM jurisdictional area. The report was marked as Applicant's Exhibit A.

WHEREAS, Attorney William Landry requested the updated version of Edward Pimental's Planning Report be submitted as Applicant's Exhibit B.

The public hearing was opened at 8:07 p.m.

WHEREAS, Michael Iannotti, 87 Swan Road, stated that he disagrees with Mr. Landry and that the State statute is clear that the entire site design must be done at the master plan level and not in phases. Mr. Iannotti stated that he thinks the approval of 60 units at Phase I was it and that the Town's ordinance states that no more than 1% of the Town's housing units will be considered. Mr. Iannotti stated that the Smithfield ordinance allows developers to exceed the 1% only where they seek and receive a Special Use Permit which this developer did not do. Mr. Iannotti submits that this whole process is improper and should have been stopped at Phase I with 60 units.

WHEREAS, Mr. Iannotti stated that the land on Swan Road is higher with properties having wells that are shallow. Mr. Iannotti stated that, if Phase III is approved, that the Board require a hydrologist's report that looks at any effect on the neighboring wells for the Preliminary Plan submission.

WHEREAS, Assistant Solicitor Scott Levesque addressed Mr. Iannotti's question as to why the Town has not required the applicant to obtain a Special Use Permit from the Zoning Board by stating simply that, "State law does not allow us to do it" and further that the provision requiring review by the Zoning Board for a special use permit is unenforceable. Attorney Levesque states that 45-53 provides for the review of comprehensive permit projects exclusively by one Board and essentially provides for "one stop shopping" and requires the Planning Board to grant whatever relief is required. Attorney Levesque read from §45-53-4, (a), "*Any applicant proposing to build low or moderate income housing may submit to the local review board a single application for a comprehensive permit to build that housing in lieu of separate applications to the applicable local boards.*" Mr. Levesque cites other provisions of §45-53-4, specifically (4), (vi), where it states that the Local Board of Review (Planning Board) "*has the same power to issue permits or approvals that any local board or official who would otherwise act with respect to the application, including, but not limited to, the power to attach to the permit or approval, conditions, and requirements with respect to height, site plan, size, or shape, or building materials...*" Mr. Levesque sums up by stating that the Planning Board is the only stop for Comprehensive Permit projects and anything that suggests otherwise is contrary to state law which was exactly what Judge Lamphear stated in the 2009 Superior Court decision that has been referenced during the course of the hearings on this project.¹

¹ Superior Court C.A. No. PC-2009-1768- Sand Trace, LLC v. Smithfield Zoning Board of Review, p. 7 "the Town lacked the authority to pass an ordinance directing the Zoning Board of Review not to accept applications that exceed the one percent limit. This portion of the Smithfield Code section 68-5 conflicts with chapter 45-53 of the General Laws."

WHEREAS, Attorney Rob D'Alfonso, representing Steven and Loreen Francazio, stated that the developer and the Town has misconstrued the act and questioned whether this Board has granted a special use permit. Attorney D'Alfonso addressed the presence of this site on Table H-25 of the Comprehensive Plan which does not automatically grant permission for enhanced density development. Attorney D'Alfonso stated that he believes this project cannot go forward unless it is granted a special permit.

WHEREAS, Assistant Solicitor Scott Levesque addressed Mr. D'Alfonso's statement that a special use permit is required and has not been granted yet by pointing out that the project receives from the Planning Board a Comprehensive permit, as the statute states, that gives the applicant all the relief it needs as part of the Planning Board's approval are wrapped into one proceeding.

WHEREAS, Attorney William Landry stated that the Low and Moderate Income Housing Act used to call the relief needed a special use permit but the Law now calls it a comprehensive permit. The Planning Board sitting as the Board of Review has the same power to grant approvals that other boards or commissions would normally grant, the Act has consolidated the power with the Planning Board and has given the Board special criteria by which to judge comprehensive permit projects.

WHEREAS, Cheryl Iannotti, 87 Swan Road, stated that this Board has a very big responsibility on a big project having traffics issues, environmental issues, impacts on wells, and this being a moderate income and not low income housing development does not get the Town any closer to its goal. Mrs. Iannotti stated that the needs of the Town and welfare of its citizens need to be considered.

WHEREAS, The public hearing was closed at 8:28 p.m.

WHEREAS, John Yoakum questioned the effect on wells on Swan Road and Attorney William Landry replied that he has never heard of a hydrology study being done when there is public water available. There will be no pumping of water from the aquifer to supply water so there should not be any effect on surrounding wells.

WHEREAS, Al Gizzarelli questioned the Mr. Duhamel about the site elevations and Chris Duhamel replied that the development is 1,000 feet from Swan Road, which is at a higher elevation, and the site is isolated by a wetland. Mr. DiPrete added that he can't see any potential effect on groundwater on Swan Road.

WHEREAS, Richard Colavecchio stated that at Phase II there was an agreement that the second floor of the units with lofts be eliminated and Attorney William Landry replied that all eight of the conditions in the Staff Report are acceptable.

WHEREAS, Planner Mike Phillips requested the applicant address how the units will layout and are not going to look as they appear on the Master Plan, all lined up with no variation in setback. Frank Simonelli, Jr. stated that there will not be a wall of units all lined up rather they propose to stagger units 12-15 foot distance between every other unit and, if possible, will try to turn units to avoid the look of a "tract housing" development.

WHEREAS, Steve Tillinghast asked Mr. Simoneli about the timeline for buildout of Phase III and Frank Simonelli, Jr. replied that it is market-based but will probably be a 3-4 year construction buildout for Phase III.

WHEREAS, Jennifer Hawkins stated she is satisfied that the conditions of Phase II have been met and understands that a special use permit is not applicable.

WHEREAS, Mike Pinelli stated that his concern was traffic flow which was addressed in Phase 1 and 2.

WHEREAS, John Yoakum stated that he appreciates the effort in reduction of units and the developer agreeing to work with traffic issues as time goes on.

WHEREAS, Steve Tillinghast stated that this is a large project with traffic implications which are still there and this is a concern for him.

WHEREAS, Curtis Ruotolo stated that the project will need to be reviewed at Preliminary Plan stage and is pleased that there has been a reduction in the number of units, the applicant has been responsive to the Board's comments and has moved the project in a positive direction since Phase I.

WHEREBY, John Yoakum made a motion, seconded by John Steere, to approve the master plan for Phase III with the conditions of approval adopted at Phase II and making the findings as outlined in the Town Planner's Memo submitted as Board's Exhibit #1. The vote on the motion was as follows:

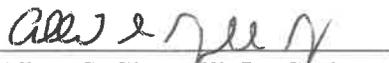
Voting In Favor: Members Gizzarelli, Colavechio, Hawkins, Pinelli, Ruotolo, Steere, and Yoakum

Voting In Opposition: Member Tillinghast

Abstaining: None

Members Absent: One

NOW BE IT THEREFORE RESOLVED by majority vote of seven (7) members in favor and one (1) opposed and, none (0) abstaining, that the Master Plan – Phase III submission of the Comprehensive Permit/ Major Land Development Project known as “The Sand Trace” with the stated findings of fact and conditions attached hereto as Exhibit B-1, is APPROVED.


Albert S. Gizzarelli, Jr., Chairman

This decision will be publicly posted in a visible location in the Town Hall for a period of twenty (20) days commencing the ___ day of _____, 2020.

Exhibit B-1

**FINDINGS OF FACT
AND
CONDITIONS OF APPROVAL**

Motion to **approve** application based upon the following findings, supported by the following evidence on the record and with the conditions enumerated herein:

- The proposed development is consistent with the local needs as identified in the Town's Comprehensive Community Plan, with particular emphasis on the Town's Affordable Housing Plan, or satisfactorily addresses any inconsistencies:*

The Town Affordable Housing Plans has a number of strategies listed for reaching the 10 Percent Low and Moderate Income Housing Level.

The Town chose to identify sites in the community where LMI housing development shall be promoted (Strategy 2). Thirty-three sites were selected (Table H-25) and analyzed for the presence of development constraints and available infrastructure.

The subject site is one of the 33 sites listed in Table H-25 (see below).

Table H-25: Selected Properties for the Construction of Low and Moderate Income Housing

Map ID#	Plat	Lot	Location/Owner	Zoning	Gross Land Area	Buildable Area	Public Water ¹	Public Sewer	Projected # Units at Buildout			Market Rate/LMI Units Proposed/Approved
									5 units / acre 25% -34% LMI	35% -49% LMI	12 units / acre 50% - 100% LMI	
21	46	10	Sand Trace LLC- 8 Mann School Road	R80	54.9	35.4	GW w/Ext	Yes w/Ext	177	283	425	

Phase III of the development contains 40 units, 10 of which are designated as LMI units as depicted on Sheet 7 of 7 of the Master Plan set – DiPrete Engineering, revision #10 dated December 31, 2019. The applicant was issued a Letter of Eligibility from RI Housing, dated March 21, 2019 allowing units to be sold to homeowners with household income at or below 120% of Area Median Income. The applicant originally received a Letter of Eligibility – RI Housing, dated September 18, 2018 allowing units to be sold to homeowners with household income at or below 80% of Area Median Income.

The Applicant submitted an analysis of the project and its compliance with the Community Comprehensive Plan. This analysis prepared by Pimental Consulting, Inc. concluded that the

“proposed development is consistent with the Comprehensive Plan”. The report cites numerous specific points of consistency, finds that the density of the project is appropriate for the area, notes that the project is within the Urban Services Boundary and finds that there is a defined need for this type of development as expressed in the Comprehensive Plan.

2. *The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, or any inconsistencies are waived or given variance since they do not outweigh the need for state and local low and moderate income housing.*

Phase III of the development provides 75% of its area as open space or 14.99 acres and represent 97% of the useable area of Phase III.

Phase II of the project which is being considered meets the requirements of *12.5 REVIEW PROCESS FOR PROJECTS LISTED IN TABLE H-25 SELECTED PROPERTIES FOR THE CONSTRUCTION OF LOW AND MODERATE INCOME HOUSING*

- A. The property is listed in Table H-25 in the Housing Element of Smithfield's Comprehensive Plan.
- B. The 40 units proposed in Phase II are within the 79-unit yearly limit established by Smithfield Ordinance, Section 68-5. No other Comprehensive Permit projects were under consideration in the 2020 when the subject project was certified complete.
- C. The project meets the dimensional regulations which apply to the R-20M District with the exception of density regulations.
- D. The project density (40 Units) as proposed is under the maximum density of up to five (5) units per developable acre (for any Table H-25 project which constructs a minimum of 25% LMI units.
Phase III -15.49 developable acres x 5 units/AC = 77 Units
- E. Not Applicable
- F. Not Applicable
- G. Land considered unsuitable for development under sections 6.8.1 and 5.3.4 A has been deducted from the overall land area used to calculate density.
Phase III contains 4.55 acres of unbuildable area comprised of wetlands and perimeter wetlands;
- H. The units depicted in the floor plans and elevations appear to be aesthetically compatible with similar residential developments within the Town.

Project roadways will not be public streets and are designed with a 26' paved section with 2- 12' travel lanes and 1' cape cod berms. This design is commensurate with other condominium developments in the Town. Roadway base, pavement structure and other appurtenances will be required to meet the specifications called for in Section VII of the Land development and Subdivision Regulations.

3. *All low and moderate income housing units are integrated throughout the development, are compatible in scale and architectural style to the market rate units within the project and will be built and occupied prior to or simultaneous with the construction and occupancy of market rate units.*

The 10 LMI units appear to be identical in scale and exterior finish to the market rate units as depicted in Conceptual Plans for: Sand Trace LLC prepared by HPA Design, Inc. The proposed LMI units are located in all of the 10 buildings in Phase III and therefore meet the integration requirement.

4. *There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;*

The Wetland report prepared by Natural Resource Services, Inc. submitted with the Master Plan identifies wetland areas. All development proposed will be outside of RIDEM jurisdictional wetlands. Municipal sewers and water service are available to the site as evidenced by letters from the Town Engineer and Greenville Water District. Areas for the collection and treatment of stormwater have been identified on the plans. Final design plans for the drainage systems, sewers and other systems will be required at Preliminary Plan stage. RIDEM permits and other State Permits will be required at Final Plan stage in accordance with 45-53.

The Applicant has agreed to design and install an additional culvert under Log Road at the Stump Pond/Stillwater Reservoir causeway to help alleviate existing flooding which occurs periodically along this section of Log Road.

An Environmental Impact Statement that will include analysis of the project impact on soil, groundwater, vegetation, historic/archeological, noise and air quality and wetlands will be required at Preliminary Plan stage.

5. *The subdivision, as proposed, will not result in the creation of individual lots with any physical constraints to development, excluding open space, so that building on those lots according to pertinent regulations and building standards would be impracticable;*

All the buildings and roadways appear to be in areas that are free of physical constraints such as wetlands, ponds, steep slopes or easements. Yard space, not considered part of the required open space is provided around each building.

6. *All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street.*

The development has one main access driveway on Log Road and has a proposed gated emergency access drive to gain access from Mann School Road. Both driveways have adequate sight distance as detailed in the Traffic Impact Analysis prepared by Gordon R. Archibald, Inc., July 2018, rev. January 2019 and the Trip Generation & Traffic Impact Study, prepared by Crossman Engineering, Engineers & Surveyors, December 2018, rev. January 2019.

7. *The subdivision will have no significant negative impacts on the health and safety of current and future residents of the community, including since the project provides for safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off control, and for the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.*

Buildings in the proposed development will be set back from Log Road a minimum of 100'. A natural berm exists along much of project's frontage on Log Road providing for natural screening of the project from the adjoining neighborhood.

The proposed roadway width of 26' with (2) 12' travel lanes and 1' berms is consistent with other roadways proposed under these regulations. The findings of the independent traffic study conducted by Crossman Engineering was found to be in substantial agreement with the Applicant's traffic study done by Gordon R. Archibald, Inc. The studies both found the project, as proposed, does not represent a "high traffic generator". The project's entrance driveway onto Log Road will operate at a reasonable level of service and the area is characterized as having a low incidence of traffic accidents.

While there will be an increase in delay at the Log Road/Pleasant View Avenue intersection during peak hours the additional trips generated from the project would probably not warrant a signal at this intersection. The Technical Memorandum - Traffic – prepared by BETA dated June 14, 2019 found that the actual delay times at the Log Road Pleasant View Avenue intersection were overestimated in the Gordon R. Archibald and Crossman studies and that RIDOT did not believe that intersection improvements including the yield controlled channelized right turn with a 100' dedicated right turn lane and/or a traffic signal would be warranted at this time and suggested that additional studies should be done before buildout of Phase II to determine what measures are required. Also, the project was only under consideration at the Master Plan level of review, and only for Phase III, whereas the traffic studies were based on full buildout.

The Board conditioned the approval on the provision of internal sidewalks/trails being constructed from the junction of Roadways A and B to the project entrance on Log Road to provide for pedestrian movement within the development. The Board will also require that the Applicant work with the Town and RIDOT to restripe the intersection at Log Road and Pleasant View Avenue to include a dedicated right turn lane within the existing configuration of the Log Road and Pleasant View Avenue intersection as an interim measure.

An additional condition will be that the Applicant prepare a Physical Alteration Permit Plan set for the "yield controlled channelized right turn including a 100' dedicated right turn lane with lane reconfigurations as depicted in Attachment B – Conceptual Figure-“ Log Road Eastbound Approach to Pleasant View Avenue” in the Technical Memorandum - Traffic – prepared by BETA dated June 14, 2019.

With the provision of the knock down gate/keyed entry at the emergency access drive and the provision of fire hydrants every 500 feet along the roadways the Fire Department indicated that the development provides for adequate provisions for emergency response services.

Letters indicating the availability of water and sewer services for the project were provided by the Greenville Water District, dated July 15, 2018 and the Smithfield Sewer Authority, dated July 16, 2018

Project design plans show conceptual locations of stormwater treatment facilities to store and treat stormwater from the development. Final design plans for stormwater facilities will be required at Preliminary Plan stage.

Members of the Smithfield Historic Preservation Commission conducted a site walk with the owner on November 24th and it was determined that there were no visible historic or cultural features that would be

disturbed by the development as proposed. Revisions to the project layout submitted at Phase III are such that the historic stone walls identified on the property will remain undisturbed.

Conditions of Approval:

1. That the Applicant participate in discussions with RIDOT and Town representatives regarding the provision of traffic mitigation measures at the Pleasant View/Log Road intersection and along Log Road including a traffic signal, dedicated right turn lane, sidewalk extensions, crosswalks and traffic calming measures.
2. That the applicant prepare a Physical Alteration Permit Plan set for the “yield controlled channelized right turn including a 100’ dedicated right turn lane” as recommended initially by Joseph Giordano of Gordon R. Archibald, Inc. and by BETA Engineering in their “Technical Memorandum – Traffic”, June 14, 2019.
3. As an interim measure the Applicant will work with the Town to secure RIDOT approval to restripe the intersection to include a dedicated right turn lane within the existing configuration of the Log Road and Pleasant View Avenue intersection.
4. That the Applicant partner with the Town to design and install an additional culvert at the Stillwater Reservoir causeway on Log Road to help alleviate flooding. All work to prepare and install the culvert is subject to the issuance of the necessary permits from RIDEM and all costs associated with the installation of the culvert shall be borne by the Applicant.
5. That the Applicant provide sidewalks and/or walking trails along Roadway A from the intersection of Roadway B to the project entrance on Log Road.
6. That an environmental impact study including soil, groundwater, vegetation, historic/archeological, noise and air quality and wetlands be submitted at Preliminary Stage.
7. That the Building “Type 3” floor plan be modified to exclude the 2nd floor study with the closet that could easily be converted to an additional bedroom.
8. That proposed roadway section be increased from an overall width of - 24’, with (2) 11’ travel lanes and (2) 12” berms, to and overall width of 26’, with (2) 12’ travel lanes and (2) 12” berms.