



Town of Dracut

Board of Appeals

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Dracut, MA 01826

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BOARD OF APPEALS FOR THE TOWN OF DRACUT RECORD OF PROCEEDINGS

KATHY L. BROWN
TOWN CLERK
DRACUT, MA

APPLICATION NO: 2005-13 Continued

PETITIONER: First Dracut Development, LLC

PROPERTY LOCATION: 341 Broadway Road

DESCRIPTION: Comprehensive Permit for 278 rental units with 4 buildings.

OWNER: Parekh

DATES OF LEGAL NOTICES: See Next Page

DATE OF HEARING (S):

Hearing 1-7/21/11	Hearing 2-9/22/11
Hearing 3-11/17/11	Hearing 4-2/16/12
Hearing 5-4/26/12	Hearing 6-6/21/12
Hearing 7-12/20/12	Hearing 8-3/21/13
Hearing 9-5/16/13	Hearing 10-6/27/13
Hearing 11-9/19/13	Hearing 12-10/17/13
Hearing 13-12/19/13	Hearing 14-2/27/14
Hearing 15-4/17/14	Hearing 16-5/15/14
Hearing 17-6/19/14	Hearing 18-7/17/14
Hearing 19-9/18/14	

MEMBERS PRESENT: See Next Page

I, Clerk of the Board, hereby certify that the following is a detailed record of all its proceedings relative to the petition of First Dracut Development, LLC for a 40B Comprehensive Permit for a Special Permit and Variance waivers from the Dracut Zoning By-laws.

NOTIFICATION

A notice of public hearing was published, posted and mailed to the "Parties in Interest" as indicated below:

- Published in The Lowell Sun;
- Posted in a conspicuous place in the Town Hall not less than 48 hours prior to the date of hearing;
- Mailed by first class mail, postage prepaid, to the applicant, abutters and owners of land within 300 feet of the property line as named in the certificate from assessors and to the Board of Appeals, Building Inspector and the Planning Board of every abutting city and town.

DATES OF LEGAL NOTICES:

7/7/11 & 7/14/11 – 9/8/11 & 9/15/11
11/3/11 & 11/10/11 – 2/2/12 & 2/9/12
4/12/12 & 4/19/12 – 6/7/12 & 6/14/12
12/6/12 & 12/13/12 – 3/7/13 & 3/14/13
5/2/13 & 5/9/13 – 6/13/13 & 6/20/13
9/5/13 & 9/12/13 – 10/3/13 & 10/10/13
12/5/13 & 12/12/13 – 2/13/14 & 2/20/14
4/3/14 & 4/10/14 – 5/1/14 & 5/8/14
6/5/14 & 6/12/14 – 7/3/14 & 7/10/14
9/4/14 & 9/11/14

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TOWN CLERK
DRACUT, MA

MEMBERS PRESENT:

	<u>7/21/11</u>	<u>9/22/11</u>	<u>11/17/11</u>	<u>2/16/12</u>
John J. Crowley, Chairman	Present	Present	Present	Present
Steve Hamilton, Vice Chairman	Present	Present	Present	Present
Scott Mallory, Clerk	Present	Present	Present	Present
Ina Hakkila, Member	Present	Present	Present	Present
David Meli, Member	Present	Present	Absent	Present
Heather Santiago-Hutchings, Alt. Member	Present	Present	Present	Present
Michael Pagones, Alt. Member		Present	Present	Absent

	<u>4/26/12</u>	<u>6/21/12</u>	<u>12/20/12</u>	<u>3/21/13</u>
John J. Crowley, Chairman	Present	Present	Present	Present
Stephen Hamilton, Vice Chairman	Present	Present	Absent	Present
Scott Mallory, Clerk	Absent	Absent	Present	Present
Ina Hakkila, Member	Present	Present	Present	Present
David Meli, Member	Present	Present	Present	Absent
Heather Santiago-Hutchings, Alt. Member	Present	Present	Present	Present
Michael Pagones, Alt. Member	Present	Present	Present	Present

	<u>5/16/13</u>	<u>6/27/13</u>	<u>9/19/13</u>	<u>10/17/13</u>
John J. Crowley, Chairman	Present	Present	Present	Present
Stephen Hamilton, Vice Chairman	Present	Present	Present	Present
Scott Mallory, Clerk	Present	Present	Present	Present
Ina Hakkila, Member	Present	Present		
David Meli, Member	Absent	Present	Absent	Absent
Heather Santiago-Hutchings, Alt. Member	Absent	Present	Absent	Present
Michael Pagones, Alt. Member	Present	Present	Present	Absent

	<u>12/19/13</u>	<u>2/27/14</u>	<u>4/17/14</u>	<u>5/15/14</u>
John J. Crowley, Chairman	Present	Present	Present	Present
Stephen Hamilton, Vice Chairman	Present	Present	Present	Present
Scott Mallory, Clerk	Present	Present	Present	Present
David Meli, Member	Absent	Absent		
Heather Santiago-Hutchings, Member	Present	Present	Present	Present
Michael Pagones, Member	Absent	Present	Present	Present

	<u>6/19/14</u>	<u>7/17/14</u>	<u>9/18/14</u>
John J. Crowley, Chairman	Present	Present	Present
Stephen Hamilton, Vice Chairman	Present	Present	Present
Scott Mallory, Clerk	Present	Present	Present
Heather Santiago-Hutchings, Member	Present	Present	Absent
Michael Pagones, Member	Present	Present	Present

HEARING (S)

As detailed above, hearings were held at Harmony Hall, 1660 Lakeview Avenue, Dracut at which all those interested were given an opportunity to be heard.

FINDINGS:

July 21, 2011 hearing:

Chairman Crowley opened the meeting and signed in a set of prints drawn by Mark O'Hara Jr., Professional Land Surveyor dated July 14, 2005 and revised June 28, 2011.

Attorney Douglas Deschenes will be representing for Mr. Nalin Parekh, First Dracut Development. Attorney Deschenes stated they are here this evening to ask the Board to reopen the public hearing with respect to the new project to allow them to present changes made to the original project.

A motion to allow First Dracut Development to reopen the public hearing on the project at 341 Broadway Road was made by Mr. Stephen Hamilton and seconded by Mr. Scott Mallory. The Board voted unanimously to reopen the public hearing.

Attorney Deschenes gave a brief overview of the revised project. The changes have been driven due to the ledge that has been found on the site. The original project called for five (5) buildings of residential rental units, a public clubhouse/community center and underground parking. The main area of the development turned out to be significantly ledged filled. The costs associated with moving enough ledge to put the parking underground in those buildings is totally cost prohibited so they had to redesign the project. The 55 and over building will remain the same with underground parking.

The new project has been down sized from five (5) to four (4) buildings and clubhouse will be integrated within those buildings. They are eliminating some underground parking so they have to put parking on the outside of the buildings. Because they reduced the number of buildings, they are proposing to add one (1) additional floor to the buildings. Positive impacts to the changes are:

- The total site disturbance is being reduced by over 105,000 sq. ft. or 2 ½ acres of less disturbance by reducing the footprint.
- Even though they are adding outside parking, there will be less paving in the impervious area.
- The wetlands filling are reduced.
- The length of the retaining wall is reduced.
- The roadway length has been reduced from just over 4,000 linear feet to about 3,000 linear feet.
- The 55 and over building will still have underground parking.

Attorney Deschenes stated they have had some preliminary discussions with the Fire Department regarding the changes made. They had a very good meeting this week and the Fire Chief had

some proposed changes to the access roadway around the building. The Fire Chief is comfortable with the additional height as long as they were able to give them some additional access on the ground which they are able to do.

The Sewer Department has approved the extension and is in the process of being completed. The sewer will come from Broadway Road instead of Loon Hill as originally proposed.

Attorney Deschenes presented a schedule of dates from Mr. Lanier, Project Engineer as follows:

- Final drawings no later than Friday, August 5, 2011 to include changes received from the Fire Department.
- Department Head Review Meeting on Tuesday, August 16, 2011.
- Distribution to peer review consultant around August 5th or the following week with comments back in two or three weeks if possible.
- Revised plans by Friday, September 2, 2011 reflecting any comments received from the departments or peer reviewers.

Chairman Crowley will contact Fay, Spofford & Thorndike for a quotation to perform the peer review. The petitioner will provide any additional monies as needed for peer review and administrative costs. Chairman Crowley asked the Board for permission that once an amount is decided upon, have the petitioner submit the check so it can be accepted by the Selectmen. The Board agreed.

It was noted that the original Traffic Study would be used, as there were no changes made to affect that study. Chairman Crowley asked Attorney Deschenes to put together a set of plans and a submittal to be sent to the peer reviewer for a quote.

Ms. Hakkila questioned if the four (4) stories are within the regulations for height. Mr. Parekh stated two years ago the state allowed for 4 story wood construction above the foundation versus 3 stories prior. The building height will be 45 feet. Chairman Crowley noted that under the town's by-law the height is 36 feet, but this is a comprehensive permit so they can ask to waive it. The state building code cannot be waived by either party.

Chairman Crowley suggested that Attorney Deschenes gets verification of the sewer and water fees. Based on discussions to date it would appear that there is some validity, but the Board is waiting for Town Council to respond to a letter sent by Attorney Smolak on this same subject, that there is enough case law and precedent that the fees in effect at the time the proposal was originally submitted are locked in for that project. The water department is not the town, they are a separate legal enterprise and not sure if this applies to them. It would apply to the other fees.

Ms. Hakkila noted that the original project had the trash from the apartments going through the wall to a dumpster in the garage. She asked what would happen with the trash in the buildings with no underground parking. Mr. Parekh stated he would have the architect review this item and appropriate arrangements will be made. The 55 and over (Building 4), will remain the same with the trash going to the garage.

Chairman Crowley noted that this is a rental project and as such all these units count towards the town's count of affordable units.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to September 22, 2011 at 7:00 p.m. was made by Ms. Hakkila and seconded by Mr. Meli. The Board voted unanimously to continue.

September 22, 2011 hearing:

Attorney Deschenes, Mr. Lania and Mr. Parekh here present at the hearing.

Chairman Crowley signed in a set of plans drawn by Mark O'Hara Jr., Professional Engineer dated August 5, 2011.

Attorney Deschenes gave an overview of the project:

- 278 units
- 55 plus has added an outdoor patio and recreational area off the back side of the building with a defined drop off and pick up area at entrance of building
- 3 other buildings will have a recreational area in the courtyard with the clubhouse integrated into one of these building

Chairman Crowley inquired about a revised pro forma. Attorney Deschenes stated they have engaged a consultant Michael Mulcahy who is part of the company funding this project and it should be ready in two (2) weeks.

Chairman Crowley asked if they had a site approval letter. Attorney Deschenes said yes and it is the same as what is on file with the original package. Attorney Deschenes will alert the approval agency as to status of the project and send a letter to the Board with their response.

Attorney Deschenes stated they have been before the Conservation Commission to discuss the proposed changes. All of the changes will ultimately reduce the impact to the site. The site disturbance is now down over 104,000 sq. ft. of area that was previously going to be disturbed that now will be untouched. Mr. Lania has met with the Conservation Agent to review the changes and has received very favorable feedback. They will file for an amendment when the site plan has been finalized. Chairman Crowley will ask the secretary to contact the Conservation Agent for the town for her review of the project as it stands now. He is very interested in her review because some of the buildings are sited in a no build zone. Mr. Lania stated they are filling an area of wetland near Building #1 and the no build is 50 feet from the edge of the wetlands. Chairman Crowley questioned whether they would be allowed to alter the wetlands in order to build on it. Mr. Lania stated it is the same exact location of the wetlands as in the previous approval in their Order of Conditions. Chairman Crowley wants to know from the Conservation Agent after a review of this plan how they are allowed to build in a no build zone. Attorney Deschenes stated that as a 40B project they can be exempted from the local wetlands by-laws, but are not exempt from the State Wetlands Protection Act. The project does

meet all the performance criteria under this act. They have been before the Conservation Commission and have in hand an approval to build the project as originally proposed and the amended project will result in less impact and more protection of the buffer. He believes that the Conservation Commission Agent has expressed to Mr. Lania that they have approved the first project and if everything being done now is pulling away and making it less, the project should be in good position with the Conservation Commission. The only comment from Conservation at this point was from the Department Review Meeting in which it states "the applicant was advised to monitor the expiration date of their Order of Conditions and that the plans appear to have changed significantly and must apply for an amendment." Chairman Crowley informed Attorney Deschenes that the Board needs to get something in writing from Conservation with their approval of the changes. Attorney Deschenes stated they do not want to formally file for a new approval from the Conservation Commission until the project has been finalized. Chairman Crowley advised Attorney Deschenes that he does not want the Board to approve a plan that goes to Conservation, has to be changed and then come back to this Board. The Board needs to have some indication that everyone is headed in the right direction and on the same page. Chairman Crowley suggests that they file both with the local Conservation Commission and the state. Attorney Deschenes stated that they would not file an ENF until they have a Comprehensive Permit. Chairman Crowley noted that he would not grant a Comprehensive Permit until he has a higher level of certainty that there would not be issues with Conservation. Mr. Lania will get a copy of the Order of Conditions to the Board.

Attorney Deschenes continued his review of the project. The project now has gone to four (4) stories. Mr. Lania stated that the original elevation of the garage was 120 ft., but Broadway Road elevation has changed and is now 164. Based on the height of the previous structure, they are at approximately 129 for a finished floor elevation and total height of 137 feet and above that are three (3) floors and the attic. The project would be approximately 7 feet 8 inches higher than Broadway Road with the finished peak of the roof at an elevation of 131. The peak of the structure would be 24 feet above Broadway with one story and the peak being visible. The first structure is 1400 feet away from Broadway Road. The view from Broadway Road will be incredibly limited. They will cut a 70-foot swath of the wooded area on Broadway Road for the entrance road, but all other wooded area will remain. The entrance road will split into the main road and the emergency access only road. Mr. Lania has reviewed the plans with the Fire Department and they are okay with the extra story as they do have the equipment necessary to provide the fire protection. Attorney Deschenes stated the Fire Department's biggest concern was that the trucks could access around the buildings and the corners to get to the buildings. There are two fire access lanes that have been added in the center of the project on either side of where the tenant courtyard is.

Attorney Deschenes noted the length of the retaining wall would be 730 feet less than the original project. The building footprint has been reduced by nearly 20,000 sq. ft. and the roadway is 1200 feet less of paved road on the site. The total disturbance to this site is dramatically cut.

Attorney Deschenes stated they have run into a very significant environmentally related matter that slowed the project down. The Natural Heritage Endangered Species Program mapped the entire area as a potential habitat for endangered species that led to the denial of the sewer

extension through the property over to Loon Hill Road. The sewer was rerouted, ultimately approved by Natural Heritage and his client gave the town a different set of easements to facilitate the sewer extension. This also impacted the site. Since they last met with the Board, they have been doing a full Habitat and environmental study of the site. The potential resident on site is a turtle. They filed with Natural Heritage a checklist Wild Life report on September 1, 2011. Natural Heritage is now in the process of reviewing the Wild Life Study. The study did not find any of the endangered species and Natural Heritage is cognizant of the fact that this project has been in permitting for a number of years. Attorney Deschenes is comfortable that Natural Heritage is going to allow them to move forward. They have about thirty (30) days remaining in their review and he is expecting to have their written comments by October 15th.

Attorney Deschenes noted that Mr. Parekh did attend a Department Review Meeting and there were a number of issues that need to be addressed. The most prominent comment was that Mr. Hamel has asked them to regenerate the drainage report so that it meets the current 2011 Stormwater Regulations. In designing the changes, Mr. Lania did design it to meet the current Stormwater Management Guidelines so the plan does not need to be changed. The report is in the process of being updated.

Attorney Deschenes reviewed the schedule for information to be submitted as follows:

- Pro forma will be received on October 13th and will file with the Board on October 14th.
- Revised plans will be submitted on or before October 14th.
- Drainage Report will be submitted on or before October 20th.
- Natural Heritage by mid October.

Once the new drainage report is done, the peer review will need to be done and this will take a few weeks. The pro forma peer review will also take a number of weeks. He will put a letter together delineating these dates.

Chairman Crowley read the Department Review letters from the meeting held on August 31, 2011 into the record as follows:

- Glen Edwards meeting comments dated September 6, 2011.
- Thomas Bomil, Director of Public Health dated August 25, 2011.
- Michael Buxton, Public Works Director dated August 15, 2011.
- Leo Gaudette, Dracut Fire Chief dated August 31, 2011.

A new Department Review meeting will be scheduled after Mr. Lania makes all the changes requested.

There was a discussion on how to restrict egress on the emergency access road. The emergency road will have a curbed piece across it with sloped granite curbing. Further review will be needed.

Attorney Deschenes summarized what the Board will be looking for as follows:

- Follow up on the Site Approval letter request.
- Will formally address the Conservation Commission for their review.
- Will discuss the possibility with Mr. Lania of completing the ENF.
- Provide a letter with his schedule of submissions as stated at this hearing.

- Schedule another Department Review meeting towards the end of October after the information requested has been obtained.

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Chairman Crowley suggested \$10,000 for peer review from the petitioner. It was agreed that Fay, Spofford & Thorndike would perform the engineering review and Mr. Michael Jacobs would perform the pro forma review. Chairman Crowley will also have Fay, Spofford & Thorndike review the emergency access road as part of their traffic review.

Ms. Hakkila noted that the rubbish collection and the dumpsters are not shown on the plan. The three (3) buildings that have no basement need to have a designated location. She also would like to see recycling be included in this project. Attorney Deschenes stated they are in the process of reviewing this item.

Chairman Crowley questioned the issue with National Grid regarding the distance between the actual roadway surface to the top of the highest fire ladder truck in reference to their power lines. Mr. Lania noted that National Grid would not supply approval until final plans are issued for construction, but as long as they met those integral height requirements and were only perpendicularly traversing that easement, they were fine with it.

Chairman Crowley asked Attorney Deschense to pull any previous letters with comments such as the one from National Grid that are still pertinent to the project so they can be reviewed again.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to November 17, 2011 at 7:00 p.m. was made by Mr. Scott Mallory and seconded by Mr. Stephen Hamilton. The Board voted unanimously to continue.

November 17, 2011 hearing:

Attorney Deschenes presented a letter to the Board dated November 17, 2011 requesting a continuance until the January meeting. Attorney Deschenes apologized for having to ask the Board for its consideration of this, but unfortunately it is a situation that they had no control of. They are in the process of having to switch engineering companies and will need time to come up to speed and complete the work. Cornerstone Land Consultants has agreed to take over the project and will finish the required plans and engineering work.

Chairman Crowley noted that if the Board agrees to continue, they would need to make sure that the Board understands whose engineering stamp will be on the drawings. Attorney Deschenes will get a letter from Mr. Visniewski of Cornerstone acknowledging their contract with his client and the fact that his engineering stamp will be what the Board sees going forward.

After a brief discussion, it was agreed by all parties to continue to the February 2012 meeting. Attorney Deschenes signed an Extension of Time Agreement Form.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to February 16, 2012 was made by Ms. Ina Hakkila and seconded by Mr. Scott Mallory. The Board voted unanimously to continue.

February 16, 2012 hearing:

Kenneth Lania of Cornerstone Consultants will be representing the applicant First Dracut Development. Also present are John Visniewski and David DeBay of Cornerstone Consultants and the applicant Nalin Parekh.

Chairman Crowley signed in a set of prints drawn by John A. Visniewski, Professional Land Surveyor dated November 8, 2011 with a revision date of January 20, 2012.

Mr. Lania updated the Board on the status of the project. They are still trying to obtain the National Heritage Endangered Species permit and approval. The National Heritage Tracking Number is 11-29532. In conversations with Mr. Butler this week he believes that currently due to the fact that their reviewer for the project is out on maternity leave, he does not believe the process will be completed for sixty (60) to ninety (90) days. It is not known whether a new reviewer will be assigned to the project. Chairman Crowley is concerned that every time National Heritage gets involved there has been some substantial changes to the layouts. Mr. Lania at this time is not aware as to what they would ask them to do. Mr. Lania reviewed the National Heritage process with the Board. A preliminary application would be filed for the inspection review with National Heritage and would require response from them within thirty (30) days of the application. This would determine if the property is a "take" or "no take". If the property is considered a "take", a Conservation Management Plan Permit would need to be completed and approved through National Heritage. This permit would be a sixty (60) to ninety (90) day process. The project is still in the preliminary process.

Mr. Lania will review the revisions on the plans to give a background as to what they have been working on so the Board would know the process is ongoing on their end. They will also ask for a continuance so they can get to the next stage with National Heritage. After further discussion about National Heritage, Mr. Lania will have Mr. Butler give Chairman Crowley a call to discuss.

Mr. Lania reviewed the following:

- 278 Units
- Reduction in site plan with reduced lineage of roadway and retaining wall.
- Lessen the amount of wetland filling.
- Increased the amount of replication.
- Reduced the number of buildings from six (6) to four (4).
- Added additional parking spaces to the development.
- There will be a sidewalk from Broadway Road to the development.
- The parking area near Broadway Road is for a pick up and drop off area for the school bus with an overhead shelter. It will be 50 feet off the roadway with 10 spaces.

- The pump station on the property at the bottom of the hill will be maintained by First Dracut Development with an easement to the town.
- Reviewed drainage plans.
- The dumpster location is on the southern portion of Building 1. Each building will have a recycle and trash dumpster.
- They have reviewed the current plans with the Fire Department in regards to fire hydrants and accessibility to the structures. NFPA require that every building that is being proposed have access within 150 feet to every point on every structure.
- Landscape plan will be updated when plans completed.

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It was noted that the revised prints have been delivered to all departments by Mr. Lania. The Board will wait for comments back. It will be decided if another Department Review meeting will be needed.

Mr. Lania stated that National Grid will review when the final plans are done. They have had preliminary discussion and preliminary approvals for the access through the easement area, but will not receive anything in writing or easement approvals until the plans are finalized.

After discussion about the time frame for the next meeting, it was decided to continue until the April meeting.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to April 26, 2012 was made by Mr. Mallory and seconded by Ms. Hakkila. The Board voted unanimously to continue.

April 26, 2012 hearing:

Mr. Parekh presented a Conceptual Layout Plan revision for NHESP dated 4/23/12. Chairman Crowley signed in plan.

Mr. Parekh updated the Board in regards to National Heritage. They had a meeting about a month ago with National Heritage to review the project from 2005 until now. The project is not grandfathered in any way to bypass National Heritage. Their recommendation was take out everything to the left of the retention easement in the middle of the property and put it on the right hand side. There is 12 to 13 acres of usable land on the left hand side and on the right hand where they originally had the Community Center there is about 2 ½ to 3 acres of land. They told National Heritage they would try to do the most mitigation so that they could get more upland for the Blandings turtle. National Heritage wants them to do a study. If they do the study it would take about two to three months and if they find one turtle, they are worse off than they are now. They are not going to do the survey. They will be sending National Heritage the revised plan to see if they will accept it within the week.

After further discussion, it was agreed to continue for two (2) months until the June meeting.

A motion to continue to June 21, 2012 was made by Ms. Hakkila and seconded by Mr. Hamilton. The Board voted unanimously to continue.

June 21, 2012 hearing:

Mr. Lania and Mr. Parekh were present. Mr. Lania reviewed the changes they have proposed to date with National Heritage as follows:

- 278 units remain the same
- 4 buildings remain the same
- Reduced the amount of roadway pavement as well as length of roadway into the areas closest to the wetlands on the south side of the parcel. It would include the area beyond easement for National Grid heading towards Loon Hill Road.

Under this design, they will be providing a four (4) acre piece of land that would be preserved on the southern portion of the site and another four (4) acres of land within the National Grid easement area. National Heritage has also asked them to approach any neighboring properties to see if they would also be interested in putting forth a conservation restriction on their properties as well. They are in the process of doing this.

Mr. Lania stated that National Heritage has accepted the revised plan, but does not have any documentation saying this. The letter will not come until they actually make a filing. They are currently in the review process with National Heritage so a filing can be made. They would need another ninety (90) days to continue the process.

Mr. Lania reviewed the preliminary layout that they submitted to National Heritage. The total impervious area is reduced, a reduction in wetland fill, added additional twenty-four (24) parking spaces and reduced the total length of roadway on the property. Impact wise, the project development is getting more condensed on the internal portion of the site so the exterior portion can be left open for habitat.

Under discussion for when the next hearing should be scheduled, Mr. Lania stated that the ninety (90) days would allow them to contact all the abutters and review with National Heritage the findings of these discussions. They would also need an additional sixty (60) days to obtain the National Grid easement approval in addition to the ninety (90) days.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to December 20, 2012 was made by Ms. Hakkila and seconded by Mr. Hamilton. Chairman Crowley noted that he would really like to see some progress by that hearing. The Board voted unanimously to continue.

December 20, 2012 hearing:

Mr. Lania and Mr. Parekh were present. Mr. Lania stated he has received correspondence from David Paulson of National Heritage dated December 20, 2012 indicating the project is permit-able pursuant to MESA. A copy was passed out to all Board Members. He stated that it will take three (3) months to receive the permit. They will approve the plans as shown. Mr. Lania also presented a copy of a proposed Purchase Agreement between First Dracut and Vengren Nominee Trust to allow a Conservation Restriction to be placed on a portion of the adjacent Vengren property to help satisfy the NHESP Requirement imposed on First Dracut.

Mr. Lania will have the revised plans completed by the end of February and get them to Fay, Spofford & Thorndike for peer review.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to March 21, 2013 was made by Mr. Mallory and seconded by Ms. Ina Hakkila. The Board voted unanimously to continue.

March 21, 2013 hearing:

Chairman Crowley read a letter from Kenneth M. Lania dated March 21, 2013 on behalf of the applicant requesting a continuance to the May meeting. The applicant has secured an agreement for the Comcast property along Loon Hill Road and along with a prior agreement with the Vengren property this will allow them to complete the necessary plans for NHESP and finalize the engineering plans for peer review by the Boards engineering consultant. This should take about sixty (60) days.

A motion to continue to May 16, 2013 was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

May 16, 2013 hearing:

Chairman Crowley asked if anyone was present representing the petitioner for this hearing. Nobody came forward. A motion to continue this hearing until later in the evening was made by Mr. Hamilton and seconded by Mr. Pagones. The Board voted unanimously to continue.

Chairman Crowley read the notice again and noted that there is no one present representing the petitioner. He feels the petitioner is not ready; however, it seems to show a distinct lack of interest in their own wellbeing and benefit not to show up for a hearing.

A motion to continue to the June 27, 2013 meeting was made by Mr. Hamilton and seconded by Ms. Hakkila. If it is alright with the Board, Chairman Crowley would like to make it abundantly clear with the property owner and Mr. Lania that failure to appear at the next hearing or serve notice that they are not going to appear, he will step down from the chair and make a motion to deny the Comprehensive Permit. The Board was in agreement. The Board voted unanimously to continue.

June 27, 2013 hearing:

Mr. Lania informed the Board that the petitioner Mr. Parekh had passed away this past weekend. Chairman Crowley expressed the Board's condolences on his passing.

A discussion of how the ownership of the land was going to be handled followed. Mr. Noah Parekh, son and Ms. Tamara Parekh, daughter were introduced by Mr. Lania. They will assume ownership of the LLC along with Mr. Sandy Gangliano, Mr. Parekh's business partner, who was also present. They are planning to continue with the project.

Chairman Crowley requested that prior to the next hearing they send something to James Hall, Town Counsel for his review regarding transfer of names, financing and status of the eligibility letter from Mass Housing. Chairman Crowley will follow up with Attorney Hall prior to the next hearing to verify he has had an opportunity to review all the documentation provided to him and make sure he has all the details needed for him to rule on the acceptability of the proceeding.

Mr. Lania noted they are still working on the land swap, completing the plans for final peer review and are currently before Conservation. Mr. Lania feels he needs a couple of months to complete the paperwork needed to continue.

A motion to continue to the September 19, 2013 meeting was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

September 19, 2013 hearing:

Chairman Crowley noted that paperwork for succession, ownership and rights of the property and a letter from DHCD was to be submitted to Town Counsel for review to see if this is still a legitimate application. Chairman Crowley spoke with Town Counsel last week and he had not received anything. He also spoke with Mr. Lania yesterday and today and the paperwork has not been finalized yet. They have been working on the print and design, but at the Board's request they cannot appear again before the Board unless the information requested has been submitted and reviewed by Town Counsel.

Chairman Crowley read a letter from Mr. Lania dated September 18, 2013 requesting a continuance to the October meeting so that the information regarding the legality of the entity for the projects LLC can be submitted to Attorney Hall's office for his review and opinion so that they can proceed with the project's submissions and reviews.

A motion to continue to the October 17, 2013 meeting was made by Mr. Mallory and seconded by Mr. Pagonis. The Board voted unanimously to continue.

October 17, 2013 hearing:

Chairman Crowley read a letter from Attorney Hall dated October 7, 2013 that had a Certificate of Good Standing from the Commonwealth of Massachusetts relative to First Dracut Development Company. Also received a letter from Attorney Hall dated September 26, 2013 noting that a review of the documents received from Attorney Deschenes related to the Comprehensive Permit for 341 Broadway Road for First Dracut Development Company, LLC establish that the recent death of Nalin Parekh does not jeopardize the viability of the applicant. Attorney Deschenes, Mr. Lania and Mr. Noah Parekh were present. Mr. Deschenes thanked the Board for their patience.

Mr. Lania gave an overview of the current status of the project. He presented an email from David Paulson of National Heritage noting that the Division anticipates a predictable and straight forward permitting process for the Broadway Village-Revised Restriction Plan (NHESP 11-29532). Mr. Lania passed out the final approved Priority Habitat Plan dated December 19, 2012 with a revision date of October 17, 2013 and the Overall Site Plan dated October 16, 2013. He proceeded to review the changes made as required by National Heritage. They have secured conservation restriction easements with two (2) abutting properties owned by Bob Vengren and Comcast. Restriction land can never be used for anything. The two (2) easement areas are attached by a small strip of land at the eastern rear of property so there will be one (1) combined easement. Mr. Lania noted they still have to go to Conservation. National Heritage will not issue a permit until finished with Conservation and the Zoning Board of Appeals.

Mr. Lania will prepare a new package to be distributed to all town departments for review and comments back to the Board. He will also submit a package for peer review by Mr. Prentiss.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to the December 19, 2013 meeting was made by Mr. Hamilton and seconded by Ms. Santiago-Hutchings. The Board voted unanimously to continue.

December 19, 2013 hearing:

Chairman Crowley asked the petitioner to allow the Board to table this hearing to later in the meeting as there is not a full quorum of members present. Mr. Lania agreed.

Chairman Crowley opened the hearing expressing his concern that all the Board Members are not present at this hearing to ensure continuity of membership to move forward with the hearing. He noted a Department Review Meeting was held on December 5, 2013 and the comments will be distributed tonight. Updated drawings have also been distributed to the Board. Also, the Traffic Engineer has not had an opportunity to get comments back to the Board.

Chairman Crowley signed in a set of plans drawn by John A. Visniewski, Registered Professional Engineer dated November 4, 2013.

There was a discussion about moving forward to enter this into testimony tonight and begin discussion or rather take the information presented to review and postpone discussion until the

meeting in February. Chairman Crowley asked the Secretary to work up a list of which Board Members can sign the decision.

Mr. Lania and Mr. Kevin Erickson from Deschenes & Farrell were present. Mr. Lania agreed and feels they can have everything ready, including the Traffic Engineer comments, by the February meeting.

A motion to continue to the February 27, 2014 meeting was made by Mr. Mallory and seconded by Mr. Hamilton. The Board voted unanimously to continue.

February 27, 2014 hearing:

Mr. Lania was present representing the applicant. He updated the Board on the status of the project. Mr. Lania stated that during discussions with the Peer Review Consultant Mr. Prentiss regarding the Traffic Study done in 2007, Mr. Prentiss felt a brand new Traffic Study was going to be required as the data has changed significantly in the past seven (7) years. The applicant has hired Fraser Polyengineering Services to complete the Traffic Study and send to Mr. Prentiss by the end of the first week in March per a letter dated February 11, 2014.

Mr. Lania would like to request an extension to the April meeting for time to complete the Traffic Study, get to Mr. Prentiss for review and comments back to the Board prior to that meeting. He presented a copy of the Sight Plan Notice of Intent drawing dated February 19, 2014 that was submitted to the Conservation Commission showing the two (2) abutting parcels of land that were needed for mitigation by National Heritage with the restricted areas delineated. This plan has been submitted to Mr. David Paulson of National Heritage. Chairman Crowley requested Mr. Lania send a copy to Mr. Prentiss to complete his packet of information. Mr. Lania agreed to forward the drawing.

A motion to continue to the April 17, 2014 meeting was made by Mr. Pagones and seconded by Mr. Hamilton. The Board voted unanimously to continue.

April 17, 2014 hearing:

Mr. Lania was present and introduced Mr. Chester Bartels. Mr. Bartels, Principal with Clockwork Architecture and Design explained they have been retained by First Dracut Development to help matters move forward with the process.

Mr. Lania stated they have completed the updated traffic report. The traffic report, site plan and stormwater report have been forward to Mr. Prentiss of Fay, Spofford & Thorndike so he could prepare a proposal to provide peer review services. Chairman Crowley noted Mr. Prentiss is still waiting for some information on the sewer. Mr. Lania stated he will have the information needed to Mr. Prentiss by Monday, April 21, 2014.

Chairman Crowley read a letter from Noah Parekh as Manager of First Dracut Development Company, LLC dated April 13, 2014 with an update on the Broadway Village 40B project and

an introduction of Mr. Bartels of Clockwork Architecture and Design who has been hired to spearhead the project moving forward.

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Chairman Crowley noted the Board is in receipt of a Proposal dated April 15, 2014 from Mr. Prentiss to Provide Engineering Consulting services in the amount of \$19,040. Copies were passed out to the Board and the petitioner for review. The Board and Mr. Parekh agreed to proceed with the peer review. Chairman Crowley will initiate the contract and informed Mr. Parekh he will have to put in the additional deposit of funds to the escrow account to cover the cost.

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A motion to continue to the May 15, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

May 15, 2014 hearing:

Mr. Lania and Mr. Bartels were present. Mr. Doug Prentiss from Fay, Spofford and Thorndike is also present and is prepared to present to the Board and discuss the traffic and sewer review.

Mr. Prentiss reviewed the Sewer Review dated May 12, 2014. Most of the issues are more house cleaning issues with regards to the site plan as listed under Comments on Plans. They will require additional flow information as noted under Comments on Wastewater Flow Rate Calculations prior to completion.

Mr. Prentiss reviewed the Traffic Impact Peer Review dated May 9, 2014. A number of issues were raised regarding the site plan as listed under Site Plan Review on Page 6. The Site Plan that was included with the documents done by Cornerstone did not really match up with what was identified in the traffic study. On the notes listed under Mitigation on Page 6 and 7, they are suggesting the project proponent develop a detailed conceptual plan at the site drive intersection with Broadway Road (Route 113). The notes listed under Conclusion on Page 7 and 8 were reviewed. It appears based on the intersection operation that there is adequate capacity to accommodate this project and there are no outlining safety issues that are seen presently.

Mr. Lania had some concern regarding the Sewer Review Comments On Wastewater Flow Rate Calculations. The pump station was designed by the Town's Engineer CDM and is out of their control. He asked if the Board could request the Sewer Commissioner and CDM to supply the information regarding Items 1 and 2 on the Sewer Review Comments. After further discussion, Mr. Prentiss will call directly to request the information needed. They are in the process of responding with additional information regarding the plans comments.

The Stormwater Report needs more information and review. Mr. Lania is already in the process of getting the additional information needed for the Stormwater report. Mr. Lania noted the original design of the project started in 2004 with the stormwater regulations at that time, but since that time they have been modified in 2008. Chairman Crowley trusts Mr. Prentiss and his firm to review and make a decision as to whether the regulations in 2004 will suffice or if the 2008 regulations need to be met to provide a safe and viable project for the town.

It was agreed that the information needed will be supplied to Mr. Prentiss by June 16, 2014 or sooner for his review prior to the next meeting.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to the June 19, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

June 19, 2014 hearing:

Mr. Bartels and Attorney Deschenes were present. Mr. Prentiss and Mr. Glenn, Peer Reviewers from Fay, Spofford and Thorndike were also present.

Mr. Prentiss reviewed the Supplemental Traffic Impact Peer Review report dated June 19, 2014. Of the eleven (11) issues noted in the May 9, 2014 report, about five (5) have been satisfied. The remaining issues will be reviewed by Mr. Prentiss and their traffic person. After all the issues are satisfied, the traffic study will be put into one completed document. It was noted that a letter from the school department regarding Memorandum #4 for a waiting area or a bus shelter will be provided to the Board. Mr. Prentiss noted that Memorandum #6 for the Broadway Road/site drive intersection should be clarified why a 90-degree type intersection is not proposed.

Mr. Prentiss reviewed the Sewer Review report dated May 16, 2014. A letter dated May 29, 2014 was received from Natasha N. Parekh Ramsingh, Esq. requesting the calculations and capacity of the sewer pump station design done by Camp Dresser McKee (CDM) for the town and a meeting with CDM to discuss the impact on the project. The letter was forward to Mr. Reynolds at Dracut Sewer Department on June 4, 2014. Attorney Deschenes reviewed how the design came to be and that they had worked very closely with CDM. He will facilitate getting CDM to meet with FST to review the design and capacity.

Mr. Glenn reviewed the Stormwater Management System report dated June 19, 2014 noting there were five (5) issues that need to be addressed by the applicant. The applicant's engineer will provide the additional information requested. Mr. Glenn noted they still need to go to Dracut Conservation and the National Heritage report has not been seen yet. Attorney Deschenes reviewed discussions they have had to date with Conservation and National Heritage. He stated they will not file a new Notice of Intent with Conservation until the stormwater issues have been reviewed.

Mr. Bartels inquired if the 90 degree intersection opposed to 65 degrees was a deal breaker. Mr. Prentiss responded no. The MassDOT will ultimately design how the intersection will be designed. Chairman Crowley will ask Mr. Edwards to inquire with the police and fire department for their review and comments on the intersection. Attorney Deschenes noted they need to get from MassDot an answer as to why the intersection was originally approved at 65 degrees when the standard is 90 degrees.

Chairman Crowley asked what the notification to the public is for MassDEP and the ENF process. Mr. Prentiss noted the hearing is posted in the Land Use Monitor, but not sure if in local newspaper.

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Chairman Crowley informed those present that he is available to help set up any meetings that are needed prior to the next hearing. Prior to the next hearing, he asked all Board Members and Mr. Edwards to review the site plan layout, architectural plans and documents received to make sure all items have been covered. Before the final agreement is signed, the final plans need to be presented to the Board prior to final approval.

It was agreed by the Board that Attorney Deschenes could start developing the Comprehensive Permit for review with Attorney Hall.

Abutters: Who came forward in favor or in opposition?

None.

A motion to continue to the July 17, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Pagones. The Board voted unanimously to continue.

July 17, 2014 hearing:

Mr. Lania was present. Chairman Crowley announced there would be no testimony taken at this hearing. He read a letter from Mr. Bartels dated July 17, 2014 requesting a continuance to the next scheduled meeting.

A motion to continue to the September 18, 2014 meeting was made by Mr. Hamilton and seconded by Mr. Mallory. The Board voted unanimously to continue.

September 18, 2014 Hearing:

Mr. Lania, Mr. Bartels and Mr. Prentiss were present. Mr. Lania reviewed the outstanding issues and presented the Stormwater Management System Operation & Maintenance Manual dated June 12, 2014 and last revised September 18, 2014. It was noted that the pump station will be reviewed by Mr. Prentiss at construction.

Mr. Prentiss reviewed the Sewer Review dated September 15, 2014. There was a meeting on July 17, 2014 with the Dracut Town Officials, FST and CDM Smith to discuss the flows allocated to the development during the design of the Broadway II Pump Station and other items relative to the on-site sewer design. Chairman Crowley read a letter from Jay Reynolds, Superintendent of the Sewer Department dated July 22, 2014 noting the Sewer Department will address Item #3 regarding the 8" pipe calculations noted on the comments of the Department Review Meeting held on December 5, 2013. Items #1 and 3 remain and should be addressed by the Builder. Mr. Prentiss noted any remaining issues will be handled by final review.

Mr. Prentiss reviewed the Stormwater Management System dated September 15, 2014. They recommend revisions to the Broadway Village Site/Utility/Grading/Profile Plans; Outlet Control Structure Elevation Summary Table; and the Operation & Maintenance Manual be incorporated in a Final Site Plan Submission to the Board. Mr. Lania noted they were meeting with the Conservation Commission on October 1, 2014.

Mr. Prentiss reviewed the Supplemental Traffic Impact Peer Review dated September 15, 2014. He commended the Traffic Engineer on the comprehensive traffic impact study done. MassDot will have the final say.

Chairman Crowley read the following letters into the record:

- Letter from Glen Edwards dated July 11, 2014 indicating consideration should be given to the comments of the December 5, 2013 Department Review Meeting.
- Email from Deputy Chief Rich Patterson dated July 11, 2014 stating they have no issue with the 90 degree intersection providing the turning radius remains within the requirement listed in the initial letter and the delivery space is also not of major concern.
- Letter from James A. Duggan, Town Manager to Douglas Deschenes dated July 21, 2014 regarding the meeting between CDM Smith and FS&T and Town Staff noting the pump station can accommodate the Project's sewer flow.
- Letter from Chief Kevin Richardson dated July 17, 2014 stating he has no concerns regarding the traffic circulation or delivery points.

Chairman Crowley explained that the Board has to have a vote within forty (40) days after closing the hearing unless both parties agreed to extend. After a vote, the Comprehensive Permit working session would begin to include a set of prints.

After a discussion about the next meeting, the following was agreed to:

- Draft Comprehensive Permit decision no later than October 8, 2014 so the Board can review prior to the next meeting.
- List of waivers to be included.
- Final set of drawings.
- Architectural drawings.

Discussion on the Comprehensive Permit will be at the October 16, 2014 meeting with a signed extension of time agreement for sixty (60) days.

A motion to close was made by Mr. Mallory and seconded by Mr. Pagones. An Extension of Time Agreement Form was signed by Mr. Bartels for sixty (60) days. The Board voted unanimously to close.


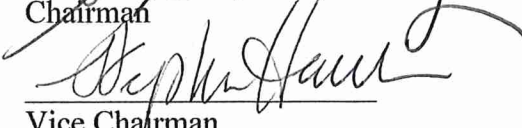
The Board closed the hearing on September 18, 2014.

DECISION

The Board voted to approve the Comprehensive Permit on December 18, 2014.

Appeals, if any, shall be made pursuant to G.L.C.40, Subsection 17, and shall be filed within 20 days after the decision filed with the Town Clerk.

Dracut Board of Appeals


Chairman

Vice Chairman

Copies of this record of Proceedings and Decision with all attachments and plans referred to in the Decision, if any, must be filed with the Town Clerk.

Date filed with Town Clerk: February 13, 2015

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