



**SOUTH KINGSTOWN PLANNING DEPARTMENT  
PROJECT REVIEW MEMO**

**The Village at Broad Rock**

**Major Subdivision, Flexible Design Residential Project  
Conceptual Master Plan Review**

June 11, 2024

Project Type:	<b>Major Subdivision, Flexible Design Residential Project</b>		
Review Stage:	<b>Conceptual Master Plan</b>		
Address:	<b>852 Broad Rock Road</b>		
Plat:	<b>33</b>	Lot:	<b>9</b>
Parcel Size:	<b>~16.5 acres</b>	Zoning District:	<b>R-40</b>
Applicant:	New England Properties, LLC 257 Wickford Court North Kingstown, RI 02852	Owner:	Shellen Clarke Revocable Living Trust AGMT 96 Duck Cove Road North Kingstown, RI 02852

**Property Characteristics & Project Description**

The subject property consists of approximately 16.5 acres of land that includes a small wetland area (~1.2 acres) along the western boundary of the lot. Currently, the property is developed with one single-family home (~2,400 sq. ft.) and an accessory structure/barn (~1,500 sq. ft.).

As described in the application, the current proposal consists of a major subdivision with nineteen (19) single-family homes on individual lots laid out as a Flexible Design Residential Project (FDRP) under [Section 502.5](#) of the South Kingstown Zoning Ordinance (“Z.O.”) and [Article IV.A.](#) of the Subdivision & Land Development Regulations (the “S&LD”). All lots will front on a private, 1,242’ cul-de-sac and will be serviced by public water and individual onsite wastewater treatment systems (OWTS) and stormwater will be managed via a 27,000 sq. ft. infiltration system in the opens space west of the developed lots.

The project is proposed to be completed in a single phase. The overall land-use breakdown is as follows:

Total Land Area:	16.50 acres
Land Unsuitable for Development:	1.62 acres
Land Suitable for Development:	14.88 acres
FDRP Required Open Space for R40 Zone: <i>(50% of Land Suitable for Development / Art. IV.A.11)</i>	7.44 acres
Total Open Space Provided:	10.06 acres
Land Suitable for Devel. Provided as Open Space	7.44 acres
Total Land to be Developed:	5.90 acres

The applicant’s proposed development density for the project includes the following components:

Max. Yield Allowed Under R40 Zoning: <i>“Basic Maximum Number”</i>	<b>13 lots/units</b>
Affordable Units Required by Inclusionary Zoning: <a href="#">RIGL 45-24-46.1(a)</a> & <a href="#">Z.O. Section 502.6(E)</a>	13 x 25% = 3 Lots/Units
2:1 Mandatory I.Z. Density Incentive <a href="#">RIGL 45-24-46.1(c)</a>	3 x 2 = <b>6 lots/units</b>
<b>Total Units Proposed:</b>	<b>13 + 6 = 19 lots/units</b>

---

### Decision Deadline

This application was Certified Complete on May 7, 2024

The deadline for decision is **Monday, August 5, 2024.**

---

### Regulatory Considerations

#### ***Purpose of the Conceptual Master Plan***

Pursuant to RIGL § 45-23-32, the Master Plan stage of review is:

*An overall plan for a proposed project site outlining general, rather than detailed, development intentions. It describes the basic parameters of a major development proposal, rather than giving full engineering details.*

Pursuant to RIGL § 45-23-39(c), the requirements for the master plan and supporting material for this phase of review include, but are not limited to, information on:

*[T]he natural and built features of the surrounding neighborhood, existing natural and man-made conditions of the development site, including topographic features, the freshwater wetland and coastal zone boundaries, the floodplains, as well as the proposed design concept, proposed public improvements and dedications, tentative construction phasing; and potential neighborhood impacts.*

#### ***Flexible Design Residential Projects:***

[Z.O. Section 502.5.A.](#) and [S&LD Article IV.A.](#) allow for FDRP-type projects in order to:

1. To encourage the preservation of open space for its scenic beauty and the appropriate use thereof;
2. To preserve historical and archeological resources;
3. To protect the natural environment, including South Kingstown’s varied landscapes;
4. To protect the value of real property;
5. To promote more sensitive siting of buildings and better overall site planning consistent with the “South Kingstown Residential Design Manual,” prepared by Dodson Associates, dated January 1999 and as subsequently amended and incorporated into the Comprehensive Community Plan;
6. To perpetuate the appearance of South Kingstown’s traditional New England landscape;
7. To allow landowners a reasonable return on their investment and to reward landowners with reduced infrastructure costs and density bonuses;
8. To facilitate the construction and maintenance of streets, utilities, and public services in a more economical and efficient manner; and
9. To offer an alternative to conventional subdivision.

Notable FDRP requirements associated with this subdivision include the following:

Open Space ([Z.O. Section 502.5.H](#) and [S&LD Article IV.A.11](#))

- The open space shall be established as a lot or lots separate and distinct from the lots intended for residential and accessory uses, and from land dedicated as street rights-of-way.
- In the R-40 district the required minimum amount of open space is 50% of the land suitable for development.
- None of the minimum required open space area shall be devoted to land unsuitable for development.
- The minimum required open space shall not include areas used for storm water drainage facilities unless the Planning Board approves a waiver allowing such drainage facilities to count toward the minimum required open space.

Buffer Areas ([S&LD Article IV.A.13](#))

- A permanent buffer along the perimeter of the FDRP shall be established providing for the preservation of existing trees or other vegetation or for the planting of new vegetation in order to provide a visual and audio screen between the FDRP and adjacent land uses. This buffer may be provided as a separate open space lot (or lots) or as a permanent easement along the perimeter of the FDRP. When proposed as an easement the area shall not be counted toward the minimum required open space.
- A buffer width of fifty (50) feet is required; however, the Planning Board is authorized to reduce the width to a minimum of ten (10) feet by waiver. In doing so the Board shall consider the following factors:
  - (1) The nature of adjacent land uses existing at the time of Conceptual Master Plan Review;
  - (2) The nature of proposed or projected future land uses on adjacent property;
  - (3) The physical characteristics of adjacent property (e.g., wetlands, slopes, stone walls, etc.);
  - (4) The ownership of adjacent property (e.g., private, public, non-profit conservation, etc.);
  - (5) The zoning of adjacent property; and,
  - (6) The land use classification of adjacent property as provided on the Comprehensive Plan Land Use Plan Map.

Streets ([Z.O. Section 502.5.G](#) and [S&LD Article IV.A.14](#))

- Streets within an FDRP may be publicly or privately owned and maintained and shall conform to the standards of Article XIII, Section B. "Street Design Standards" of the Regulations. Streets shall be designed to conform to the standards of the Town where the street is or may be ultimately intended for dedication and acceptance by the Town. Private streets shall be adequate for the intended use and vehicular traffic and shall be maintained by an association of unit owners or such other means or entity as may be approved by the Planning Board.

**Inclusionary Zoning**

[RIGL 45-24-46.1\(c\)](#) and [Z.O. Section 502.6](#) outline the mandatory Inclusionary Zoning requirements and procedures for major subdivisions or land development projects that consist of six (6) or more lots/units. Those requirements are listed, in part, below:

- A. *Inclusionary Zoning Required.* Z.O. Section 502.6(B) requires that all residential developments of six (6) or more units or buildable house lots are subject to the town's Inclusionary Zoning requirements. RIGL § 45-24-46.1(a) and Z.O. 502.6(D)(1) require that all projects subject to Inclusionary Zoning provide at least twenty-five percent (25%) affordable housing.
- B. *Base density calculation, inclusionary requirements and targeted populations.* The base density of the development is the maximum density allowed under applicable zoning requirements, as shown on a yield plan. To comply with inclusionary zoning requirements, at least 25% of this base density must be designated as affordable housing. Under the South Kingstown Zoning Ordinance, the Planning Board is authorized by the ordinance to specify the type and location of the affordable unit(s) to be constructed, the size and scale of these units or lots in relation to the market rate units or lots in the development, establish general design parameters for the inclusionary units and determine a timetable for their construction.
- C. *Zoning Incentive.* RIGL § 45-24-46.1(c) and Z.O. 502.6(F) require that all projects subject to inclusionary zoning shall allow the addition of two (2) market rate units for each affordable unit provided and that the minimum lot area per dwelling unit shall be reduced by that amount necessary to accommodate the incentive lots/units.
- D. *Inclusionary units, deed restriction requirements.* RIGL § 45-24-46.1(a) and Z.O. 502.6(D)(1) requires that all affordable inclusionary units shall meet the definition of "low and moderate income housing" under RIGL § 42-128-8.1(d)(1) and RIGL § 45-24-46.1(a) requires that the units remain affordable for not less than thirty (30) years. The Zoning Ordinance no longer requires either a minimum ninety-nine year subsidy or that the units be affordable to a household earning 80 percent (80%) or less than the area median income (AMI) for South Kingstown, as defined by the U.S. Department of Housing and Urban Development (HUD).

The developer of inclusionary units must contract with a state-certified monitoring agency that will qualify home buyers and/or renters for initial occupancy, determine pricing and resale or transfer of dwelling units in accordance with RI Housing and Mortgage Finance Corporation regulations and standards. Rhode Island Housing and the Town of South Kingstown shall be a party to any such monitoring agreement. Long-term affordability shall be guaranteed through the recording of restrictions on the sale, transfer and ownership of the unit through the appropriate legal documents and monitoring agreement.

- E. *Modification of lot requirements for inclusionary units.* To encourage good design and to reduce construction, land and infrastructure costs the planning board shall have the discretion to modify (or require the modification of) minimum dimensional standards for inclusionary dwelling units/lots. Such modifications shall be in accord with the standards and requirements set forth in subsection 502.5.F of this ordinance.

Affordable inclusionary units must also meet design standards under [S&LD Article IV.I.](#), which require that:

- i. Affordable dwelling units must be similar in exterior design, construction methodology and materials to other dwellings or units in the project.
- ii. Allows the Board to permit affordable units to be sited on smaller lots or otherwise modify lot requirements for those units.

**Waivers Requested**

The following waivers are requested from the Subdivision & Land Development Regulations:

<i>Section</i>	<i>Waiver</i>
<p><b>Conceptual Master Plan Checklist – Section D.6.</b> Soil evaluations for lots served by OWTS</p>	<p><i>The checklist for the Yield Plan requires the plan to show soil evaluations on each lot showing that an OWTS would be permitted within the boundaries of the lot.</i></p> <p>The applicant notes that thirteen (13) soil evaluations have been performed around the site and seeks a waiver to perform the remaining evaluations until Preliminary Plan.</p>

**Review to Date**

Previous Application History

A previous application for this site was reviewed during 2023 and early 2024. That application was withdrawn and a new application was filed in March 2024 to take advantage of the General Assembly’s changes to the Inclusionary Zoning Act, which doubled the density incentive from one incentive unit for each affordable unit to two incentive units for each affordable unit. That former application is no longer under consideration.

TRC Review of the Conceptual Master Plan

April 10, 2024 – The project was discussed, and the following recommendations were made.

<i>Item Discussed &amp; Recommendation (requestor)</i>	<i>Status</i>
<i>Utilities</i>	
<ul style="list-style-type: none"> <li>Applicant shall provide a fire hydrant layout.</li> <li>Clearly depict all proposed utilities and how those proposed utilities with easements may conflict with development yield calculations.</li> </ul>	To be shown and discussed at Preliminary.
<i>Stormwater</i>	
<ul style="list-style-type: none"> <li>Clearly depict all proposed impervious areas.</li> <li>Show how the preferred drainage system is fully graded and any implications and/or restrictions to proposed individual lot development.</li> </ul>	To be shown and discussed at Preliminary.

**Required Findings**

In approving this major land development application, the Board must make positive findings on the following standard provisions:

- (1) The proposed development is consistent with the comprehensive community plan and/or has satisfactorily addressed the issues where there may be inconsistencies;
- (2) The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance;
- (3) There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval;
- (4) The development, as proposed, will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable. (See definition of Buildable lot).

Lots with physical constraints to development may be created only if identified as permanent open space or permanently reserved for a public purpose on the approved, recorded plans; and

- (5) All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street. Lot frontage on a public street without physical access shall not be considered in compliance with this requirement.

The approving authority must also address each of the following general purposes of zoning:

- (1) Providing for the orderly, thorough and expeditious review and approval of land developments and subdivisions;
- (2) Promoting high quality and appropriate design and construction of land developments and subdivisions;
- (3) Promoting the protection of the existing natural and built environment and the mitigation of all significant negative impacts of any proposed development on the existing environment;
- (4) Promoting design of land developments and subdivisions which are well-integrated with the surrounding neighborhoods with regard to natural and built features, and which concentrate development in areas which can best support intensive use by reason of natural characteristics and existing infrastructure;
- (5) Encouraging local design and improvement standards to reflect the intent of the community comprehensive plans with regard to the physical character of the various neighborhoods and districts of the municipality;
- (6) Promoting thorough technical review of all proposed land developments and subdivisions by appropriate local officials;
- (7) Encouraging local requirements for dedications of public land, impact mitigation, and payment-in-lieu thereof, to be based on clear documentation of needs and to be fairly applied and administered; and
- (8) Encouraging the establishment and consistent application of procedures for local record-keeping on all matters of land development and subdivision review, approval and construction.

With regard to waivers, the Regulations (Article VIII.B.1) require that the Planning Board find that:

- a. The waivers or modifications are reasonable and within the general purposes and intents of the Regulations; and,
- b. Literal enforcement of the regulation is impracticable and will exact undue hardship because of peculiar conditions pertaining to the land in question; or waiver or modification of the regulation is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

### **Draft Motion for Consideration**

---

A draft motion is offered below, with associated findings and conditions of approval, for consideration by the Planning Board. The draft motion should be amended as necessary to conform to any decisions made by the Planning Board during the course of deliberations.

“The South Kingstown Planning Board hereby grants conditional Conceptual Master Plan approval for Village at Broad Rock, a nineteen (19) lot major subdivision – flexible residential design project, subject to the conditions stated herein limiting the project to nineteen (19) single-family dwellings, with sixteen (16) units being market-rate housing units and the remaining three (3) units being deed-restricted low- and moderate-income housing units in accordance with the Inclusionary Zoning requirements of the South Kingstown Zoning Ordinance. The project site is

located at 852 Broad Rock Road, the applicant is New England Properties, LLC, the owner is the Shellen Clarke Revocable Living Trust AGMT. This approval is based upon a plan set entitled: “*Flexible Design Residential Project, Village at Broad Rock for Plat 33, Lot 24, Zoned R-40 in South Kingstown, Rhode Island,*”, containing ten (10) sheets identified as sheets 1 – 7, Yield Plan, Yield Plan with Incentive Lots and Survey Plan as revised through 4/18/2024 and prepared by Timothy J. Behan, Commonwealth Engineers & Consultants, 400 Smith Street, Providence, Rhode Island, 02908. This approval is based on the following Findings of Fact and Conditions of Approval:

***Findings of Fact***

- A. The Planning Board finds that the project application for a nineteen (19) unit subdivision, as proposed by the applicant satisfies the density requirements for a Major Subdivision under the requirements for Inclusionary Zoning within a Flexible Design Residential Project under Sections 502.5 and 502.6 of the South Kingstown Zoning Ordinance.
- B. Accordingly, subject to the conditions set forth below, the Planning Board finds that:
  - i. The subdivision/flexible design residential project is consistent with the requirements of the Comprehensive Plan.
  - ii. The subdivision/flexible design residential project design conforms to the standards and provisions of the South Kingstown Zoning Ordinance.
  - iii. No lot is designed and located in such a manner as to require relief from Article 5, Section 504.1 of the Zoning Ordinance, as amended.
  - iv. There will be no significant negative environmental impacts from the proposed development if the plans are revised consistent with the required conditions of approval.
  - v. The subdivision/flexible design residential project is consistent with the conditions set forth herein such that it will not result in the creation of individual lots with such physical constraints to development that building on these lots according to pertinent regulations and building standards would be impracticable.
  - vi. All lots have adequate and permanent physical access to a public street, namely Broad Rock Road, via a private road proposed to be constructed as part of the project.
  - vii. With the required conditions of approval, the subdivision/flexible design residential project will provide for adequate surface water runoff, for suitable building sites and for the preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.
  - viii. The design and location of building lots, utilities, drainage improvements, and other improvements in this subdivision/flexible design residential project minimize flooding and soil erosion.
  - ix. The flexible design plan presented for consideration better promotes the objectives of the Planning Board’s Subdivision and Land Development Regulations and Design Manual than would a conventional development after considering all of the criteria set forth at Article III, Section A of the Regulations.

***Findings of Fact, Inclusionary Zoning & Affordable Units***

- x. Pursuant to Article 5, Section 502.6 E. of the Zoning Ordinance, the Planning Board hereby accepts the yield plan presented by the applicant which demonstrates the ability of the development parcel to support a ‘basic maximum number’ of thirteen (13) lots.
- xi. The applicant has affirmatively represented that three (3) lots out of the basic maximum number of thirteen (13) lots will be deed restricted affordable to ‘low and/or moderate income households’ as defined under Rhode Island General Laws §45-53 and the South Kingstown Zoning Ordinance.

- xii. The Planning Board finds that the affordable units are susceptible to being integrated within the development and that the design of the affordable lots can be made consistent with the design of the market rate lots within the development at the Preliminary Plan phase of development. Based on this finding, the Planning Board has determined that the project site is capable of supporting a project design meeting the intent of Article IV.I of the Town’s Subdivision and Land Development Regulations.

***Findings of Fact, Requested Relief***

In accordance with Article VIII, Section B (1) of the Subdivision and Land Development Regulations with regard to waivers, the Planning Board hereby ***grants*** the following waivers:

<b><i>Section</i></b>	<b><i>Waiver</i></b>
<p><b><u>Conceptual Master Plan Checklist – Section D.6.</u></b> Soil evaluations for lots served by OWTS</p>	<p>The requested waiver to defer the requirement for soil evaluations on all lots to Preliminary Plan is granted.</p>

In doing so, the Planning Board finds that:

- xiii. The waiver(s) or modification(s) is/are reasonable and within the general purposes and intents of these regulations; and that
- xiv. Literal enforcement of the regulations is impracticable and will exact undue hardship because of the peculiar conditions pertaining to the land in question; or waiver or modification of the regulations is in the best interest of good planning practice or design as evidenced by consistency with the Comprehensive Community Plan and the Zoning Ordinance.

***Conditions of Approval***

1. The use of the property shall be limited to Use Code 10 (single-household detached structure) for residential development as proposed unless further amended by the South Kingstown Planning Board during the Preliminary Plan stage of review.
2. This approval is limited to nineteen (19) building lots in total.
3. This approval is further limited to sixteen (16) market rate units and three (3) affordable units for a total of nineteen (19) units.
4. The subdivision shall satisfy its affordable housing requirement under Section 502.6.D. of the Zoning Ordinance with the dedication of three (3) lots for affordable housing, as defined under Rhode Island General Laws §45-53 and the South Kingstown Zoning Ordinance.
5. Fair Share Development Fees as required in the Zoning Ordinance and as amended annually in the Capital Improvement Program shall be required for all market rate units in this project.
6. All lots to be developed with affordable units shall be eligible for an exemption from the payment of Fair Share Development Fees pursuant to Section 1101.D.1 of the Zoning Ordinance and Section II, Element 5, III of the Town’s Capital Improvement Program.
7. All lots to be developed with affordable units shall be exempt from the Town’s Pacing and Phasing requirements consistent with Section 502.6.J. of the Zoning Ordinance.
8. All lots designated for affordable housing units shall be deed-restricted to remain affordable to low- or moderate-income households for a period of 30 years.

9. All lots developed with affordable units must meet the criteria for subsidy and deed restrictions such that the units count toward the low- and moderate-income housing stock within the Town.
10. Per Rhode Island Law all lots to be developed with low- and moderate-income affordable housing units shall be: integrated throughout the development; compatible in scale, architectural style and materials to the market rate units within the project; and built and offered for occupancy simultaneously with the construction and occupancy of the market rate units. The applicant shall submit architectural plans for both proposed market rate units and deed restricted affordable units that include representative exterior elevations and material choices (i.e., windows, siding, roofing, fenestration, etc) for both types of units.
11. As part of the Preliminary Plan submittal, the applicant shall identify the specific lots that will contain the affordable housing units and shall propose the schedule according to which the affordable housing units will be constructed. Said schedule shall not exceed the construction of four (4) market-rate units for every one (1) affordable housing unit.
12. As part of the Preliminary Plan submittal, the applicant shall include a Letter of Eligibility from Rhode Island Housing for the project as proposed.
13. As part of the Preliminary Plan submittal, the applicant shall identify a monitoring agent to supervise occupancy requirements at the lots that will be developed with affordable housing units and provide drafts of a 'Monitoring Agreement' and a 'Deed Restriction' that will ensure that affordability guidelines will be met. Such documents shall be subject to the review and approval of the Town's Special Legal Counsel and the Planning Board.
14. The monitoring agent for the project shall be certified and qualified by the Rhode Island Housing and Mortgage Finance Corporation.
15. As part of the Preliminary Plan submittal, the applicant shall specify whether each affordable unit will be available for owner-occupancy (home ownership) or rental occupancy, and shall specify the area median income (AMI), as determined by the U.S. Department of Housing and Urban Development (HUD), that will be used by the monitoring agent to qualify buyers or renters for occupancy.
16. The monitoring agreement between the developer and the monitoring agent shall require notification to the Town of South Kingstown, as a party with a vested interest, of the availability of affordable housing units for purchase or lease. Any such notification shall be directed to the Director of Planning.
17. As part of the Preliminary submittal, the applicant shall provide a traffic report detailing the anticipated traffic impacts from the proposed development and the adequacy of the existing and proposed roadways to safely accommodate existing and projected traffic.
18. Individual homes in the subdivision shall be served by on-site wastewater treatment systems designed to minimize potential water quality impacts from nitrogen loading.
19. The project design for the Preliminary Plan phase shall include a detailed erosion and sedimentation control plan including any proposed stockpile containment. The plan shall clearly identify the proposed limits of disturbance and incorporate best management practices as outlined in the Rhode Island Soil Erosion and Sedimentation Control Handbook.
20. Electric, telephone and cable services shall be installed underground.
21. Final design of the cul-de-sac shall conform to the requirements of the Union Fire District.

22. The applicant shall utilize low impact drainage methodologies in conformance with the Rhode Island Stormwater Design and Installation Standards Manual or other best management practices.
23. The Open Space Easement shall name the Town of South Kingstown as a grantee for the purposes of enforcing the covenants of the easement.