



TOWN OF ACTON
DESIGN REVIEW BOARD
Memorandum

July 9, 2021

To: Acton Select Board Members
From: Design Review Board

Re: Acton Zoning Code – Planned Conservation Residential Community Standards

BACKGROUND

When the planning department adopted zoning language to allow for the development of Planned Conservation Residential Communities, it was with the intent to offer to the town additional opportunities to preserve and to enjoy open space by condensing a proposed residential subdivision development to a distinct compact portion of the available larger tracts of land, leaving for the town's benefit, a minimum 60% of the land tract set aside as common land. As time has marched along and many of the larger developable tracts have either been used or are otherwise no longer available, the more recent development proposals in town are working with "the leftovers", generally smaller tracts, sometimes assembled from several adjacent land parcels.

The proposal for 22 Elm Street, an 8-acre parcel specifically assembled to be able to utilize the PCRC development approach, has shined a spotlight on some limitations, if not unintended consequences, of the PCRC zoning language.

CONCERNS

- If looked at under standard subdivision rules the uniquely shaped tract of land at 22 Elm, comprised of a proportionately significant quantity of wetlands, is unlikely to support the development of more than 3 possibly 4 house lots. A proof plan, were it a preliminary requirement for initiating PCRC development, would illustrate this. By following PCRC rules for development of the same lot, the development qualifies for as many as 6 house lots.
- The 22 Elm 8-acre parcel is the smallest allowed PCRC. Unlike many of the earlier PCRC projects that were developed using significant tracts of land where uplands and wetlands were spread across large areas of undeveloped common land, the minimum size of this tract has resulted in a compressed area where land suitable for development can be undertaken. The 6 house lots allowed to be developed at 22 Elm Street is based upon the PCRC rules for calculating the total number of dwelling units. The zoning formula used takes into account the entire the

entire area of the tract of land. Given the significant proportion of wetlands as compared to uplands with respect to the total tract, the calculation formula provides for significant density of house lots at the smaller uplands portion of the site. Given the minimum scale of the tract land and the percentage of wetlands on the tract the DRB believes the formula for calculating house lots should be adjusted lower for these smaller PCRC parcels.

- Logically, the developer selected the portion of land most suitable to be built upon, the uplands available, and proposed to set aside the balance of land, or common land in this case, that turns out to be overall very wet. The minimum common land area to be set aside is 60% of the total tract of land. A PCRC requirement is that the minimum area of required common land can have no more wetlands as a percentage than what exists for the total tract of land. The percentage of wetlands on the 22 Elm full tract is 33%. The bylaw says the minimum common land, which is 4.8 acres, cannot be more than 33% wet. The mathematical formula used by planning, (and has been used for years), essentially solves to meet the bylaw requirement by adding enough additional land to the overall common land total to arrive at a sufficient quantity of upland scattered within the total common land portion that is mathematically culled out to identify the portion(s) that is(are) only 33% wet. Let me paint a picture of this. The 5.8 acre common land at 22 Elm is essentially comprised of a series of small segments of land, or literal islands of land, that are 33% wet, which total to 4.8 acres, (the minimum common land portion). These segments in turn are bisected or bordered by the additional acre added, which in the case of 22 Elm, is 100% wet, resulting in the wetlands percentage for the common land overall being 45%. Though this technically is allowed it is in essence a travesty of the language of the PCRC rule as cited in chapter 9.6.3.1 a), given most laypeople reading this requirement take it to mean that the common land set aside will not be any more wet than the full tract. It is more likely than not, that this type of outcome is more prevalent in the smaller PCRC tracts and therefore, the DRB believes the percentage calculation requirement should be adjusted depending upon the scale of the tract of land.
- At 22 Elm, given the very wet common land is comprised of small “islands” of dryland surrounded by what is otherwise wet land, there is minimal contiguous dry land for creation of a walking path suitable for public use. Given a primary public benefit of the PCRC concept for the town is to gain more open space for the enjoyment and recreational use of the residents of the town, the lack of contiguous uplands in a common land is a concern. DRB members believe that there should be some language about providing reasonable quantity of uplands within a Common Land set aside.
- The rules for the public use of the common land are not presently written to guarantee that all Town of Acton residents can in fact access and use the set aside common lands within PCRCs. In the case of 22 Elm, there would only be access offered to the residents of the 22 Elm homeowners association, given it is only accessible via the private driveway and across one of the house lots. DRB members believe the Common Land set aside should be made available to all Acton citizens.

SUMMARY

In the case of 22 Elm, a higher density development has been allowed via the PCRC approach, than would otherwise have been possible under standard subdivision rules. The common land to be set aside is heavily proportioned with wetlands, not very suitable for public recreation. The common land is not being made available to the citizen's of Acton other than the homeowners association. As the select board is aware, several within the immediate neighborhood are unhappy with the decision to allow the PCRC to proceed and have sued the planning board on the merits of their decision to approve. In this

specific development proposal it is apparent that the development of this PCRC favors the developer, not the immediate neighborhood, and not the town.

Perhaps this project is a one off, due to its unique set of circumstances. However, the DRB is aware of another recently approved PCRC, located at 180 Newtown Road, that similarly has elicited neighborhood resistance and we understand allows for more house lots to be developed than would otherwise have been allowed utilizing subdivision rules.

The purpose of this memorandum is to provide an explanation on some issues observed for further discussion. The DRB urges the SB, PB and Planning Department to review the issues outlined and to hopefully consider the development of a plan towards reasonable PCRC Zoning Code improvements.

The DRB is ready and willing to assist in this effort.