



**SOUTH KINGSTOWN PLANNING DEPARTMENT  
PROJECT REVIEW MEMO**

**South County Trail Subdivision**

**Major Change to an Approved Plan**

January 25, 2022

Project Type:	<b>Major Subdivision – Flexible Design Residential Project</b>		
Review Stage:	<b>Major Change to an Approved Plan</b>		
Address:	<b>31 Michaela Court</b>		
Plat:	<b>21</b>	Lot:	<b>52</b>
Parcel Size:	<b>26,983 square feet</b>	Zoning District:	<b>R80</b>
Applicant:	Gashy Dowlatshahi 1150 Oaklawn Avenue Cranston, RI 02920	Owner:	Stephen W. Stringham & Michelle West
Current Plan Set:	<i>As-Built/Proposed Plan, A.P. 21/Lot 52/Record Lot 15, 31 Michaela Court, South Kingstown, RI, dated January 10, 2022, prepared by Ocean State Planners, Inc., 1255 Oaklawn Avenue, Cranston, RI 02920</i>		

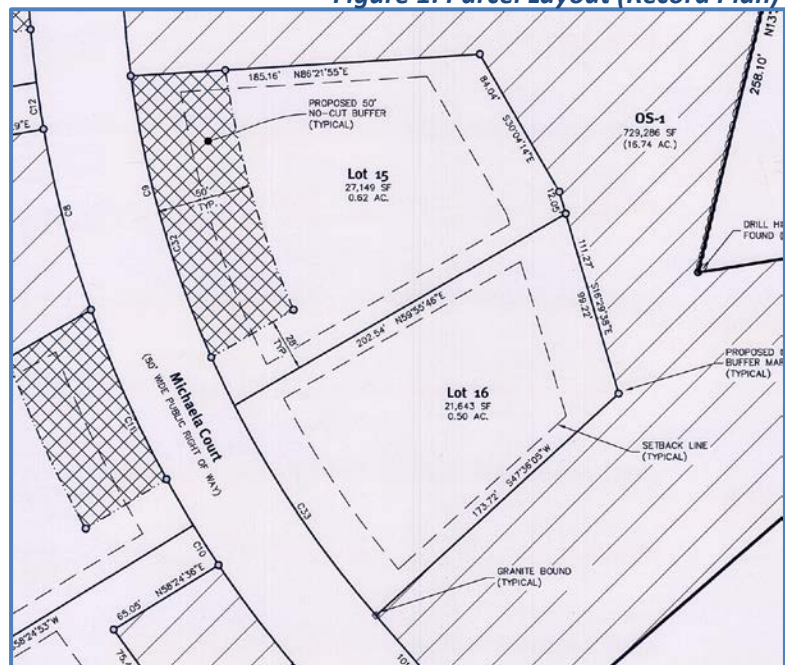
**Project Description**

On October 15, 2015 the Planning Board approved the Preliminary Plan for the South County Trail Flexible Design Residential Project (FDRP), a sixteen (16) lot subdivision including three (3) deed-restricted affordable lots. The subdivision plan that was approved included a perimeter open space parcel surrounding the proposed lots with nine (9) distinct “no-cut buffers” designated along the frontage of nine (9) of these parcels. The Final Plans were recorded on May 23, 2017 and construction of the development began shortly thereafter. In April and May of 2019 the Zoning Board of Review granted a variance for this subdivision to increase the maximum medium household income requirement of 80% to 120% of the area medium income for persons or households.

The subject property is a deed-restricted affordable parcel and one of those parcels that was designed and approved to include a 50’ no-cut buffer along the northwestern portion of its frontage. A building permit was issued for the construction of a single-family residence on this property on February 18, 2020 with construction beginning shortly thereafter.

The approved plans for the development located the driveway on this parcel to the southwestern front portion of the property with a 50’ wide no-cut buffer extending the remainder of the lots frontage

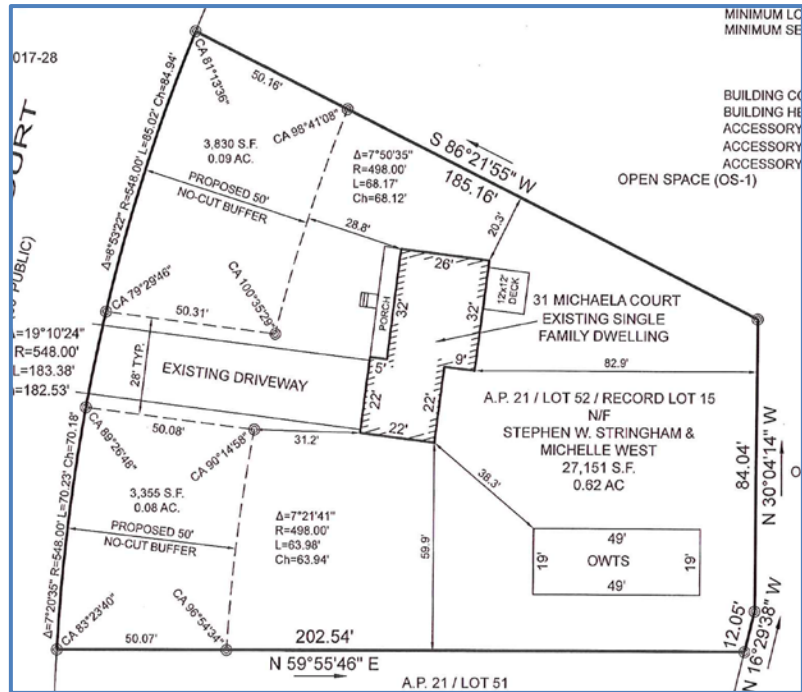
**Figure 1: Parcel Layout (Record Plan)**



to the north. However, during construction the contractor installed a curb-cut in the center of the parcels frontage and constructed a paved driveway in the center of the lot extending through the required no-cut buffer.

In reviewing this application and the prior approval, the Administrative Officer denied to approve this change administratively (as a minor change). As such this application was referred to the Planning Board for review as a major change due primarily to the significance of open space as it relates to FDRPs and, by extension, the prior approval.

**Figure 2: As-Built/Proposed Plan**



**Regulatory Considerations**

**Changes to recorded plats and plans**

Pursuant to [RIGL § 45-23-65.\(c\)](#), major changes, as defined in the local regulations...may be approved, only by the planning board and must follow the same review and public hearing process required for approval of preliminary plans. [Article VI – Recording of Plats and Plans, Section B\(3\)](#) of the Town of South Kingstown Subdivision and Land Development Regulations outlines similar language and provides a definition for Major Changes. For the purpose of these Regulations, the term “major changes” which, in the opinion of the Administrative Officer, are clearly contrary to the intent of the original approval. Such major changes shall include, but are not necessarily limited to the following:

- a. Changes which would have the effect of creating additional lots or dwelling units for development;
- b. Changes which would be contrary to any applicable provision of the Zoning Ordinance or which require a variance or special use permit from the Zoning Board of Review; or,
- c. Changes which may have significant negative impacts on abutting property or property in the vicinity of the proposed subdivision or land development project.

**Waivers Requested**

There are no waivers associated with this application at this time.

**Review to Date**

*Major Change to a Previously Approved Plan*

November 10, 2021 – Technical Review Committee (TRC). Upon review and discussion with the applicant the TRC rendered a favorable recommendation of the application with the following conditions subject to confirmation by the Planning Board:

- 1. Monumentation of the no-cut buffer areas.
- 2. Providing a landscape plan.
- 3. Clarifying proposed changes as it relates to the recorded survey plan previously completed by DiPrete Engineering.

### **Required Findings**

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In approving this major change, the Board must make the same positive findings on the following standard provisions that are applicable at the preliminary plan stage:

- (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.

### **Draft Motion for Consideration**

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The following motion with associated findings and conditions of approval is being offered for consideration by the Planning Board and should be amended accordingly if deemed appropriate or otherwise necessary:

“The South Kingstown Planning Board hereby approves the proposed major change to the previously approved plan for the South County Trail Subdivision – Flexible Residential Design Project. The Planning Board hereby approves the placement of the driveway in the center of Lot 52 and delineating the area to the north and south of the driveway as no-cut buffers extending 50’ into the property from the edge of the right-of-way, located at 31 Michaela Court, Gashy Dowlatshahi, *applicant*, Stephen W. Stringham and Michelle West, *owner*. This approval is based upon plan set entitled: *As-Built/Proposed Plan*, A.P. 21/Lot 52/Record Lot 15, 31 Michaela Court, South Kingstown, RI, dated January 10, 2022, prepared by Ocean State Planners, Inc., 1255 Oaklawn Avenue, Cranston, RI 02920. This approval is based on the following Findings of Fact and Conditions of Approval:

***Findings of Fact***

- A. This development is consistent with the requirements of the Comprehensive Plan.
- B. This development conforms to the standards and provisions of the South Kingstown Zoning Ordinance.
- C. 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.
- D. There will be no significant negative environmental impacts from the proposed development as shown on the plans, with the required conditions of approval.
- E. This development, as proposed, 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.
- F. All proposed units have adequate and permanent physical access to a public street, namely Michaela Court.
- G. With the required conditions of approval, this development 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.
- H. The design and location of building lots, utilities, drainage improvements, and other improvements in this development minimize flooding and soil erosion.

***Conditions of Approval***

- 1. The applicant shall install open space monumentation in the form of wood or granite witness posts, in accordance with Town of South Kingstown standard open space bound detail (TSK Standard I-6.0). Said monumentation shall be installed at each intersection of the delineated no-cut buffer boundaries (6) as shown on the plan associated with this application, and also at the midpoint of each no-cut buffer boundary line not including the Michaela Court right-of-way boundary (4).
- 2. **And any other conditions deemed necessary by the Planning Board in consideration of this application...**”