TOWN OF HOPKINTON
PLANNING BOARD

REGULAR MEETING

Wednesday, August 4, 2021
6:00 p.m.
Hopkinton Town Hall
1 Town House Road, Hopkinton, RI 02833

CALL TO ORDER:

Chairman Al DiOrio called the meeting to order at 6:00 p.m.

MEMBERS PRESENT:

Chairman Al DiOrio, Town Planner Jim Lamphere, Senior Planning Clerk Talia Jalette, Planning Board Solicitor Maggie Hogan, Vice Chairs Emily Shumchenia and Ron Prellwitz, Planning Board members Keith Lindelow and Carolyn Light, Planning Board Alternate John Pennypacker, Town Council Liaison Sharon Davis, and Conservation Commission Liaison Deb O'Leary were in attendance.

ROLL CALL:

Mr. DiOrio noted that he did not know if this was "still pertinent", as the members were meeting in person once more, but that they would "go through it." All members stated that they were in attendance.

PRE-ROLL:

Mr. DiOrio explained that this was the time when Board members would state if they would be in attendance at the next meeting. All members said that they would be present at the Board's next regular meeting on September 1st.

APPROVAL OF THE MINUTES:

Mr. Prellwitz made a motion to approve the minutes from the July 7th Planning Board meeting. It was seconded by Ms. Light. There was not any discussion.

In Favor: Prellwitz, DiOrio, Lindelow, Light, Shumchenia
Abstain: None.
Opposed: None.

5-0, the motion passed.

MINUTE APPROVAL EXTENSION REQUEST, PURSUANT TO RI GENERAL LAW 42-46-7 (b)(1):

Ms. Jalette approached the Board to request an extension on filing the minutes from the July 21st Special Meeting. She explained that it would "not impact anyone's ability to view the minutes as they're in progress", but that it would give her "more time" to complete them. Mr. DiOrio asked if the Board needed "to act on this formally", or if it was something that could be done administratively. Ms. Jalette explained that the first time she had made the request, the Board had to state the reason why the extension request was warranted. Ms. Hogan said that she did not think that they would need a motion. Mr. DiOrio said that Ms. Jalette's request was "noted", and they moved on to the next agenda item.

OLD BUSINESS:

Mr. DiOrio stated that there was not any old business that the Board had to attend to.

NEW BUSINESS:

Before the Board began discussing the new business on the docket, Mr. Prellwitz said that he had been thinking about "the more controversial" projects that were going to appear before the Board in the future. He noted that, as the meetings were being held in-person again, there was the "potential" for overcrowding in Town Hall. He asked if there was a "contingency plan", so if the room became overcrowded, the Board could "just pack up and move to one of the schools" or another locale that could accommodate the crowds. Mr. DiOrio said that he would "direct that to Mr. Lamphere", though he was "pretty sure the answer is 'no'." Mr. Lamphere explained that it would be "difficult to do that on the fly". He said that that had been done, to his knowledge, once, during "some sort of a public workshop", where the meeting moved to the Ashaway School. He said that he didn't know if the Board could do that, but it seemed impractical. He noted that they could, "out of an abundance of caution", set up a meeting at one of the district's schools. Mr. DiOrio chimed in.

Mr. DiOrio: "There was discussion, in advance, uh, so, the balancing act there is, uh, trying to determine how many folks might be in the audience. You don't necessarily want to set up the school for no good reason, you know, for 20 or 25 people. By the same token, controversial projects can swing either way, and, suddenly, you end up with a room of, you know, a hundred people. I understand the concern."

Mr. Prellwitz said that he was concerned about the workload being "so intense" for Mr. Lamphere and Ms. Jalette, and that if agenda items had to be pushed off "to another meeting, it makes their workload even more." Mr. DiOrio replied that he understood, and that it was a "point well-taken."

Before the Board began to delve into the proposals before them in earnest, Mr. DiOrio explained that there were "a total of five applications", and that he was going to "submit notices of recusal for the first four." He gave his reasoning.

Mr. DiOrio: "So, on the High Street Solar, uh, this is a client of mine, uh, Pine Gate Renewables, is, uh, one of my clients. Uh, this project is wrapping up, so, I'm simply recusing because they are a client. Palmer Circle I – I have nothing to do with that project, but, uh, Pine Gate Renewables was a client, or is a client of mine, uh, although I'm, again, I'm not involved with that. And the Bergan Minor Subdivision and the Wood Minor Subdivision are projects that I am actively involved with, so, I am submitting notices of recusal to Talia [Jalette], and I would be asking Emily [Shumchenia] to, uh, take the reins on these upcoming four applications, please."

Ms. Shumchenia said that as the applicant was setting up their easel, she would "provide a little bit of background", and ask Mr. Lamphere and Ms. Jalette "also to weigh in here."

Ms. Shumchenia: "It says here, 'On February 7, 2018, the Planning Board approved this 998-kilowatt solar array project, originally put forth by Oak Square Partners, on a seven apri-, acre parcel, which is AP 4, Lot 2, off High Street. The current developer is Pine Gate Renewables, LLC. The developer is requesting the Board to approve an amendment of the approved plan, with the addition of a landscape plan.' So, the Planning Board has in our packets some recent correspondence about that and the landscape plan."

Kellie Connelly, a landscape architect with TerraInk, appeared before the Board. She said that she was in attendance to talk to the Board "about the plans that were developed, um, under the request of Pine Gate Renewables." She then asked if she could start by discussing Palmer Circle I, and then pivot to High Street, as they were "very similar projects", though she could "start in whatever way" the Board preferred. Ms. Shumchenia replied that they could "reverse that", and began to introduce the Palmer Circle I project.

Amendment to an Approved Plan – Development Plan Review – Photovoltaic Solar Energy System – <u>Palmer Circle I</u> – AP 11, Lot 47D, 65 Palmer Circle. Palmer Circle Solar, LLC., applicant.

Ms. Shumchenia noted that this seemed to be "a unique situation, since the applicant appears to be the same, or the representative discussing the applications for both of these projects are the same individual". She said that the Board was going to "take them out of order, as they appear on the agenda", and introduced the Palmer Circle I project.

Ms. Shumchenia explained that it was her understanding that both of the amendments to the approved plans were "very similar", in that they both entailed landscape plans. Ms. Connelly said that that was correct.

Ms. Connelly explained that her firm had been retained for "remediation plans, due to the fact that there had been a contractor – who's no longer on the projects – who aggressively cleared areas outside of the fence on the, the project area." She began by highlighting the

entry drive, the solar field site, and Palmer Circle. She said that the "goal was to use, uh, native species that would provide, uh, both tree canopy, evergreen coverage, uh, shrubbery, proper perennial, and grasses". This would recreate a "biome" that would be "useful for the re-naturalization of this area, since the goal is to have that buffer be, um, sort of more of a grassland." She continued.

Ms. Connelly: "It was supposed to be saplings and cutlings that regrew over time. Uh, this was reviewed by Crossman Engineering, and they have, uh, acknowledged that this planting plan meets their expectation for, um, proper remediation of the site."

At this point, Ms. Connelly said that she "would open up to any questions" that the Board would have about the "planting or the plant material or anything that is shown on the plan." Ms. Light asked Ms. Connelly to show the Board where the abutter's property was in relation to the project. She noted that the direct abutters to the project, the Wilcox family, had some "viewage issues" with the black slats that had been installed in the fence. The applicant said that the removal of the slats would be "totally fine". Ms. Light said that, in her mind, after seeing the site, the abutter's request, and the proposed plans, she "thought that the black slats are put there for a purpose." She said that if she was an abutter, she "would be asking for landscaping." One of the representatives for the applicant asked if that was what the abutter was requesting. He began to speak from the audience, but Ms. Shumchenia asked him to come to the microphone so he could be heard. The representative was Matt Abbott, the project manager.

Mr. Abbott: "The abutter, from my understanding of it, is the abutter wants the privacy slats removed. Did they -"
Ms. Light: "Correct."
Mr. Abbott: "Did they, did they request a landscape buffer as well -"
Ms. Light: "No."
Mr. Abbott: "Or just wanted -"
Ms. Light: "No. No."

Ms. Light said that the landscaping recommendation was an "overall thought for the Planning Board." She said that she knew what the abutters were requesting, and that they were "entitled to have what they want". Mr. Abbott replied that if the Board was "okay" with the applicant "removing those" slats, he would have "no problem", and that it would be "a very easy quick fix". Ms. Light said that she didn't "want to jump off the landscaping". She continued.

Ms. Light: "Um, what I'm suggesting is that the landscaping continue to the space where they are asking to have the black slats removed, uh, because, as I said, this is, uh, a purpose that's mirrored in other projects. There's one right next door to you guys, Palmer Circle II. Same thing's gonna happen there, um, and, uh, rather than create a precedent of, 'I want this, and I don't want that' – the landscaping buffer is the best option for all parties involved. So, maybe they're being conservative in their request, but I'm asking for the Board to consider that a possibility. Maybe it's not. Maybe I'm dragging something out where it doesn't need to be dragged out."

Mr. Lindelow chimed in.

Mr. Lindelow: “Keith [Lindelow] here. I’m just confused what was approved back in 2018, and, whatever the abutter said, I mean, we want to respect that, but was that just passed through to you, or is that a formal request to the Board, or -”
Ms. Light: “No, that’s a, that’s, that’s my observation.”
Mr. Lindelow: “Oh, okay.”
Ms. Light: “It wasn’t from the abutter. In 2018, um, we requested that the black slats be put in place, right? And I read their communication, and I, I get, completely, what they’re saying, but, having those removed isn’t necessarily the only solution to the problem, okay? I’ve had no communication with the abutters.”

She concluded by stating that that was her “observation”. Mr. Abbott replied that the applicant had received that “knowledge” about the abutter’s request “pretty recently”, and that they had given “no reasoning behind it”. He said that, “if anything”, the removal of the slats would allow “them to see into the site”. Ms. Light said that the abutters did not “object to it”. Mr. Abbott replied.

Mr. Abbott: “So, if they don’t object to that, and if there is no request for landscaping on their end, um, we would probably go off just a request to remove the slats, and not add landscaping to that, because that whole southern side is a pretty extensive, large part of the project, um, but I do understand the concern of them, possibly, in the future -”
Ms. Light: “Right. The next homeowner can come in and say, ‘I want black slats’, and then we’re back to 2018 – bring it forward, 2021, when landscaping is the solution we prefer in the community for everybody, but if, if, you know, I, I get it. They haven’t requested it. It’s not up for consideration. My observation, that’s it. I’m trying to be thoughtful. Neighbor – it’s my neighborhood, too.”

Mr. Pennypacker weighed in. He said that he saw “both sides of it”, and noted that, in the letter provided to the Board by the abutting property owner, they had highlighted an element of the motion made in 2018.

Mr. Pennypacker: “So, in the, in the letter, was highlighted the section where, uh, it says, ‘Mr. Bedoya moved to amend the motion to include more vegetative screening for the fence area facing the nearest residence to the south, and Mr. Prellwitz seconded the motion.’ But, in their letter itself, they said they were satisfied with the original fence, so, if, if they were satisfied, they were satisfied.”

Ms. Shumchenia said that it appeared as though Mr. Lamphere had a comment to make. He explained that he had driven past the site earlier that day “to get a last look at it” before the meeting, and he had reflected on the motion that had been made in 2018, when the “original approval was done”.

Mr. Lamphere: “That might have been appropriate at that moment in time, but, as we went through the construction process, we had to – we had serious storm water issues that needed to be rectified, and so, we worked with Crossman Engineering on that, and made

adjustments such that there really isn't any room to put additional landscaping along that southern border, and – so, I looked at it today, and I really – my opinion, my observation, was that, first of all, the property line is very, very close to the fence, so, there isn't, there's very, very little room between the property lines and the fence to even put any landscaping, if the Board was to order it."

He also noted that in the area in question was "revegetating" with the natural vegetation, including "a couple of pine trees" which were closer to the road. He said that if they were to "add any additional landscaping, it would probably have to be put on Mr. Wilcox's property." Mr. Lamphere said that he had talked with Mr. Wilcox "numerous times over the years", and as recently as "last week", and that he seemed "to be fine [with] just removing the slats."

Mr. Lamphere: "His reasoning for removing the slats is that when you put the slats in, it forms a barrier, like a wall, and when they're not there, he says, 'I can almost see right through it, and the fence becomes invisible.' He said, 'Moreover, the, the panels themselves are above the fence anyway, so those slats really do nothing to screen the system."

Mr. Lamphere said that it would be "safe to say" that the Wilcox family would be satisfied with the removal of the slats. He then reiterated that, "even over the last year", he could see "where the existing vegetation has filled in quite nicely". He said he was "not so worried about that side" – that he was more worried about the side of the site that was up for discussion. He noted that the existing fence "goes very, very close to the road" along Palmer Circle. He said that "there really wouldn't be much of an opportunity to put additional plantings there." If plantings were installed in that location, there would be a chance that they "would probably be ruined by, let's say, our DPW [Department of Public Works] staff when they're plowing". He continued.

Mr. Lamphere: "I think the best opportunity to screen this project is where the applicant is proposing to put it."

Ms. Connelly asked if the Board had any other questions for her "about the plantings or the type of material" they would be using. Mr. Pennypacker said that he did have "one more question." He mentioned that there was a retention pond in the area, and he asked if there would be "no screening in that area at all". Ms. Connelly replied that, due to the "swale here, with the check dams that come in", that area "would still have the seed mix that was specified", per the Board's "original order, uh, for restoration of the, the solar field itself."

Ms. Shumchenia said that before the Board proceeded to the next application, she wanted to see if there were "any questions from the public" about the application they had just discussed. There were not any members of the public who wanted to comment. Mr. Lamphere recommended that the Board take a formal vote on the application that was before them before they began discussing the other proposal. Ms. Shumchenia explained that they had a draft motion that had been provided by their Solicitor, and that they would

"just need to think about adding to the Order, at the end here, a note about removing those black slats".

Mr. Lindelow moved to approve the Amendment to the Approved Plan for "Palmer Circle I", located at AP 11, Lot 47D, based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

1. On April 4, 2018, the Planning Board approved this 998 kW solar array project for Plat 11, Lot 47D.

2. During the course of construction, the Town Planner identified a substantial deviation from the approved landscape plan in that excessive clearing had taken place. The Planner directed the project owner to develop and submit a new landscape plan for revegetation.

3. On September 12, 2020, a neighboring property owner submitted a letter of concern regarding the addition of black slats to the chain link fence, and requested that the slats be removed.

4. Crossman Engineering conducted peer review of the proposed landscape plans and found them to be inadequate on two occasions.

5. The project owner incorporated Crossman Engineering's recommendations in its landscape plan dated July 23,2021. Crossman recommends approval of the July 23 plans.

6. The Planning Board finds that the proposed landscape plans adequately address the over-clearing.

CONCLUSIONS OF LAW:

1. Authority is vested in the Planning Board to ensure compliance with previously approved site plans.

ORDER:

1. The landscape plans dated July 23, 2021 are hereby approved and the project's approval is amended.

2. The project owner is directed to install the landscape plantings during fall 2021 in sufficient time to allow acclimation prior to winter.

3. The project owner shall maintain the plantings with the appropriate amount and frequency of watering and fertilization and shall replace any plants that die.

4. The project owner shall remove the black slats on the southern portion of the property, as requested by the Wilcox Family.

The motion was seconded by Ms. Light.

In Favor: Shumchenia, Prellwitz, Lindelow, Light, Pennypacker
Abstain: None.
Opposed: None.

5-0, the motion passed.

Amendment to an Approved Plan – Development Plan Review – Photovoltaic Solar Energy System – <u>High Street Solar</u> – AP 4, Lot 2, 95 High Street. High Street Solar, LLC., applicant.

Ms. Connelly appeared before the Board once more. She reiterated that TerraInk had been "retained to, again, uh, remediate some over-clearing" that had taken place on the site during construction "by a contractor who's no longer on the project." She explained that the area that had been affected had been impacted by "vehicles and things in that area over the course of time", beyond merely being cleared.

Ms. Connelly: "There was a lot of shrub material in there, some tree material, so, in the same venue as we did for Palmer Circle, this is a mix of deciduous and evergreen trees, deciduous, uh, shrubbery, perennials, uh, and, grasses, to restore a, uh, living biome for nature and sort of just general remediation within the site. This also was reviewed by Crossman Engineering, and found to be, um, compliant to what they deemed a good remediation."

At this point, Ms. Connelly said that she would "open it up to any questions." There were not any questions from the Board. There were not any questions from members of the public either. Mr. Lamphere did weigh in, and said that the approved plans called for a "gravel, crushed stone driveway". He said that he would "let the applicant speak on this themselves, but that's what the approved plans called for." He explained that "there had been some back and forth, indecision" about that element of the plan, but that he had received a letter from the Ashaway Fire Marshal that day, which he read into the record.

Mr. Lamphere: "'This letter is written to confirm that the access road to the site at 95 High Street, Ashaway, RI, 02804 is up to standards needed for the Fire Department needs. The existing pavement and gravel repair will allow easy access to and from the site. Due to the weight of most of our Fire vehicles, and the extreme slope of this access road, an excessive amount of gravel could sink the vehicle and make the road unaccessible [sic] or dangerous to travel down or on. The width of the road is also adequate for travel of large Fire trucks and construction vehicles.'"

Mr. Lamphere said that, "to get through this", the Board should "direct the applicant to construct this access road to the satisfaction of the Fire Marshal." He said that while that

seemed “kind of broad”, he was “trying to avoid having to come back to the Planning Board again”. He said that the letter from the Fire Marshal was not “exactly as precise” as he hoped it would be, as it did not “mention a specific width” for the access road. He stated that the approved plan had called for a “15-foot wide” access road, though the letter from the Fire Marshal did not “really confirm that”. He encouraged the applicant to work with Crossman Engineering, and to have them “express what their intent is” in terms of addressing the access road aspect. Mr. Lamphere said that he did not know how the applicant wanted “to make changes out there”, but that they “should tell the Board what the approved plan called for”, and what they wanted to change.

Mr. Abbott appeared before the Board again. He stated that “the plan originally showed, um, to leave the existing pavement on the road, and repair it, as needed, with crushed gravel.” He continued.

Mr. Abbott: “Um, if you look at the bottom left-hand photo, that’s one of the most current, up-to-date pictures. Um, if you look along the left side of the road, there’s a diversion, uh, gravel swale that was put in for, uh, runoff – yep – and then, um, minor gravel repairs throughout the road – nothing crazy, and the bottom of the road has a crushed gravel that’s been compacted for a turnaround as well.”

Mr. Abbott stated that he had met with the Fire Marshal at the site when he was there to install a Knox Box, and that they had been “okay with how the road was existing”. He said that the Fire Marshal had stated that if the applicant were to add “any more crushed gravel” the access road “could be dangerous for their Fire vehicles”. He said that the Marshal had explained that the addition of more gravel could cause their water truck to cause “substantial rutting” on the access road, or that it could “get them stuck at the base” of the hill or on the road “due to the extreme slope.” He said that they hoped they could “amend the plans, uh, per his letter”, but that he could also “get [the Fire Marshal] to update that letter to express a width” within the coming weeks. Mr. Lamphere said that he had asked the applicant to bring this up so that both issues could have been addressed at one meeting, but that he “probably would have approved this administratively anyway, because, whatever the Fire people want, that’s what they should have”. He said that he “would do it as a minor amendment anyway”, but, as long as the applicant was before the Board, he wanted to take the opportunity to “run it by the Board.” Ms. Shumchenia asked if there were any questions from the Board. When she did not hear from the rest of the Board, she began to discuss the proposed motion.

Ms. Shumchenia: “Okay, so, our, um, our proposed motion on this should specify, uh, just very briefly, constructing the access road according to the Ashaway Fire Marshal’s specifications.”
Mr. Pennypacker: “Are we allowed to include that? Are we allowed to make any judgment on the access road? Because it wasn’t -”

Ms. Hogan replied that she had “just had a conversation with the Planner about that”. She explained that “because it has been advertised as an amendment to an approved plan, and it didn’t specify ‘limited to the landscaping’”, she thought that it was “appropriate” for

the Board to “go ahead.” Ms. Shumchenia said that that was a “good question”, and then said that she thought that the Board was “ready to entertain a motion”.

Mr. Lindelow moved to approve the Amendment to the Approved Plan for “High Street Solar”, located at AP 4, Lot 2, based on the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT:

1. On February 7, 2018, the Planning Board approved this 998 kW solar array project for Plat 4, Lot 2.

2. During the course of construction, the Town Planner identified a deviation from the approved landscape plan in that excessive clearing had taken place. The Planner directed the project owner to develop and submit a new landscape plan for revegetation.

3. Crossman Engineering conducted peer review of the proposed landscape plans and found them to be inadequate on two occasions.

4. The project owner incorporated Crossman Engineering’s recommendations in its landscape plan dated July 23,2021. Crossman recommends approval of the July 23 plans.

5. The Planning Board finds that the proposed landscape plans adequately address the over-clearing.

CONCLUSIONS OF LAW:

1. Authority is vested in the Planning Board to ensure compliance with previously approved site plans.

ORDER:

1. The landscape plans dated July 23, 2021 are hereby approved and the project’s approval is amended.

2. The project owner is directed to install the landscape plantings during Fall 2021 in sufficient time to allow acclimation prior to winter.

3. The project owner shall maintain the plantings with the appropriate amount and frequency of watering and fertilization and shall replace any plants that die.

4. Construct access road according to Ashaway Fire Marshal specifications.

It was seconded by Mr. Prellwitz. There was not any further discussion.

In Favor: Shumchenia, Prellwitz, Lindelow, Light, Pennypacker
Abstain: None.
Opposed: None.

5-0, the motion passed.

The Board thanked the applicant, and Ms. Shumchenia noted how nice it was to participate in an in-person meeting. Mr. Lindelow joked that they should have brought dinner. Ms. Light added that they should have had appetizers.

Pre-Application – 2-Lot Minor Subdivision – <u>Bergan Minor</u> - AP 19, Lot 8, 0 Spring Street. William and Susan Bergan, applicants.

Ms. Shumchenia explained that the Board would informally exchange ideas with the applicant, but that there would not be any votes taken in relation to the proposal. William Bergan appeared before the Board on his own behalf, and on behalf of his wife, Susan.

Mr. Bergan: "Um, what we are bringing to you is the pre-approval of the subdivision of a 30-acre lot that abuts Grassy Pond and Spring Street. Um, it was previously a proposal by the previous owner for a five-lot subdivision. Um, all the wetlands were previously permitted by DEM [Department of Environmental Management]. Um, all of them have expired. Um, we've recently done the wetland determination on one of the original proposed lots, of that original five-lot subdivision, that we would like to use as part of this new proposal. Um, in it, we would come up with two lots, one which would conform to the zoning application process of a two-acre lot, and another lot which would be 28 acres. With that 28-acre lot, we would like to put in a deed provision that allows for no more subdivision of that lot, and that would be locked at 28 acres, you know, as, as open space. Pretty much what we're proposing."

Ms. Shumchenia thanked Mr. Bergan, and asked if the Board had any questions. Mr. Pennypacker was the only member with any questions for the applicant.

Mr. Pennypacker: "You mentioned at the end that this is all gonna remain – the idea is this is the last time you're gonna divide it. This is gonna just stay -"
Mr. Bergan: "That would be – that once it's split into that one, two-acre parcel and the 28-acre parcel, that 28-acre parcel – even though there are on, as you can see in your package -"
Mr. Pennypacker: "Mhmm."
Mr. Bergan: "There's plenty of land to – we, we don't want to do that. We want a deed provision put in that that parcel can never be split up again."
Mr. Pennypacker: "Great. Thank you."

Ms. Shumchenia replied that she thought that the Board would be "very supportive of that", and gave him "kudos". The Board then turned to the next application before them.

Pre-Application – 4-Lot Minor Subdivision – Wood Minor - AP 5, Lot 80, 179A Alton Bradford Road. Christopher P. Wood, applicant.

Ms. Shumchenia reiterated that the Board does not vote on proposals at the Pre-Application stage. Mr. Wood appeared before the Board on his own behalf. He explained that he owned the property in question, 179A Alton Bradford Road, and stated that he wanted to thank the Board for granting him "the opportunity to come in and talk about [his] project." He continued.

Mr. Wood: "Um, there's a project narrative that's in your packet. Um, you may or may not have seen that, but I'd like to go through some of the highlights of it. First thing, on the, on the property – it's on the west side of Route 91, Alton Bradford Road. It's 9.1 acres. There are two long-standing, existing structures on the property – one single-family home, and another unfinished home that have been there, um, since the '40s, um, also, two small outbuildings. It's currently zoned as a duplex according to the Town tax card. The elevation range of the property is 95 to 116 feet. Um, in the area of wetlands, there's a small stream and an associated small wooded swamp, which had been delineated by Ecotones and mapped by Alfred DiOrio. There are no proposed alternations or encroachments of any wetland area in my, uh, proposal. As far as the soil, it's Canton so-, Canton-type soil in the proposed building, and, uh, septic system locations, free of groundwater complications. Elevations have been completed by Al DiOrio, deemed generally suitable for individual systems. The zoning of the property – project requires no zoning variances, meets all the frontage and lot area zoning requirements. The frontage is 1144 feet. It's consistent with the character and current residential use of the area. Now, there's a couple, a couple of potential questions I'd like to try to address that you may have. Um, Lot 3, which is the lot that has the two property - the two, uh, existing structures on it – as I said, it's zoned as a duplex on the tax card. The new proposal would require an additional area for Lot 3 in order to continue to be a duplex. Um, I've been in – excuse me – in discussions with the abutting property owner to the north. Um, we haven't come to a conclusion on that, but, uh, that may well come to, come to pass. If it doesn't, we're happy to consider that property as a single-family property, as it's currently being used – it's designed as a duplex. So, we'll, we'll come to a conclusion on that in the next several weeks, if not the next month, with the owner of that property, as to whether that, this would remain as a duplex or a single-family. In the area of driveways, I've discussed the driveway options with Al DiOrio. We don't have, um, a specific plan yet, for the driveways on the three lots which we're proposing, and, finally, on the map that you'll, you have there, you'll see there's a small area of encroachment on the north side of the property. There's a portable shed there, and some, some equipment. Um, I have discussed the options with Al [DiOrio] about how to, how to, uh, handle that, but we have not made any, any specific moves yet. Um, I think that's all the information I wanted to present to you. Um, I'll open that up for questions."

Ms. Shumchenia thanked Mr. Wood, and asked if there were any questions from the Planning Board. Mr. Pennypacker said that he had a "weird" question.

Mr. Pennypacker: "With non-conforming uses, my understanding is once they're no longer being used – how does, how does that – I'm not sure how that actually plays out. So, if it were a business, it were a car dealership, and it had been abandoned for 5 years, no one was selling cars out of that place, you can't – it, you, you lose that non-conforming – how does – right? Yeah, I don't know how, exactly, that plays out. So, once, once you stop – once the property stops being used in a non-conforming way, and you restart in the same non-conforming way -"
Mr. Wood: "I – can I assume you're referring to the second dwelling?"
Mr. Pennypacker: "Yeah, yes, the duplex."
Mr. Wood: "The second dwelling was never finished inside."
Mr. Pennypacker: "Which, which is why I asked -"
Mr. Wood: "Right, so – yeah, so, I don't know."
Mr. Pennypacker: "It looks like a house, but it's not a house."
Mr. Wood: "It definitely does. It has a roof and a separate meter and such – I can only defer as, as a non-expert in any of these -"
Mr. Pennypacker: "And that's why I'm asking, because I don't -"
Mr. Wood: "Okay."
Mr. Pennypacker: "I don't wanna speak out of turn, or, or overstep."

Mr. Lamphere said that he had an "e-mail from the Deputy Zoning Official on this." He said that Sherri Desjardins, the Deputy Zoning Official, and Tony Santilli, the Building Official, had looked the proposal over, and did not have any objections to it, as it "is a pre-existing, non-conforming development, due to the fact that there are two dwellings on this property." He said that their letter explicitly stated that the "proposed subdivision will not increase the non-conformance" of the existing use. They had noted that "proposed Lots 1, 2, and 4 will be in conformance" with the Zoning Ordinance for the RFR-80 zoning district. The proposed Lot 3 would be allowed "'under the provisions of Section 8 (A) – continued existence of a non-conforming development'" within the Zoning Ordinance. Mr. Lamphere then read Section 8 (A) into the record.

Mr. Lamphere: "'Any use, activity, structure, building, sign, or other improvement lawfully existing at the time of the adoption or subsequent amendment of the Zoning Ordinance but which is non-conforming by use or non-conforming by dimension under the terms of this Ordinance or subsequent amendments hereto shall be permitted to continue. This shall not exempt the non-conforming development from the regulations of this or other Town Ordinances, State statutes or common-law requirements requiring that property be used so as not to create a nuisance.'"

Mr. Pennypacker had another question.

Mr. Pennypacker: "So, the, the existence of the structure qualifies as the use, right? It's irrelevant if someone's actually in there?"
Mr. Lamphere: "That's, that's their determination."

Mr. Lamphere noted that the applicant had stated that their tax card listened it as a two-family home, though he did not know what they had been paying in taxes during that

time. He said that there was the "appropriate frontage to this, and twice the area, which is called for, for a duplex". Mr. Lamphere told Mr. Pennypacker that that was a "good question", and that he had had the same question, so he had researched it. Ms. Light asked the next question. She asked Mr. Lamphere if it would "continue to be non-conforming." Mr. Lamphere responded that it would remain non-conforming, but it would not "increase" the non-conformity. Mr. Lamphere replied that if a brand new duplex was proposed for that site today, "it would be conforming", as there would be both adequate frontage and double the area, which is "what a duplex requires." He noted that this situation was not what one would "typically" consider a duplex, as the buildings are separate and unattached, and that he did not know if the Zoning Official had viewed it as a duplex, or "a non-conforming situation." Ms. Shumchenia had another question.

Ms. Shumchenia: "You mentioned working with the property owner to the north, uh, to potentially, uh, exchange land or obtain additional – can you describe what you need the extra land for again? I'm, I'm sorry – I missed it."

Mr. Wood replied that he needed "two acres for each of the lots" – Lots 1, 2, and 4, and he would need "double that – four acres for the duplex lot." He continued.

Mr. Wood: "So, all together, I'm 6,800, approximately, feet short."
Ms. Shumchenia: "Okay, so that would affect the – a lot adjacent to this land that you're considering obtaining."

Mr. Wood explained that his property was abutted by a very large piece of land, and the shading depicted on the map near Lot 1 depicted the square footage he would need to acquire from his neighbor. Ms. Shumchenia said that she did not realize that the shading on the map "corresponded to" additional land Mr. Wood would have to procure, but that she saw what he was talking about now. Ms. Hogan discussed the non-conforming nature of the property again. She said that they could not "increase the non-conformance, and so [the applicant] would need to have that minimum lot size for the, for the two dwelling units." Therefore, Mr. Wood needed to add that additional 6,800 feet so that he would not be "increasing [his] nonconformity by dimension". Mr. Wood explained that if he was not able to reach a satisfactory agreement with the adjacent property owner or the Town, he would develop it as a single-family home, and abandon the use of the additional uninhabited structure. Ms. Davis asked Mr. Wood if he would have four lots with five units. He said that that was correct. Mr. Prellwitz asked if it would be a "deal breaker" for the entire proposal if Mr. Wood was unable to obtain the additional 6,800 feet necessary for a two-family home. He replied that it would not. When there were not any additional questions for Mr. Wood, the Board moved on to the next application.

Preliminary Plan – Public Hearing – <u>Brushy Brook</u> – 140-Unit Comprehensive Permit – AP 32, Lots 1, 4, 6, 8, 10, 12, 14, 16, 17, 21, 23, 25, 27, 30, 32, 34, 36, 38, 40, 41, 42, 44, 46, 48, 50, 52, 54, 56, 58, 60, 62, 63, 65, 67, 68, 69, 70 and 71, located at 130 and 0 Dye Hill Road, 0 Brushy Brook Drive, 0 Wedge Road, 0 Green Lane. LR6-A Owner, LLC., and Realty Financial Partners, applicants.

Mr. DiOrio returned to his role as Chair. Bill Landry, the attorney for the applicant, appeared before the Board.

Mr. Prellwitz made a motion to open the Public Hearing. It was seconded by Mr. Lindelow. There was not any further discussion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia
Abstain: None.
Opposed: None.

5-0, the motion passed.

Mr. Landry began his presentation. He stated that Mr. DiOrio was the "only surviving member" of the Planning Board that had first encountered the "first iteration of this." When it first appeared before the Board, it had gone through "almost a year, uh, of monthly public meetings at the Master Plan level." He explained that the Master Plan approval "was issued in, uh, December of 2010, and remains in effect under the State, um, vesting laws." He said that what was before the Board now was a "Preliminary Plan submission that has been deemed, uh, complete", and that the applicant was there to "sort of reintroduce the project to everybody, uh, expecting that, you know, there's very little institutional memory of this project beyond, um, the Chair". He said that he was sure that Mr. DiOrio remembered the proposal "very well, but there are certain core pieces of it that" the applicant thought should be brought "back to the surface" in order to "create, you know, better familiarity with what's going on here."

Mr. Landry stated that the applicant had a "very, very large site, at 358 acres", and that the "original application before the Planning Board in 2009 was for a 300-unit residential development, that had a single-family component to it, and a small, multi-family component at the entrance to the project site." He explained that "during the course of the Master Plan proceedings", the applicant had "modified the proposed Master Plan to eliminate the, the multi-family units towards the entrance, and to have entirely single-family homes", and that the "proposed density was reduced from 300 units to 270 units." He said that the Planning Board had "heard maybe one of the most extensive, uh, Public Informational Meeting processes ever", and that he believed that there were "11 or 12 [meetings] before it was all over." He said that that was "uncharacteristic of the Master Plan stage until lately", and that the process included "extensive engineering testimony, peer review, uh, on virtually every issue." Mr. Landry said that GZA, a local environmental consultant, was involved for "many of those months", and provided peer review for DiPrete Engineering "and other, uh, engineering and technical professionals", like "wetland scientists and so forth", including traffic consultants. He said that they had gone into "virtually every major impact" associated with the proposal, from the "proposed individual septic systems" to the "proposed individual wells" to the "location of the units", as well as the "existence of units around the perimeter…at the edge of the Arcadia Management Area." They discussed the "fiscal impacts" that the project would have on the schools. Mr. Landry stated that the discussion at the Master Plan level was "very, very exhaustive", and that, "at the end of that, in the decision, approving the

project, uh, the Planning Board went to great lengths to identify the various concerns that it had." He continued.

Mr. Landry: "Uh, and wrote that it could either reject the project, or approve the project at a substantially lower density – that, in the view of the Board, would be, um, protective, mitigative, and protective – in some cases, eliminate 100% the concerns that the Planning Board had of the larger project. And so, what we have here is an approval that has 6 conditions – 6 or 7 conditions – I'll go through them in a moment, um, and those conditions required a redesign of the project, from a 270-unit project to what we're presenting now – is a 140-units project. Uh, the density condition that the Planning Board imposed was based on a formula. They didn't say, 'You can have 140 units.' They said, 'You'll have to calculate what a yield plan would show is the permissible density, on your 358 acres. If you back out all of the unsuitable land, and once you've gotten to that base density, we will give you a 20% density bonus, uh, on top of that.' And, so, the, the Board estimated – I don't know - a number of, uh, a little higher than what we wound up with this, in terms of where the unit count could come out. We actually came out a little lower than that. When we calculated, as Mr., uh, Prive can, of DiPrete Engineering, will testify, as it's shown on Sheet 11 of the plan – it's got that whole calculation as to how we came out with the base density, then added the, uh, 24%, and, in doing that, and getting to the – it was actually 159 units, I believe, that we came out to, but we're only asking for, um, 149, is – I'm sorry, 140 units is what we're asking, um, is what we're presenting here tonight. It could have been 149 based on the yield plan and the formula that the Planning Board, uh, came up with."

Mr. Landry said that the applicant had a "much better plan" now than it had previously, and that the average lot sizes for the parcels would be "28,000 square feet". He said that that would allow the applicant "to preserve well over 70% of the site as open space", or 256.8 acres. He said that "the units could be pulled away from the perimeter" of the property, as, initially, there were houses "that were right on the boundary". Now, in "most cases", there would be "at least 300 feet between the edge of the subdivision – between the nearest lots, and houses, and the Arcadia Management Area", and, in some instances, "usually well over about 300 feet". He said that he thought that the closest house to the Management Area would be "about 250 feet", which he categorized as "a long way" away. He said that the applicant had proposed that the houses on the lots would be "at the frontage of the lot", so there would be a great deal of distance between the houses and their rear property lines. He said that there would be "substantial, extra buffer area" between the house lots and the existing adjacent properties. He said he thought that that was one thing that Board had in mind when they reduced the density of the project. He continued.

Mr. Landry: "The other issues that the Board discussed were, uh, community septics. Um, they were concerned about individual septics. They required community septic systems. They also required, uh, community wells, as opposed to individual wells. There was a lot of science back and forth throughout the proceedings. At the end of the day, uh, the Board said, 'Look, these issues get a lot easier to decide if we knock the density down

by more than half', so that's what we're going to do, instead of taking chances with respect to these issues."

Mr. Landry said that the applicant had been developing the Preliminary Plan "over the last several years", and said that they had returned "twice, for guidance", though "there were no formal decisions". He said that the applicant did have "decisions to make, in putting that plan together", and one of the things they thought would be better would be to go "back to individual wells [and] septic systems." He said that the applicant thought that they "could create more open space that way, and present a safe alternative." Mr. Landry said that the applicant "realized that that would require a waiver by the Planning Board" of what they had "been approved for", but they made what they thought was a "good case for considering the merits" of individual systems. He said that the Board was "very clear" about abiding by what "was originally approved – common septics, common wells, and that that was the Planning Board's clear preference going forward." He said that the applicant "respect[ed] that", and that, "at the end of the day", the applicant "want[ed] to do what, you know, what, what is the consensus of the Planning Board, and how it was originally approved". As such, that's what the Board would see on the plans before them. He said that Mr. Prive would "help clarify" any issues that the Board or the public was having with interpreting the septic and water infrastructure data on the plans.

Mr. Landry stated that the applicant had appeared before the Board with questions about the affordable units as well, and that there was "a requirement in the original approval that there be 25% of the units as, as affordable units, and the plan contemplated all single-family units." They had returned to the Board with other development options, which could have "create[d] even more open space" – particularly if they "had some units, or perhaps many units, that were accessory apartments for the elderly, in-laws, uh, single, young, young people" without families. He said that it seemed as though there was a need in South County for rentals and one-bedroom living spaces, so the applicant "made a proposal" with a "couple of scenarios" – a plan with some units for that particular clientele, a plan with many units for that particular clientele, and a plan without any unit for that particular clientele. He said that the "clear consensus" of the Planning Board "was that they wanted to go the way the project was originally drawn up, as a single-family project", with "all single-family, um, dwellings as affordable units and all single-family dwellings as market rate units." He said that there was "no prohibition on those single-family houses being rented, but the Planning Board did, uh, reject the notion of having accessory units count toward affordable housing", which was why the applicant designed the Preliminary Plan the way that it did – so it would be "consistent with the guidance that the Planning Board provided" to them. He then returned to the topic of community wells.

Mr. Landry: "With respect to the community wells, the Rhode Island Department of Health, um, Center for Drinking Water Quality has issued an approval for the well field plan. Uh, they spend a lot of time, as Mr. Prive will discuss, on siting of the well fields to minimize any potential impact on anybody outside of the subdivision. They take all kinds of things into consideration, and they have issued the approval for the community septic, uh, design parameters that appear on the, uh, Preliminary Plan, um, drawings. Uh, as far

as the approvals for the septics, uh, community septics, those are still under review, uh, by DEM [Department of Environmental Management]. They have been for some time. Storm water management plan – that, uh, Eric [Prive] will describe – is also under review. Uh, those permits have not yet issued, uh, under the State law applicable to regular subdivisions, and the State law applicable to comprehensive permits that include low- or moderate-income housing. The actual DEM [Department of Environmental Management], uh, approvals are not required until the Final, uh, approval plan stage, but, obviously, we haven't had to do all of the engineering for, uh, those designs, and, and Eric [Prive] will, will explain to you in ea-, each, each of these cases, the storm water, community septics and wells, um, what the, uh, design parameters, uh, were, and what were, what were issues that help us believe that there, uh, that those plans will be approved by DEM [Department of Environmental Management]."

Mr. Landry stated that the applicant would "know for sure when [the Department of Environmental Management] issue[s] the permits", and that, "obviously", there would be further meetings "to review that." He said that they were "designed in accordance with all DEM [Department of Environmental Management] standards – the storm water, uh, design manual, and, and all of DEM [Department of Environmental Management]'s regulations." He said that, "in terms of conditions", the Board "could not have been clearer that they wanted the conditions all satisfied", and that they were "not interested" in dealing with "different kinds of conditions". As such, the applicant was "happy to say that the work that [they had] done permits [them] to satisfy all 6 of these conditions that appear at the beginning of the Master Plan approval", with the "first being that the approved density will be in the range of 93 to 116 single-family units, to be determined by a proper yield calculation at the Preliminary Plan stage, plus a density bonus of 25% for affordable family housing, uh, to be awarded under the Hopkinton Inclusionary Zoning Ordinance, for a total of 116 to 145 units of single-family houses." He said that the second condition was that "the applicant shall reconfigure the development under [the Town's] subdivision cluster regulation, using 20,000 square feet, more or less, uh, lots, so as to maximize the open space adjacent to the Arcadia Management Area, and so as to eliminate, to the maximum degree possible, house lots abutting the Management, uh, Area." Mr. Landry then read the third condition, which was that, "in accordance with [the Town's] cluster regulations, the applicants shall provide public drinking water wells, unless proven infeasible, and communal septics with denitrification, using open space for wells and septic in such a way as to achieve maximum feasible separation between wells and septic, and minimum potential for pollution and nitrogen loading", which they had "already discussed." He said that the fourth condition "had to do with offsite improvements."

Mr. Landry: "Uh, we had testimony at the Master Plan stage from, uh, traffic, uh, consultants on offsite impacts, uh, on Saw Mill Road – excuse me – on the, the bridges and, and culvert, uh, systems, uh, on Saw Mill Road, uh, and Dye Hill Road, uh, and we were asked to ensure that the bridges and the two culverts on Saw Mill Road, Road were widened to a width of 22 feet. Um, the edges were in very bad condition, and the widths were closer to 15 or 16 feet than to 22 feet. Uh, we're also asked to do clearing of two feet on each side, uh, of, of, the road. Uh, chip seal Saw Mill Road and Dye Hill Road,

from 138 to the entrance to the property, uh, at Brushy Brook, and, to, uh, implement certain monitoring, uh, and track ongoing traffic, uh, monitoring improvements, as shown in our traffic study [from] 2010, uh, and then certain public improvements, uh, striping and so forth, that were in a memo that the Public Works Director issued in January of, uh, 2010 - and we have done all those things. Now, a lot of things changed. Uh, after the Master Plan approval was issued, the Town actually, um, implemented some of the recommendations that had been made. They resurfaced, um, the, uh, road, uh, Saw Mill Road. They widened it. Um, uh, not just at the locations that we were required to widen it, but at most locations to accomplish, substantially, a 20-foot width. Striped it, put warning signs on, stop signs and so forth."

He stated that "a lot of what" the applicant had proposed "to do has already, um, been done" by the Town. Therefore, what the applicant submitted in their Preliminary Plan was a technical memorandum from March 22, 2021, which featured "charts and plans and photographs and so forth". He said that they "looked at what the conditions were" – particularly Number 4, and that "they identified what had already been – what part of that [condition] had already been done by the Town, and what part of it remained, uh, to be done." He noted that "those areas near the culverts, uh, and so forth, still need to be widened to 22 feet."

Mr. Landry then explained that there were things that were "not adequately covered", like "some cracking and so forth", so Beta, an engineering firm, "made a series of recommendations" in the technical memorandum "as to what was left to be done, to fully carry out, uh, that condition related to offsite improvements." He said that the applicant had applied to the Department of Environmental Management "to have the improvements approved", as the "Town is the owner of the roads." He stated that DiPrete Engineering had submitted "the plans for the improvements" to the Town, and that the Town, in turn, "made the application" to the Department of Environmental Management. He said that they had been "authorized to do so by the Town Council", and that they were working "in a very cooperative fashion, presenting that to DEM [Department of Environmental Management]." He stated that the "approvals are still pending" at the Department of Environmental Management, but that it was the applicant's "full and complete intention to carry out the conditions, as set forth in the Master Plan, uh, to complete whatever is not already done out there, and to make what's done out there better, uh, in the way described in the Beta technical memorandum." Mr. Landry noted that Beta was not in attendance at the meeting, as their "expectation was that [they] would present this program" to the Board so the applicant could tell them "what's different about it", as well as to take the Board's "questions and comments." He recognized that this discussion was "going to go with at least one more, uh, meeting", and, at that point, perhaps Beta would be "available to answer questions" at that point. He said that he thought that the memo was "pretty easy to follow", and that it documented the "actual field conditions before and after" the Master Plan approval, and "what the actual existing conditions are out there at this point." He then turned the presentation over to Eric Prive, of DiPrete Engineering, who was going to "take the Board through the major changes" to the material "from what had been submitted at Master Plan". Mr. Prive was also going to explain how the applicant was

"complying with the" first five conditions that had been "established by this Board". Mr. Landry said that Mr. Prive was not going to address the affordable housing component.

Mr. Prive explained that he is a "registered professional engineer with DiPrete Engineering", and that he was going to start with "existing conditions" to communicate to the Board "what's out there today." Mr. Prive stated that the property was located off of Dye Hill Road, and that there was "approximately 640 linear feet of frontage along" that roadway. He stated that it is a "358.04-acre parcel", zoned RFR-80, and that, at this time, "it is a mainly wooded site." He said that there is an "existing gravel path that comes directly off of Dye Hill Road", as well as an "existing abandoned building that's on the property as well", and noted that, in the aerial view, the "cut-in" of the "original path" was visible. Mr. Prive explained that that was the remnants of a "Planned Unit Development", which featured a "looped road", as well as a "couple off-shooting roads". He said that that had been "fully cut-in, and started to be constructed", and that it could be driven on by an SUV or a similar vehicle. Mr. Prive stated that the parcels "abut the Arcadia Management Area, so, along the northern area and eastern area, that's all completely the Arcadia Management Area as well." He noted that there are "several freshwater wetlands that are located on the site", including "wooded swamp wetlands" with a 50-foot perimeter wetlands limit demarcated on the plans. He also noted that there are "intermittent streams", with 100-foot riverbank wetlands limit demarcated on the plans as well. He noted that Brushy Brook is in the southwest corner, which is a "perennial stream that is greater than 10 feet wide", which would have a 200-foot riverbank wetland limit. The wetlands were "delineated and verified" by the Department of Environmental Management Wetlands Department, "under Application Number 18-0230" in "February of 2019". He said that "those wetland areas are not going to move". Mr. Prive also noted that the applicant "did perform soil testing throughout the site", which was completed by "a Class IV licensed soil evaluator" through the Department of Environmental Management. He said that there were "very good sandy soils throughout" the site that would be "very suitable for development."

Mr. Prive then turned to "the overall plan", and reiterated that there would be 140-units on single-family lots. He said that the roadways were designed to be 24-feet wide, and that all of the lots were "designed per the Town's cluster regulations, which was a requirement of the Master Plan conditions." Mr. Prive said that that would allow "for a minimum of 20,000 square feet per lot", and that each lot would have "80 feet of frontage", a "25-foot front yard, 20-foot side yard, and 40-foot rear yard setbacks". He said that the "average lot size" would be "28,000, uh, square feet", which the applicant felt was "the right balance for providing the right amount for each lot", while, "at the same time, maximizing the open space", which "seemed to also be very important with the conditions of approval". He said that the applicant had looked at "siting them farther away from [the] Arcadia Management Area", so the lots are "positioned on the northern side", with "over 300 feet to the back of the lots", and "over 250 feet along the eastern portion of it as well." Mr. Prive said that it was "a substantial change from the original 270-lot" proposal, which "went directly along the outside" of the property. The applicant had "pulled all of that away to provide a natural buffer, natural, untouched buffer, along the Arcadia Management Area as well." He then mentioned some of the discussions that

the applicant had had with abutters on Dye Hill Road. He said that at the Master Plan stage, it was discussed that the first lot would be "at least 350 feet away from the nearest abutter", but that under the current proposal, they would be "over 400 feet from the nearest, uh, rear property line of anybody along Dye Hill Road." He continued.

Mr. Prive: "The first lot is also 700 feet from Dye, over 700 feet from Dye Hill Road. So, if you were coming in off of the street from Dye Hill Road, it's 700 feet before you saw the first lot on the right. The area is serviced by community wells and community septics, as was part of the, uh, Master Plan conditions of approval."

Mr. Prive then explained that the applicant had "broke[n] up the community systems into seven community systems, so each system has 20 lots in the community systems", and that they had "placed them throughout" the area. He said that these systems were "per each phase", and reiterated that each of the seven community septic systems would serve 20 lots. This had been done to allow septic material to "spread out and dissipate throughout the site as well". He stated that the applicant had worked with the Par Corporation, an engineering firm, through the Department of Health, "to come up with the siting of a wellfield area."

Mr. Prive: "So, sometimes you see it, where you get the exact location – we're gonna put a well here, and that's what you get – you'd show the, the areas that are surrounding that area. We actually have it as a wellfield area, over there, uh, and the reason we did that is it's actually a 35-acre area that's located in the southeast corner down there."

Here, Mr. Prive went over to the easel to point out the 35-acre area on the plan. After that, he explained that this was because, with any type of well-drilling, "you don't know what you're getting when you're getting into the ground". Therefore, the applicant "wanted to allow some flexibility" of where they "could put them on-site". He said that that 35-acre area had "been approved by the Department of Health for the setbacks and siting of anything in that area", and that they showed that there were "no septics" or storm water infiltration areas "within the 200 feet". He said that the Department of Health looked "1,750 feet from that area" to see if there were "any contaminants or anything in the surrounding area that may, uh, create issues for those wells". He said "that entire area" had been approved, but that it was their intention to "only drill the wells that we need."

Mr. Prive: "So, to drill a well within that, 35, uh, -acre area – if we get a five gallons per minute, uh, that would be great. Then we gotta go to another well – maybe we got a ten gallons per minute. All that we need to be able to have for the withdrawal of the water that we need on-site. That area allows us the flexibility to move it around, depending where, or what we get, when we're drilling. If we don't get a good yield at the first spot, we can move to another spot, and so on. So, that area has been fully approved, uh, as well."

Mr. Prive stated that those would "only be drilled wells, so there'll be drilled wells and then just the access to the wells." He explained that the applicant would not be "clear cutting that area", so it would not be "35 acres of open grass in that area."

Mr. Prive: "It is literally for drilling of wells, and installing the pipe, just to bring it to the distribution system."

Therefore, Mr. Prive explained, the disturbance in that area would be "very, very limited". He explained that the applicant "wanted to site those away from the septic systems as well", which "was an important part of what the conditions of approval said." He explained that "using these community systems, both septics and wells" would "maximize the separation" between the two. This was why the wellfield area was in the southeast corner, while they "distributed the septics throughout" the area. He said that the applicant had also looked at the soils, as they "wanted to put the septics in a proper location, too". He reiterated that there were going to be 20 lots per system. He noted that the septics would "have Advantex AX 20 pods, so they do use the denitrification technology, so, every house itself will have a septic system with an Advantex pod right next to it, and then has a pump that goes out to the, the force main, that, that goes to the community leach field."

Mr. Prive: "So, um, that allows the denitrification directly on, and that's a 50% reduction with the Advantex as well, so that gets that down to 9, 19 milligrams per liter for each of the lots as well."

Mr. Prive then pivoted into a discussion on storm water. He said that the storm water proposal had been designed according to the Town's Land Development and Subdivision Regulations, and that they would be using "grass swales, so it runs off directly to the grass roadside, grass swales along the outside". He said that there was "no closed pipe network, other than limited areas to have cross culverts to get between the pipes, and then a little bit at the entrance, um, as well, to be able to have, uh, some extra water quality treatment". He reiterated that it had been designed to the Town standards for storm water, and then stated that it had also been designed for the Department of Environmental Management's best management practices, "with low-impact development" as well. He explained that the "swales are part of that", and noted that "each of the homes is equipped with a dry well", which would take the roof runoff and make it infiltrate "directly on the site". He said that it would prevent "nuisance runoff going across the site as well". He stated that "each of the ponds has a, uh, forebay, has a water quality recharge as well, and then it has, uh, mitigation through either, uh, infiltration and/or detention systems as well."

Mr. Prive: "So, it's all mitigated to pre-development levels, so – uh, as, as required. So, any, any – no increase in runoff from any of the 1 through 100-year storms, uh, is, is the requirement. Uh, one of the most important factors on this is the, uh, that it provides for 256 acres of open space – is what we're, we're providing, so, that's a - 71.7% of the entire site. So, that was a big factor and, uh, the design, and coming up [with] the sizing of the lots - of the open space as well."

In terms of off-site improvements, Mr. Prive explained that the applicant had "worked, uh, directly with Beta Group to take a look at the, uh, the current conditions." He said that the applicant would "complete, uh, the – all of the conditions, uh, that, that were – uh, the improvements that were conditioned at the Master Plan", as well as the considerations for "updated conditions – what's out there today."

Mr. Prive: "Some of those improvements have already been done, uh, and all the recommendations in Beta's technical memorandum. So, uh, we would be taking care of those. In particular, uh, as mentioned, we did, uh, submit for the roadway widening improvements along Saw Mill Road, um, that's to be a minimum of 24-foot wide. There's, uh, culverts and a bridge that actually need to be expanded in that area, so that's actually pending a[t the] Department of Environmental Management Wetlands Division right now, as well as, actually, the whole subdivision as well – is also pending at Department, uh, DEM [Department of Environmental Management] right now, uh, freshwater wetlands. We got back their comments – actually, uh, we just got those recently. We're, uh, we're going through them – very minor comments, and we feel very confident that, uh, the, the design will hold as is, with just minor adding of details and such, so, um, we're very happy with the DEM [Department of Environmental Management]'s review as well."

Mr. Prive then said that that was his "general overview", and said that he would be "happy to expand on anything" he had mentioned over the course of his presentation. Mr. DiOrio thanked him, and then invited the Board to ask questions. Mr. Prellwitz spoke first. He asked if the improvements to Saw Mill Road and Dye Hill Road had been addressed or were being addressed. Mr. Prive replied.

Mr. Prive: "No, not all of them. So, some of them – so, in – from the original submission, when the approval happened, some of them have already been done by the Town, so, some of them, uh – there was ex-, a lot of cracking that was on the roads, and, um, so, they have been resurfaced. Some of them have been widened. There's been some signage that's been added. There's that yellow striping that's been done, so, some of it has been done. Clearly, the widening of Saw Mill Road at the culverts – that has not been done. Uh, we actually provided the Saw Mill Road as a separate set as well, with those, with the packages. Saw Mill Road improvements are also done, uh, as part of the package, so, that has – still some widening that needs to be done on the Saw Mill Road end as well, yes."

Mr. Prellwitz then asked where the applicant stood in relation to the 2010 memo from Doug Reese, the Director of Public Works at the time, that had been included in the Planning Board's packet. He wanted to know if those items were "ongoing as well." Mr. Prive replied that the Beta Group had "addressed that in their memo as well". Mr. Prellwitz did not have any further questions.

Mr. DiOrio stated that he would go next, and that he had a "pile" of questions.

Mr. DiOrio: "So, let me just springboard off the off-site improvement issue. So, the con-, the condition – forgive me, I don't have it in front of me, the number, maybe I do -"

Mr. Prive: “Four.”
Mr. DiOrio: “Four - Speaks to the components of the off-site improvements, but it’s silent on the timing. So, what is our current thinking for when the off-site improvements will be completed?”
Mr. Prive: “It would need to be at the same time as when the development is being done, because the point of the improvements was due to the concerns on the traffic end of things, so that’s why we are concurrently – we actually submitted for the DEM [Department of Environmental Management] approval, knowing that it’s adjacent to wetlands, and expanding of areas – that’s why that one was actually in front of the subdivision. That was submitted afterwards. So, the intent is to have them done at the same time, so that it will be online for when the subdivision is, is put in as well.”
Mr. DiOrio: “So, then, do I interpret that as, uh, prior to breaking ground, the improvements will be in place? Uh, during the construction the improvements will be in place? Not looking for a definitive answer -”
Mr. Prive: “Yeah. Understood. Yep”
Mr. DiOrio: “This is a topic that needs to be nailed down.”

Mr. Prive said that he was “noting that”, and that they would discuss it later. Mr. DiOrio agreed that they would “come back to that.” He then asked to talk about the applicant’s “ideas for restrictions.”

Mr. DiOrio: “So, I’m looking through your lot layout – I’m just gonna pick one – Page 17 – and this is a detail sheet that shows, uh, the proposed roadways, the proposed location of buildings, there’s some grading – that is, what I believe is, a limit of disturbance. So, my question is: when we look at the landscaping plan, there’s a – this wonderful green color that’s everywhere, but the green color – leading us to believe that this is an undisturbed area, is really at the rear of the individual lots. So, will there be restrictions carried forward in the deed that say, for example, on Lot 33, the property owner is limited to the line work that depicts the limit of disturbance on Sheet 17, i.e., the property owner does not get to clear the remaining portion of that property?”
Mr. Prive: “That was, that was not the intent of what we were doing. That was the intent of what was to be developed, so, that is what will be, um, what we envisioned to be where the house would be placed, where the septic would be placed, would allow for a recreational yard, and then would be sold to somebody at some point.”
Mr. DiOrio: “So that’s probably -”
Mr. Prive: “Beyond that -”
Mr. DiOrio: “That’s probably not going to happen, so, what -”
Mr. Prive: “We hadn’t proposed a restriction on, on the reapportionment.”
Mr. DiOrio: “I’m suggesting that you want to consider that – because, without those kinds of restrictions, I, as the new owner of Lot 33, can come in and clear cut that 0.62-acre parcel. That is gonna blow your idea of, uh, existing vegetation to remain out the door. That is not what I envision here. I’m speaking as Al DiOrio, personal member of the, uh, individual member of the Planning Board. So, I’m suggesting that you consider restrictions. Additionally, the same issue comes to mind when we talk about your grading plan. Let’s see if I can pick an example. So, for example, on Lot 36 – I’m just picking one – there’s a significant amount of grading going on on that Lot. I’m going to presume

that when Lot 36 is constructed, that grading will be implemented. What kind of restriction will you put in place so that I, as the new owner of Lot 36, will not alter that grading plan, simple because I don't like it? It's a suggestion that I'm offering. I believe you should implement one. Otherwise, this grading plan is out the door. Right?

When Mr. DiOrio did not receive a response from Mr. Prive, he continued.

Mr. DiOrio: "Tell me a little bit about your well idea. I'm used to seeing plans that have a well identified on it."
Mr. Prive: "Sure."
Mr. DiOrio: "You have an alternative showing an area. One of the conditions that I'm rolling around in my head is – I'm thinking, as a condition here, I'm gonna wanna see wells set, and I'm going to want to see pump tests, showing that you can, in fact, produce water. I know that there's a note on these plans somewhere that you promise that there'll be water, but a project of this magnitude has to go beyond a paragraph on the plans. So, uh, I'm – again, I'm not looking for a definitive answer. It will have to be addressed at the next go-around."

When Mr. Prive did not respond, Mr. DiOrio continued.

Mr. DiOrio: "And, lastly, I just want to put this on the table. Given the magnitude of this project, we're gonna be wanting to talk about a construction manager for the overview of this, this project. Again, I'm not looking for a definitive answer. It's a topic that needs to be out there. Construction manager, selected by the Town, paid for by the applicant, to make sure that the project is constructed in accordance with the plans. Obviously, the scope of the construction manager's position would be fleshed out as we, uh, continued our discussions, but, to just leave this, uh, as an open-ended, 'I think I'll go out and build 140 homes' – that's probably not gonna fly in my, in my book."

Mr. DiOrio then said that, "for the time being", those were the only questions and comments that he had. He then asked to hear from other Planning Board members. Mr. Lindelow did not have any questions. Ms. Shumchenia spoke next. She explained that she had a question about phasing.

Ms. Shumchenia: "I think we might have raised this in a previous discussion about this application – you know, it is 140 houses. It's a, it's a large development. Um, the topic of phasing just came up in the context of the septic. You mentioned that the septic has different phases, and so that's what kind of triggered this in my mind. Um, is it appropriate, at this point, to ask and think about phasing of construction in a way that makes sense. So, for example, I'm just, you know, thinking about the time it takes to create, to develop this land in this way, and all the associated structures and infrastructure. That could be a very long-term project, and economic conditions could change, and, you know, the goals of the project, and the, the developer might change over that time, and so, rather than go through a p-shaped road with two legs on it, you know, are – do we have the ability to talk about phasing so that this is done in increments? Where if, five years from now, economic conditions have changed, such that [the]

developer doesn't wish to proceed with the rest of the development – we're not stuck with a p-shaped, bulldozed road, with two legs sticking out of it, to be coarse, and blunt. Sorry. That's my question."

Mr. DiOrio said that he thought it was "a great question". He noted that the applicant had depicted seven phases on their plan, but that the "real question" was how the Board would be "structuring the conditions of the phase". He continued.

Mr. DiOrio: "So, for Phase 1, for example, Lots 1 through 10, Lots 131 through 140. Is it the applicant's intention to fully construct Phase 1 prior to initiating Phase 2? 'Cause I believe Emily [Shumchenia]'s concern – it would certainly be shared by myself – that we, we don't want to see a project where you decided to engage Lots 1, 2, and 3 in Phase 1, and then you've sold Lot, you've sold Phase 3 to another developer, and he wants to start Lot 23. Well, that's – that'll quickly turn into a nightmare. So, I think we need clarification on how you plan to implement the various phases. Emily [Shumchenia], what do you think? Am I on the right track?"
Ms. Shumchenia: "Yeah, I totally agree. Thanks."

When Mr. Prive did not respond, Mr. DiOrio asked for other comments from the Board. Mr. Lindelow spoke next. He asked about the "life cycle" of the project. He wanted to know if it was a "50-year agreement", like, if the developer "built 20 or 30 homes", could they "come back 10 or 20 years from now and say, 'Okay, now we're ready to build the other hundred?'." He wanted to know if there was a "limit to that". Mr. DiOrio said that that was a "good question", and asked the applicant if they had a "feel for the build-out." Mr. Prive replied that they did not, as it would depend upon "market conditions", and that he did not have "a crystal ball". Mr. DiOrio said that he understood. Mr. Lindelow after if there was "any construction to be done" before the lots were sold. Mr. Prive replied that "it would run like any typical phased subdivision", and that they had submitted "a phased bond, too." He stated that, as part of the Preliminary Plan submission, they had submitted "preliminary numbers for what a bond might be for this". He explained that if the market was doing well, the developer may build "40 lots" at a time, and "they might record Phases 1 and 2", and said that that was "no different than any other subdivision in Town." He continued.

Mr. Prive: "You could record multiple phases at a time. Um, they would be bonded to make sure that that's protected – you guys are protected – so that the work could get taken over. It's not gonna just be a dead road, you know, going to the middle of nowhere, so it would run just like any other subdivision that has a phased development through it as well. So, it's, it's not the envision, uh, you know, to necessarily go and do the p-loop. At the same point, you know, the dev-, developer needs to look at not wanting to record too much at the same point, too. That's why we develop multiple phases, right? Because as soon as it's recorded, you have 20 lots of record, you start getting taxed on 20 lots, so we're trying to find that balance as well, of, just – what's the right amount, to be able to provide the right amount that needs to be on the market at that time, but, at the same point, not, um, be restricted."

Mr. Prive reiterated that he did not "have a crystal ball", but that, with the bonding, "it would still be protected by it as well". As such, the applicant "would be doing the normal build-out process the Town would do with any other development."

Mr. Prive: "We're not asking for anything special in that regard."

Mr. DiOrio asked Mr. Lindelow if that answered his question, and he replied that it did, "somewhat." Ms. Light then asked some questions of the applicant. She stated that at the previous meeting the applicant had had with the Board, they had discussed the "potable/non-potable water situation". She continued.

Ms. Light: "All of these discussions that we're referencing in the Master Plan go all the way back to 2009, 2010, and I'm looking at a memo from Doug Reese, dated January 15, 2010, and, in his second paragraph, he starts it with '13 years have passed since these, these improvements were discussed', and he goes on to mention some conditions that would be appropriate for the project. So, it's another 11 years since Doug Reese spoke, and I'm asking the Planning Board – is it not appropriate to have our Public Works Director go out, and walk the same path that Doug Reese did, to come up to – with – these conclusions? Uh, there's been a lot of development in the area. At the earlier meeting this year, we suggested that, uh, maybe another, uh, study of the, um, the water, uh, availability, an impact study, uh, since there have been a lot of houses built in that community. Um, there are existing houses that went into some drought conditions last year, and I'm hard-pressed to find a way to support not having a thorough analysis done of that situation, other than – this is what you were referring to -"
Mr. DiOrio: "Uh, yeah, the wonder paragraph."
Ms. Light: "'I promise there will be water for everybody' – and you might be promising people in those 140 homes, but there are people who've been paying property taxes in that community for many more years, so, I'm not in favor of not having a professional study done on that. And, uh, another comment that I'd like to make is that, uh, as I already mentioned, we do have a lot of new houses in that community. There's been a lot of development over the last 11 years, and before we can have you commit to repairing roads, um, that would support Number 4, I think we need a traffic impact study, in addition to having the Public Works Director take a rev-, take a look and review the conditions. Um, you referenced a letter from the Rhode Island Department of Health, and I'm assuming that that has to – that application has to be, uh, revisited, because the letter expired 14 days after the letter was published. It said it in the letter, correct? Um, my comments on your, uh, intentions regarding the bonding of the public roads – I, I guess this is a byproduct of COVID, but I think the, the dollar represented in there – is that just a guesstimate, because I would say that it – very understated, and the fact that the costs don't change from Phase 1 to Phase 7, uh, creates a problem for the bonding, because it's not accurate. On an annual basis, we can expect to see a 3 to 5% increase on some of the materials that are applicable to that bond, and over the last year, for instance, a sheet of plywood, fire-rated plywood a year ago was $22.00, and today it's $82.00. So, I think we have to address that, and there has to be, uh, some appreciation for the inflation – and not just the 5% for the miscellaneous. Um, lastly, um, I think affordable [housing] is, is, uh – we can all agree, it's something our community needs support on. Um, I'm gonna

reference a, uh, communication I had – posed a question to our Solicitor, and in January, she responded to me, and I'm gonna read her comments, and I'm gonna suggest that this is something that you absolutely need to do. 'On the issue of Rhode Island Housing Letter of Eligibility: I certainly agree that the elements and assumptions underlying the letter of eligibility have certainly become outdated, however, it will not have expired, per se, due to tolling and extensions, however, it would not be inappropriate, in my opinion, to direct the applicant to submit an update pro forma, and a confirmation from Rhode Island Housing as part of the Preliminary Plan submission.' And, finally, I will turn you to Title 45, Chapter 45-53. I talked to Rhode Island, U-, University of Rhode Island; I talked to Rhode Island Housing, because I wanted to understand, uh, how the Planning Board could best manage, uh, that element of your project. And 45-53-4, Section I, 'A letter of eligibility issued by the Rhode Island Housing Mortgage Finance Commission' commit-, 'Corporation, or in the case of projects primarily funded by the U.S. Department of Housing and Urban Development, or other State and Federal agencies, an award letter indicating the subsidy or application in such form, as may be described for a' mu-, 'municipal government subsidy' – I'm gonna skip the next paragraph – I'm gonna move on to IV – 'a sample land lease or deed restriction with affordability liens that will restrict use as low- and moderate-income housing in conformance with the guidelines of the agency providing the subsidy for the low- and moderate-income housing, but for a period of no less than thirty (30) years', V – 'identification of an approved entity that will monitor the long-term affordability of the low- and moderate-income units' – I'm not gonna go on, but those are the things that jumped out at me, so I think it's appropriate for the Planning Board to know that you're actively pursuing that, and, hopefully, in the very near future, you'll be able to provide, uh, the, uh, responsible documents to support those guidelines. And, I am concerned about, uh, the abutting properties. Um, I, I know I, uh, talked about the potable water, the non-potable water. I'm concerned about the drainage to abutting properties. Uh, we've got a situation where one of the property owners is, uh, less, you know, 300 feet – excuse me – might be slightly over 300 feet from, uh, the, uh, property line, and it's clear, with some of the projects that we've taken under our wing here that overflow and drainage and flooding is, uh, it's a probability. And while I know the footprint of the entire space is 368 acres, uh, when you squeeze 140 families into a community, um, you are supplying them with water, hopefully, for their pleasure. Um, there, there is gonna be a potential for o-, overflow, and I think it's something that shouldn't become a civil matter for a neighbor. So, basically, what I'd like to know is that when you have your water impact study done, that it include the abutters in the community. Maybe you could find out what their flow rates are now, and those expectations should be heeded to going forward – and if they're not, perhaps there should be some form of, uh, agreement, accountability, support to that person that might be experiencing those issues – and that's all I have for you."

Mr. DiOrio thanked Ms. Light for her comments, and said that he had one comment in relation to a point she had raised about "additional water studies".

Mr. DiOrio: "I certainly don't object, but I – my gut reaction is we're kind of at the point where we're beyond studies. I wanna see the water, so my position would be – it's great to do a study, but if we rely only on the study, and the study is inaccurate, we're right

where we are today with the paragraph, the wonder paragraph, whereas, if we formulate a condition to actually place the wells, and have them produce the water, we don't really need to rely on that paragraph quite so much. Just a thought."

Mr. Lindelow said that he wanted to speak "one more time on the affordable housing" aspect. He asked if those would be the "last 35 of 140 units" to be built. Mr. Prive replied that they would have to be built "per phase." He explained that if "there was only one phase that was recorded first, Phase #1" with 20 units, "five of them would need to be" affordable. He stated that because it was a comprehensive permit, the applicant would "need to be at 25% each time". He said that the affordable units needed "to be incorporated throughout the development, and they need to be incorporated at the same time as the development." He said that the developer could not wait until the end to build the affordable units. Mr. Lindelow thanked Mr. Prive. Mr. DiOrio told him that he asked a good question. Mr. Pennypacker then had a few questions. He said that Mr. Lindelow's question had covered his first question, but that his next question was related to "Condition #3".

Mr. Pennypacker: "You mentioned that there are going to be 140 individual septic tanks in this plan. I don't know that that – again, I wasn't there, uh, in 2010, but I'm not sure that that meets the spirit of, of the decision that there'd be a community septic tank, as opposed to 140 private septic tanks. Um, just something that stood out to me. I, I have to do a little bit – I haven't gotten through the entire packet yet, so there might be something I've missed. The other part – this is a multi-part question. So, Condition 4 references several documents that are not – that I haven't found in the packet."

Mr. Pennypacker asked if the documents referenced in Condition 4, like the RAB revised traffic impact study from 2010, were available. He continued.

Mr. Pennypacker: "I – the reason I ask is because when I read that the conditions of Dye Hill Road must be taken care of between the development and 138, I'm thinking the other direction. I – is this for construction purposes? Is this for, to satisfy the, the increased residential traffic, um, because I would imagine all those people would go to 138 the other way, just as they would cut through Saw Mill Road.

Mr. Pennypacker said that "without those additional documents that are referenced", he did not "know how to read it." He reiterated that he did not know if the "concern is for construction or for residential traffic", and he wondered if they "should have a Town engineer, uh, validate all the findings, just to make sure that everyone's on the same page", as he was "not qualified to judge a roadway." He noted that Beta Group had come "up with a couple of different conditions", and he wanted to know if the "spirit of that condition" was to get the roads "into the condition" where they would be "20 years away from serious maintenance", or if they were "just a few years away from the next maintenance phase." He said that he thought "that the spirit would be to get the roads into excellent condition so that all of the, the customers of this development would benefit from wonderful roads, and all the existing, uh, residents would as well", but that he was "not sure." Mr. DiOrio thanked Mr. Pennypacker for his questions. Mr. Prive asked to

respond, as he wanted to "clarify on the, uh, community septic". Mr. Prive stated that, "typically, with, with the community septic, um, it's the leach field", as the leach field was the only thing "that's physically, um, putting the effluent into the ground". He stated that each home "would have to have a septic tank at each house, otherwise you would have the waste just going all the way down to the end", and that "there's nothing that is, that is infiltrated on that site." He continued.

Mr. Prive: "It's a typical, you know, it comes from your building sewer, it goes to the septic tank, gets treated for the denitrification there, and then it goes off the force main, but nothing's going into the ground there at all. It's only going into the ground, and infiltrating like a normal septic leach field would be, in the leach field community area. So, um, my understanding, from all of the discussions that we had, is it was a concern of creating greater separation of where the effluent of the septic is being brought back into the ground, and separations from wells and such like that. So, I, I would be hard-pressed to understand – you would need to have a septic tank at each house. The tank needs to be at the house anyway, to at least get the solids out, and, and such, before it goes out to the leach field as well."

Mr. Prive said that he wanted to provide a "little clarification". Mr. DiOrio thanked him. Ms. O'Leary spoke before the Board next. She said that she had "two concerns".

Ms. O'Leary: "We're talking about septic, um, I'm gonna talk about power. How are we going to power the, the pumps for the wells, these pumps we're going to have to have for the septic tanks, to pump the effluent out, and into the leach fields? Is there going to be a generator available? Because we live in the land of the power's out, so that would be my first question. And my second question is – we talk about storm water runoff, but that particular – nothing we've seen shows the slope of this property. This property slopes right up to Arcadia [Management Area], and I st-, I read the storm water folder, and I'm not an engineer, but it sounds like an awful lot of things that need to be done, just to ensure that poor Mr. Orlandi is not gonna have a swimming pool in his basement. The other thing that I'm concerned about, that was mentioned earlier, is that there's 300 feet between the properties and Arcadia [Management Area]. When there's hunting in Arcadia [Management Area], it can't be within 500 feet of a residence, so that might cause a problem for some, if the deer is standing on the line. Um, I don't have anything else to add. Carolyn [Light] covered the wells very well. I had a lot of comments about those as well. This is big, and – this is a big project, guys. This is, this is the largest residential project ever seen in this Town, and I really don't know if it belongs here. Thank you."

Mr. DiOrio thanked Ms. O'Leary. He then asked if Mr. Lamphere had any comments. He did. He stated that he "noticed that the applicant submitted a technical memorandum from, uh, Beta" Group, and that they were one of the Town's "two on-call engineering firms."

Mr. Lamphere: "So, they would be – I would say they would be prohibited from, uh, peer review of this, so I don't see why Crossman [Engineering] could not do a peer review of

this project. I would recommend that the Board require a peer review of this, to look at Beta [Group]'s report, and also to see how, how they intended to reconcile the, uh, memo from Douglas Reese of 2010, which is a requirement in the Master Plan approval. I, I haven't read the Beta [Group] report yet – it came in late, actually."

Mr. Lamphere stated that he thought that Mr. Prive would agree that the Beta Group report was submitted later than the rest of the submission. He then reiterated that he thought that the proposal should be "peer reviewed by Crossman" Engineering, and that "they should work with our Director of Public Works to go out there and assess the roads, and see what needs to be done." He continued.

Mr. Lamphere: "In addition to that, I just want to mention that, uh, in your packet, you should have a letter from Mr. John and Martha Orlandi on this project. You should have another piece of communication, dated November 19, 2020, from Carol Desrosiers, and the other day, I just received a letter, August 2nd, 2021, from Sherri Aharonian, which I have 11 copies – can I pass that up to the Board?"

Mr. Lamphere noted that Ms. Aharonian was in the audience, and said that if she wanted to read it aloud, the Board could "follow along with it". They also provided a copy of the letter to the applicant. He said that that was all that he had for the Board at that time. Mr. DiOrio thanked him. Mr. DiOrio asked to "follow up" on Mr. Lamphere's "comment about the peer review." He asked Mr. Lamphere to "refresh" him on the "mechanics" of the peer review process.

Mr. DiOrio: "Do projects just get transmitted to the consultant? Do we have to make a motion? What, what happens?"
Mr. Lamphere: "I would say the Planning Board should make a motion to have the project peer reviewed by Crossman [Engineering]."
Mr. DiOrio: "Okay. Thank you."
Mr. Lamphere: "And then we'll see that everything gets done."

Mr. Landry asked to "address the issue of the peer review." Mr. DiOrio allowed him to do so. Mr. Landry said that, as he understood it, Crossman Engineering had been "the engineers for the original project on the site", so he alleged that they would be "peer reviewing some of their own, uh, elements there, uh, that, that we're preserving". He said that Crossman Engineering had "also been involved, in the past, in some projects" that his client "was involved in", so he thought that they "would be, uh, conflicted". Mr. Landry said knowing that "the Town only has two engineers", and "knowing that Beta [Group] is a consulting engineer of the Town", the applicant "asked Beta [Group] to peer review" the applicant. He said that the applicant had taken "the affirmative step of, of doing that", and suggested that "maybe the Town Public Works Department wants to review their conclusions", and that maybe Beta Group "could come in here on our nickel to explain where they are, but, um, that was a deliberate choice, to try to accelerate the peer review process, so that we weren't relying entirely on DiPrete Engineering."

Mr. Landry: "We knew Crossman [Engineering] is probably not gonna be able to get involved in this project and, uh, Beta [Group]'s a very, you know, capable, um, firm, um, and prepared a good, you know, good technical report - that was completely their own work, with certain recommendations. Now, I think the Planning Board, uh, and the Department of Public Works Director are perfectly capable of looking at the conditions of the, the roads, you know, and examining those conditions. We had – the other point is that GZA was the, uh, consulting engineer during the first round, and we went on for like, a year over, you know, 'Can you have this kind of septic system?', 'Can you have that kind of septic system?', 'Is the water gonna work?', 'How much, uh, is this gonna cost the Town for school kids?', and what the Planning Board did was to reduce the density by more than half, saying, 'We think these issues will be mitigated, and our concerns' – and they used that word, 'mitigated', 'or completely eliminated through a very substantial reduction in the density of the project', um, and that's, that's where they came out with, and determined they could make the appropriate findings based on a reduced size of the project, that the neighborhood where we're at – all the health and safety requirements that were required for a, a favorable decision, which they issued, based on that condition being satisfied. So, you know, we spent a year doing that – the Chair will remember, you know, the whole septic system, and how big does a lot have to be to support a well and a septic, and that, that's a, that's a lot of – it's a long path to try to, to retrace. You know, I do realize there's a lot of time that's passed, and we all need to take a snapshot of what's changed since then - that seems to be perfectly adequate. But to get in another engineering company now, to start, you know, re-evaluating this whole thing – we're at Preliminary, with a – workin' on a Master Plan that was approved, and found to be workable and approvable, as having no adverse health impacts, no adverse environmental impacts, subject to the conditions that were noted and, um – so, I, I would – you know, we're always looking to have people look at things, but to go back to, uh, yet another engineering firms, and open all this up? That's what we did last time, on most of these issues."
Mr. DiOrio: "Yeah, but Mr. Landry – perhaps I'm mis-, I'm misconstruing the, uh, the comment. Isn't the only topic the off-site improvements? Nobody's thinking about going back to septic or -"
Mr. Landry: "Oh, Okay."
Mr. DiOrio: "Lot size, or -"
Mr. Landry: "That's -"
Mr. DiOrio: "I don't think that was the intention. Please clarify if I've missed, if I've misconstrued."
Mr. Lamphere: "I, I would agree with that, Mr. Chairman. There's no need to re-engineer the whole project. Uh, GZA did a, did an excellent job. Their, their task at the Master Plan level was to determine an appropriate density for this parcel, and that's, that's the work that they did. That's the density that the Planning Board came up with."
Mr. DiOrio: "Done."
Mr. Lamphere: "But, I think we have to agree here that there has been engineering done on this project since 2010, which is exemplified right here on the sheet of paper, which has never been reviewed by anybody, and so, you know, primarily, yes, I would agree. It is the off-site improvements, and I'd like to know – I haven't read the Beta [Group] report yet, in all honesty, but I'd like to know how they reconcile – when I read

Condition #4, and it says 'the applicant shall perform the improvements indicated in the Public Work Director's memo of January 15, 2010', and then I printed this out, and I read this again today, and the Director of Public Works at that time has called for 34-foot width of pavement on both Dye Hill and Saw Mill, so, I haven't heard the applicants say that they did that. I don't know that the Town of Hopkinton has done that, so, I mean, I'd like to, I'd like to know exactly how the applicant intends to comply with Condition #4."
Mr. DiOrio: "Well, I, I may be speaking out of turn here, and wandering out of my lane, but I read the condition, I read that report – and you don't get to change the conditions. The, the Planning Board has been adamant in holding the applicant to the conditions they were issued at the time. I can't see where the Director of Public Works - who I'm sure knows his job way better than I do – can now come in and say, 'We think it should be something else.' That, that doesn't fly with me. The applicant agreed to a set of conditions. That's what he – that's what the applicant gets to do. My opinion."
Mr. Landry: "There was feasibility language in those conditions as well – 'where, where feasible', uh, you've got public telephone poles and all kinds of things, uh, that would limit what could be done there, and there was feasibility language in the Planning Board's decision."
Mr. DiOrio: "We, we've asked you to abide by the conditions that were issued. You've been courteous enough to do that. I, I think we kind of owe it to you to do the same thing."
Mr. Landry: "Well, we're, we're focusing on the language in the Planning Board decision."
Mr. DiOrio: "Yeah, I get it. So, listen, onto the issue of peer review – and that was a very forward move on your part, to, uh, get Beta [Group] into the game. Uh, it's not exactly the way we would normally do business – of course, you already knew that. Uh, in my experience, uh, you know, if the Town hires a Solicitor, uh, on a project, and the Solicitor is conflicted, usually there's a referral to another Solicitor to carry the ball through that proceeding. Does the Town, or does Beta [Group] or Crossman [Engineering] have other folks that they would turn to, and say, 'Listen, I can't handle this one. Can you do this one for me?'. Are we in that position – should the Planning Board decide that it wants to push for peer review?"
Mr. Lamphere: "Well, I, I thought that was – in my opinion, I, I think that's jumping the gun a little bit, I think, you know, for the developer to go forth without even contacting the Planner, and hiring someone that they knew was one of the Town's consultants on their own, having their own conversation with them, without any kind of approval from the Town of Hopkinton. I don't know who paid these people for this work. This was done in March. Uh, normally, the Town pays consultants.
Mr. DiOrio: "Yeah."
Mr. Lamphere: "The Town is reimbursed. Now, we have someone -"
Mr. DiOrio: "Yeah."
Mr. Lamphere: "Just doing an end run around everybody -"
Mr. DiOrio: "No."
Mr. Lamphere: "Hiring our own consultant."
Mr. DiOrio: "No."
Mr. Lamphere: "Right off the bat, they take that – first of all, I would say Beta [Group] should have told, told them, 'You know, not for nothing, but we are the Town's on-call

consultant. Beta [Group] should have called me and said, 'Jim, can we take this job, or what, what do you think?' Uh, I mean, I don't know – I mean, this, this was kind of a surprise to me. I've never seen, I've never seen this done before."
Mr. DiOrio: "I just said it was a forward move. I'm sure everyone was cognizant of how this was gonna fall out. My question is where do we go from here."

Here, Mr. Lamphere and Mr. DiOrio spoke at the same time. Mr. DiOrio deferred to Mr. Lamphere.

Mr. Lamphere: "My question to Mr. Landry would be – the first thing he said was that Crossman [Engineering] was the original engineer on the original project. What specific original project, that was he referring to, on his site?"
Mr. Landry: "I, I think it was the, uh, the, the Brushy, the, uh, Planned Unit Development that had been approved in the 90s on this spot."
Mr. Lamphere: "So, what, what would that have to do – what, why would that exclude Crossman [Engineering] from peer reviewing this particular project."
Mr. Landry: "They, they have worked on the same project. We're following a lot of the same, you know, the original road system was all in there. They, they engineered the septics for that project. It just seems like it's kind of close to home."
Mr. Lamphere: "Yeah, but at that point in time, Crossman [Engineering] was working for another developer, of that site."
Mr. Landry: "Correct."
Mr. Lamphere: "Right. Now, Crossman [Engineering]'s working for the Town now, on, for, another owner of this property, on another project. Matter of fact, I would think Crossman [Engineering] would be in an excellent position to do this because they – if, as you say, is correct – they know the site. They, they have some history with the site. So, I, I wouldn't, myself personally, I wouldn't accept that. As far as them working for your client, LR6-A Owner, is that – you're saying that Crossman [Engineering] has worked for that client?"

Mr. Landry stated that Crossman Engineering had "done work concerning" a project that the applicant had been involved in "for a number of years". He said that he thought that Crossman Engineering "may feel they don't want to peer review his projects", but that that was "something [the Board] would have to ask them." Mr. Lamphere replied.

Mr. Lamphere: "Well, I mean, again – I, I would say that - if we can't use Beta [Group], if we can't use Crossman [Engineering], I would say we have to go out and get – do we bring GZA back?"
Mr. DiOrio: "Why don't, why don't you just query Cro-, Crossman [Engineering]? Listen, this is like a[n] ethics thing, right?"
Mr. Lamphere: "Mhm."
Mr. DiOrio: "They have to make the call."
Mr. Lamphere: "Yeah."
Mr. DiOrio: "If the answer's 'yes', we don't have any further discussion. If the answer is 'no', then we're inquiring – but, just query them and see where we go."
Mr. Lamphere: "Yep."

Mr. DiOrio: “I see a lot of wiggle room for both sides, so I don’t think it’s gonna be clear cut.”

Mr. Lamphere replied that, “in any event”, he thought that the Planning Board would “need some engineering expert, whoever that might be” to “take a look” at the applicant’s proposal. Mr. DiOrio said that the Board could “make a motion for peer review”, and then they could “crank out some details” at the “appropriate time.”

Mr. DiOrio then asked Ms. Hogan if she had anything to add. She replied that she had “one item.” She said that she did not “catch whether or not” there were going to be “age restrictions” on any of the units. She noted that, “in reviewing the prior record”, she knew that Mr. Ricci, the late former Superintendent of Schools “had expressed concerns at the time” about the number of school-aged children that could live in the development. She said that Mr. Landry had suggested that those issues had been “mitigated by the reduction in units.” She said that this would be an important consideration “in phasing” - “whether or not all of these homes might be expected to have school-aged children”, and if so, what “the impact would be on the school system.”

Ms. Hogan: “So, I would suggest that the, the Town reach out, again, to the school system, to get some input. I know that the demographics for Chariho generally have changed substantially in the past 10 years, um, 11 years.”

She noted that the town that she lives in, Charlestown, had seen their share plummet, and that she did not know what the share was like in Hopkinton, so the Board would “want to get some information from the School Department on the overall impact, and then where the recommendation is.” Mr. DiOrio thanked Ms. Hogan. He asked if she thought that the Town would be “the one to initiate that action”, and she replied in the affirmative. Mr. Landry said that he wanted to “contribute something on that issue”.

Mr. Landry: “We have not affirmatively proposed age-restricted units. That’s never been part of the project. On these, the, the affordable housing issue, and the Town’s greatest needs for affordable housing is always family. I remember, at the time we went through with this project, there wasn’t one family unit available to persons of low- or moderate-income housing, and I don’t think the intent of the Low- and Moderate-Income Housing Act was to have great quantities of senior housing, that, that may not be required when the need is something greater. I’ll, I’ll also point out that this project is identified in the current Comprehensive Plan as part of the Town’s affordable housing strategy. The Comprehensive Plan actually describes this as an approved project. Um, it’s obviously not fully approved, but it embraces this project at its approved densities, which the Town established, and the number of affordable units as critical, as, as an accomplishment of, of the Town itself, so, I, I think we’re, you know, we’re swimming in the same direction as the Comp[rehensive] Plan in terms of the way we conceive the affordable, uh, units for the project. There will be a monitoring agent – that was part of our application. I think we suggested Narragansett Affordable Housing. They do these throughout the State. They certify the qualifications, uh, of the applicants, make sure that the appropriate number of affordable units are there. We have deed restrictions that we submitted as part of the

application, deed restricting, uh, the units to households that qualify. We've got the monitoring agent. Rhode Island Housing – I've asked them a lot of times, over the last 40 years, to update letters of eligibility. They've done it 0 times. They say, 'When we issue a letter of eligibility, we issue a letter of eligibility. We don't guarantee subsidies.' Uh, since that time, municipal density bonuses have become a form of subsidy. You don't need a Rhode Island Housing subsidy. We can update the pro forma – that's a perfectly reasonable request. It's – construction costs are different, and, uh, housing prices are different, and we can continue to satisfy you that the project – the reason for the pro forma, I think it was mostly conceived for nonprofits who depend on subsidies from the government, and Rhode Island Housing wanted to make sure that the project penciled out, you know, from an income, uh, perspective, and cost perspective, to make sense, that they'll actually finish the project. So, we, we don't have any problems with that. We're a private developer. I don't think Rhode Island Housing is particularly interested in private developers that they're not giving, um, any money to, but, but, updating the pro forma is not, is not an issue looking ahead. And, and getting you the contract with – the proposed contract with the monitoring agent in place."

Mr. DiOrio thanked Mr. Landry. Ms. Hogan asked to clarify. She said that she "didn't want to give the Board the impression" that she was "suggesting that you should have, um, an age-restricted development", as that was not her intent. She said that it was going to be important to factor in when those 140 units would come online. Mr. DiOrio thanked her. He then invited members of the public to comment on the proposal.

The first member of the public to appear before the Board was William Bergan, of Dye Hill Road. He said that he had "a couple of questions" and "a couple of observations." Mr. Bergan asked if he had heard Mr. Lamphere correctly when he stated that the "recommendation for the road, Dye Hill and Saw Mill, was 34 feet." Mr. Lamphere said that that was correct. Mr. Bergan responded.

Mr. Bergan: "Okay. Currently, where my house is on Dye Hill Road – and where John Orlandi's house is on Dye Hill Road, and where Sherri Aharonian's house is on Dye Hill Road, about two months ago, I went out and measured the road. Including the small adjustments that the Town Highway Department made when they paved the road six, seven years ago, whatever it is now – the average width of that road is about 20 feet, maybe. Some places it's 19 – if you move east of Sherri Aharonian's house, on the little two curves with the giant trees that are gonna kill somebody at some day, that road is about 18 or 19 feet wide. So, if you open that road to 34 feet there, you go into the field, alright. If you back up to the west, where my house, and John Orlandi's house is, when you measure from my mailbox to two feet away from John Orlandi's stone wall, that is 22 feet. If you move it five feet from my mailbox, you take out five feet of my front yard, and all the barrier trees that I have, four arborvitae, to protect me from the road, and you take out all of John Orlandi's stone wall. How does that work? Who, how, where, why – what is the, how does – what's the operative for that?"

Mr. DiOrio replied that he did not have an answer, but that it was a "great question". He added that, "in reviewing that memo, it talks about 34 feet of pavement", as well as a "60-foot wide right of way."

Mr. DiOrio: "So, is the Town gonna get engaged in taking? This is a question that I don't need an answer to right now, but, we have a memo from somebody, making these suggestions – that's a wonderful thing. The mechanics of implementing those, I think, speaks to your question. So, how is that gonna happen?"
Mr. Bergan: "If that is the case, right, and they take from the middle of the current road, and open it up 30 feet, you're about, probably, 10 feet into my front yard, which makes my house about 24 or 25 feet away from the road, and goes into John Orlandi's front yard - I'm just using these two, because these are where we live."
Mr. DiOrio: "Sure."
Mr. Bergan: "Alright. You go into John Orlandi's yard, on the north side of his stone wall, probably eight or nine feet, 10 feet, something like that. Are we takin' the road, and we – and the people are getting paid? To do a subdivision? Or, does this have to be amended to kind of play with the road some other way. I mean, I don't want my property taken. I know John [Orlandi] doesn't want his taken for the, for what, the better good of a developer? That's my question – that's my first question, alright. I'm gonna be here a while."

Ms. Light interjected to ask if she could "read something off of Mr. Reese's memo", so they could "get some elaboration from" the rest of the Board.

Ms. Light: "And this is for you. It, it says, 'the infrastructure on Saw Mill Road bridges and culverts' - or is it 'Saw Mill Road, comma, bridges and culverts' – 'all should meet these requirements of 34 feet pavement width.' So, I'm, I'm seeing that may-, maybe there's some flexibility in some of that, but -"

Here, Mr. Lamphere interjected that, as Mr. Landry "had correctly pointed out there", if one were to read the entirety of Condition #4, there is a "disclaimer", that states that those changes to the roadway would be made unless the improvements were "infeasible".

Mr. Lamphere: "That's why I, I said, earlier - I'd like to see how the applicant reconciles this Condition #4 with going forth with this Preliminary Plan. It may, it may have to be some sort of adjustment on the part of the Planning Board on their conditions before they approve the Preliminary Plan – but I would suggest getting another engineer in here, traffic – specializing in traffic, because, quite frankly, I've never seen a developer yet, in my 20 years, who brings in their own traffic experts, saying that there's no impact here. So, I mean, I think the Town needs its expert to take a look at this, critique what was done by Beta [Group], and see exactly – talk to our Director of Public Works today, after all the work that's been done out there, and tell the Planning Board exactly what the Town needs to do to bring those roads up to a proper standard, and then, then I would suggest that's what needs to be done today, so that we don't have this development, and we have inferior infrastructure out there. Now is the time to have the developer build whatever that development, um, you know, causes to, uh, to be necessary."

Ms. Light said that she was "on board with having our consultants come in, on behalf of the Town". She said that once the Board decided that they were "effectively going to do that, it would be appropriate to have [Mr. Bergan's] concern about the encroachment on his land to meet that 34-foot requirement, uh, evaluated, because this is likely some – could be determined infeasible, and you wouldn't have to worry about it." Mr. Bergan asked his next question.

Mr. Bergan: "Alright. So, back to Mr. DiOrio earlier – he said, 'At what phase are we doing what?' I don't understand why all of the road infrastructure, and all of the studies, and the actual development of the roads is not mandatorily done prior to any building starting. The first - before the first bulldozer goes up that road, to build a new road, all of the infrastructure need to be done. When they build a new stadium in Foxboro, they don't build a stadium and then build the roads. They build the roads, and then they build a stadium. We should have the same con-, consideration here – that all the roads, Saw Mill – the bridges are all done, the culverts are all clean. What happens to the bridge on Brushy Brook? I haven't heard that mentioned at all. There's a bridge on Bruhsy Brook, that is – with a culvert – that's probably inferior right now also. So, now you have Woody Hill Road, with the bridge out and gone, right, the traffic study that was done in 2009 or 2010 is now obsolete, and really shouldn't even be looked at, the reason being is any traffic that comes out of that development, if it were built today, has two decisions to make – make a right, and go out to 138, make a left, go out to Saw Mill, or go back out to Route 3 or Fairview, one of those, that way, but they lose the option to go out, make a right and a left and go out Woody Hill to get on 138. So, you've changed the whole dynamics of the traffic pattern, by that bridge not being in there anymore. All that other stuff is not appropriate and not relevant anymore. You've changed the whole dynamic."
Ms. Light: "Um, my, my thought on some of this is that, uh, this would be a multi-year project, and there would be tremendous capital equipment going up and down those roads, and, perhaps, there might be points in the roads, or points in the bridges, that couldn't support that traffic unless they were improved. So, I would, I would think that would just be an automatic call, um, because they need to support the roadways for their own interests. So, hopefully -"
Mr. Bergan: "I agree, but it should be put – as the Planning Board, should say, 'You can't go to there until everything else is done, and then you can start that.' Why are we gonna let 'em drive up the road and start clearing land when they've gotta bring a bulldozer up one way and a cement truck up the other, and there's no place to pass by Sherri Aharonian's house. It should be all done. None of it should go forward. That's my first thing. I'm just gonna be here a while – I'm sorry. My next question is for the engineer from the engineering department. Can you give me an approximate length from Dye Hill Road to the back of that property, on the north end, where the road turns – up where the, uh, septic system is, on the right-hand side there to – no, what would be the north, northwest corner? Approximately, from there to Dye Hill Road?"

Mr. DiOrio asked Mr. Bergan to approach the map and point to the location he was referring to. After some discussion between Mr. Bergan and Mr. Prive to determine what Mr. Bergan was referring to, Mr. Prive stated that the distance Mr. Bergan was referring to was "about 5,100" feet in length. Mr. Bergan stated that "at the end of that road, across

– on the Dye Hill side" was his garage. He then said that John Orlandi's "little road goes in" on the "west side of where the road comes out, but the turn is in the road that goes to the eat-, to the west, and all the water, just north of that, is gonna come down into the back of that property and in the back of John Orlandi's land and across, down the road, across Dye Hill Road, down the road, through [his] garage and into Brushy Brook." He continued.

Mr. Bergan: "And in one mile of everything I've ever seen of rain runoff, and last year, in Middletown, it was a rain of about three inches in about an hour and a half – I watched, on the Aquidneck Island road – the road washed out because it couldn't carry the water on probably a quarter of a mile road. In a one-mile road, that entire property goes from Dye Hill Road to the back of the point that I pointed, on the north end, goes downhill from A to B. There is no deviation any place on that road. I walk that woods all the time. That is not - from north to south, from up to down. North side is up, south side is down. I am willing to bet there is no way, on a three-inch rainstorm, no matter how many culverts and storm drains they put, that Mr. Orlandi's – and my property – are not gonna get inundated with water. I don't, I can't see any way they could engineer it. I've been working in construction for a long time. I've worked on a lot of roads. It would be damn near impossible to do. That's my first concern. My second concern is the north, the southwest corner, where the leach field is, which would be on the left side of the map towards the top right. The approximate, the proximity of that to Brushy Brook – where does that wind up, in contamination, over 20 years? What does it do to Brushy Brook? From the guess – my best guesstimate, looking at the map right now, that's probably 400 feet away. I would guess, just by looking at it and judging it on the relevance of the whole length of the property, at 50-, 5,100 feet. What does that do? That one should not be there. It's not – I mean, it - Brushy Brook is right there. What's it gonna do to it with saturation over 20 years? And then my last question – well, actually, it's a comment. The, the water comment. To the bottom of that map, where that little point is on the bottom right, somewhere, along there, is – Dye Hill Road runs to the left line, all the way down to the bottom left corner – approximately. It's got curves and everything in it. But, the people that own the property – that would be to the right of Dye Hill Road, right – most of you are familiar with the Doc Cummings property – the big, big farm. He had a big field out in the back. His well is probably 50 feet from Dye Hill Road, so, I'm just gonna give you an idea about where the house would be, and where the well would be. I'm guessing that this house is right in here somewhere, and Dye Hill Road is right here somewhere, because Dye Hill Road turns and goes like this after Fairview – or before Fairview – right in here, alright? Doc Cummings' well is in the front of the house when the house is probably 7- or 800 feet off the road, the reason being is when they drilled wells, up in the back field, behind his house, they never got any water, alright? To the south of that – going this way, there's a person I know, that built a house, which would be in this – pretty much, just – it would be south of where we're looking at, in that bottom corner, right? He's drilled two wells in his house, on a newer house, right? One of 'em's at a thousand feet, the other one was at 600 feet, and they got no water. Those two houses are in a line. If you walk down Dye Hill Road, and you went from Skunk Hill to Dye Hill, as you come down the hill and go along, everything is to the right and up that slope, similar to what that slope is there. My, my opinion is they're gonna have a really

hard time gettin' water, and they should have to drill for water, and what is the disadvantage to all the neighbors, when they drill those wells, that are on Dye Hill Road? It's – there's a water shortage somewhere in there, where you don't get water when you drill a well. Thank you."

Mr. DiOrio thanked Mr. Bergan. He then invited the next member of the public to the podium. It was John Orlandi, of Dye Hill Road. He said that he had a couple of concerns, but the "major one" was his well. He explained that he has a "28-foot" well, which would produce "14 gallons a minute."

Mr. Orlandi: "What is all the septic systems gonna do to my well? Stuff runs downhill. I'm downhill. The other concern is the water. I sent you pictures of the water in 2010. We did five weeks of pumping out water out of our basement. How are they gonna control that? Okay. Thank you."

Mr. DiOrio thanked Mr. Orlandi. Ms. Davis, of Cedarwood Lane, spoke next.

Ms. Davis: "Um, on your Sheet 11, the big one – I wanted to know which houses are going to be, um - which lots are going to be, uh, affordable, and how will you identify them – to make sure that you sell five out of 20 in Phase 1, etcetera? And your Lot #7 doesn't have a house on it."

Ms. Davis continued. She noted that the potential problems with potable water had been discussed, so she said she was not going to talk about that. She then asked about the Rhode Island Department of Environmental Management wetlands permit.

Ms. Davis: "I don't think you have one for Dye Hill Road. You talked about what you did for Saw Mill, and you talked about what you did for the whole project, but I don't think you did anything for Dye Hill Road – and that, that one has to be widened. You need to do the same thing on that one. Um, I wanted to know who are the builders, and who's responsible – who's gonna be responsible for the, uh, septic system when you have this Homeowners' Association? What, you know, what are the responsibilities – who are gonna be, who's gonna be responsible for that? And you kept talking about 140 houses – how many of them are going to be affordable? Is it 28, or is it 35? Because if, if you're going to go with 25%, it should be 112 regular and 28 affordable housing. I talked about the widening of Dye Hill Road. On the letter from Rhode Island Department of Health, it said you needed to have the coordinates of the wells within 14 days, and this is – that was dated April 9th, 2020, so I think you need to have a new letter. Also, I'm – Number 8, it says, 'at the conclusions of the well' – Number 9, it says, um, 'Groundwater Under the Direct Influence of Surface Water' – that's GUDI monitoring - 'and reporting plan must be developed to demonstrate the wells are not under the influence of surface water', and I wanted to know what that plan was. And I think you answered the question about the – there won't be individual wells. There'll just be common wells, right?"

Ms. Davis then stated that she thought that the "short-term, mid-term, and long-term" recommendations in the memorandum from the Beta Group "should be followed, and

should be incorporated in what we request of them." She said that the "same thing" should apply for "Dye Hill Road – both Saw Mill Road and Dye Hill Road." She then asked who was going to do the "pavement maintenance plan", and who was going to be "implementing targeted preservation treatments, periodically, as needed." She asked if that was, ultimately, going to be "the responsibility of the Homeowners' Association or the Town", as that was "part of the recommendation". She continued.

Ms. Davis: "And I didn't understand the key maps, in your drawings, because it just shows – I don't know why you highlight, like, for example, on Sheet 13, you highlight 13, but I don't know what, what relevance that has to the lots that are on that page. So, I don't understand your key maps."

Mr. DiOrio thanked Ms. Davis for her comments. Carol Desrosiers, of Pleasant View Drive, spoke next. She began by thanking the Planning Board and Mr. Lamphere for "a lot of their comments so far tonight", which reinforced "some of [her] concerns". She continued. She said that she was particularly focused on "the road study." She stated that she believed "that the Town needs to hire their own" expert to conduct a road study. She thanked Mr. Bergan for his comments on the Brushy Brook Bridge. She explained that as soon as a person would "exit the new development", if they took a right, "there is a bridge there that is only 18 feet wide from guardrail to guardrail" that they would cross. She thanked Mr. Bergan's for his comments about the former Woody Bridge, as "that bridge is now permanently removed." She continued.

Ms. Desrosiers: "That does change the entire dynamics, so I was glad to hear others bring that up. Um, I think I have to say I'm glad that Beta [Group] won't be doing our traffic study, based on what they did produce. Um, communal wells – I do live within a mile of the new development, and my well did go dry last year, so, um, we need some sort of protection against future impacts. Um, you know, and I guess I am due south of the farm that Mr. Bergan mentioned, where they had to drill their well way in the front and I follow that same line, where, um, you know, the water supply isn't great, so I'm hoping we can do something to protect the residents in the area. Communal septic - do, I do have a lot of questions about that. It doesn't seem like the plans for that are far enough along yet. Um, it's the whole denitrification process that concerns me. Whether that burden seems to now fall on each individual homeowner versus being in some sort of communal, I, I'm sure there are different types of communal septic setups, some where the denitrification occurs at each individual tank, but there must be a better process for that, because when I researched, um, denitrification septic systems, there is a cost associated for each homeowner on that. They have to be inspected, uh, twice a year, and have to be cleaned once a year, um, one, one, uh, vendor I checked what they said, it's like $300.00 a year for those things. There's electrical, added electrical costs because they have different mechanical systems in them for the denitrification, and if they ever had to be replaced, the cost is double what a regular, um, system would be. So, denitrification at the homeowner level concerns me. Um, I don't know who would monitor, um, that they are doing what they're supposed to be doing, to make sure that the nitrogen flow doesn't increase and get into our groundwater and well systems. I want to, um, mention that I love the idea of a construction manager. In the past, I have thought of clerk of the works

for some of our large-scale solar development, and I think that is really important here, um, to make sure that somebody can stay on top of every nuance of this project, and then just report back to the Planning Department with the, the goods and the bads of what's going on. Um, Homeowners' Association – so, um, I live in what's called, I guess, Pleasant View Estates, and in our deed, we have restrictions and protective covenants, yet no HOA [Homeowners' Association] was ever formed, and those covenants are not enforced. You know, there's examples in the neighborhood of things that are not meeting the covenants, so how can we be sure that the Brushy Brook HOA [Homeowners' Association], um, will be in ex-, in existence, that it will cu-, it will cover the maintenance of the wells, the retention basins, the communal septic if true communal septic occurs, or, you know, some way to support, maybe, each of the individual homeowners to do, um, their communal, you know, their septic denitrification, uh, and also, I – you know, if you're gonna have, add deed restrictions around grading and clearing, it's – I don't understand how those get enforced, and I think that's something that really needs to be thought about."

Mr. DiOrio thanked Ms. Desrosiers for her comments. The next person to speak before the Board was Sherri Aharonian, of Dye Hill Road. She said that she had "quite a bit" to discuss. She began by asking the developer, through the Chair, about affordable housing.

Ms. Aharonian: "I had asked this question in 2019 when the developer was before us – what the, um, current market rate is for affordable housing for 2021. Um, I know in 2019, I think it was around $260,000. I'm not sure what it is now in 2021. I'd just be curious to know what, approximately, the market value is on an affordable unit."

Mr. Landry said that they would find out. Ms. Aharonian said that they would "come back to it, then", which was not a problem, and that she would "keep going."

Ms. Aharonian: "Okay. Um, I'd like to also, um – my first comments would be: I want to comment on, you know, Mr. Bergan. I wholeheartedly agree with what he said, um, throughout his, his talk, um, and especially calling attention to the road improvements needing to be done, prior to them really even driving into their development, um, because the construction equipment that's gonna be needed to drive into their development is going to be quite hefty on our little road, so, um, I do agree with Mr. Bergan there. Um, additionally, um, when he spoke about, you know, the way this land pitches downhill towards us neighbors at the bottom on Dye Hill Road, um, both him and Mr. Orlandi spoke to completely, um, things I can validate as well, going back to the floods of 2010, when Brushy Brook itself, um, I'll use the word 'exploded', um, during that time, and I can attest to the fact that Mr. Orlandi's yard, and his basement, were flooded – for days - and what that water did was it came through Mr. Orlandi's yard, and it just went right under the stone wall, and flooded our yard, too, for probably a week, um, because that's just how the water runs, is – it, it seeks its lowest level, um, so that, I wanted to, again, be another voice that, that commented on – that did happen, um, and that whole project does have a tremendous slope towards us abutters on Dye Hill Road, and it's concerning. Um, let's see – I'm gonna refer to my – I guess we'll call it a letter – um, and I apologize – it didn't get in your packets, but, um, just the timing of it, um – by the time I reviewed the

documents, your packets had already gone out, so thank you to Jim [Lamphere] for making these printouts for you guys tonight. Um, I'm gonna just start with Number 1. Um, Page 8 of 23 on the Preliminary Plan here, um, shows an Infiltration Pond G, which, according to the way I measured it with a ruler, it's about 400 feet from our house. Um, that's a large detention pond, um, catching runoff for a huge subdivision – again, running downhill, and it greatly concerns us as far as groundwater contamination, runoff, and erosion, um, and I'm wondering if the Board would, you know, entertain requesting the applicant move this infiltration pond further back, or relocate it to an area not so close to abutters. Um, something to – food for thought there. Number 2, um, this is kind of related to – I guess you would call it a performance bond, although I don't think performance bond is the right terminology for what I'm at-, what I'm looking for. Um, we've talked tonight about, um, assurances that we will have water as abutters, that our wells won't be negative affected, as far as quality or quantity. Um, I feel that it's not really a performance bond I would be looking for, but perhaps an escrow account, to be put in place, um, to assure that there's funding there, should something go wrong, um, and by 'going wrong', I mean any negative repercussions occurring to abutting property owners as a result of building this project, um, such as, but not limited to, um, wells, septic, foundation – any other structures on the land, um, that sort of thing - just because of the size and the scope and the location of, um, how close it is to abutters. Um, I know, when the Town approved this project, they wanted it away from Arcadia [Management Area], and I'm probably not, um, and that's, that's – I can see there was reasons for doing that, however, clustering it so close to the abutters also creates some issues as well. Um, I know there was some talk, um, as well about additional testing of resident's wells, um, amongst the Planning Board members, and I wanna say I wholeheartedly support that, um, and again, to assure water flow and quality, um, aren't affected. Um, there – I, I also could not really locate the wells on the plan. I saw a pump house, but I don't know if that is a well. I, I just – I don't know, um, but that, again, is 300 feet from our house, and if that's drawing – if that pump house is a well, and is drawing 300 feet away from us, we have concerns about our well. Um, let's see. Um, since we don't know who the contractor or the builder is gonna be for this project, and it's possible these lots could be sold off to multiple builders, um, I agree with the Board with – when they discussed a construction management company, hired by the Town, paid for by the applicant, to oversee and ensure project stipulations are adhered to, due to the size and scope of this particular project, and, as Deb O'Leary mentioned – this is the largest project in Town - could even be in South County. Um, there was a lengthy document submitted by the developer on storm water facilities, and I believe it was right on the first page – it raised concerns about 'potential unmaintained facilities', was the wording, as a result of the potential lack of a clear ownership and responsibility definition, and I think what they meant by that was, 'Who's gonna own these detention ponds?', and I know the, the thought is an HOA [Homeowners' Association], however – and I know they submitted a deed for an HOA [Homeowners' Association], but you can't force anybody to create an HOA [Homeowners' Association], or if you, if you do say you can force it, who's going to enforce it if they don't do it? And if they don't contribute funds to it, to maintain the roads, to maintain the invitat-, infiltration, um, ponds, and the, the septic, what happens then, if that neighborhood is without any funds? Um, is it the Town that enforces that, and puts a lien. I have no idea, but it just seems like Homeowners' Associations are great

ideas, but they don't always pan out. Um, and because this particular project, as Carol [Desrosiers] said, you know, her neighborhood and, and, um, in particular, you know, they were required to have an HOA [Homeowners' Association] - they don't - but this project has so many caveats that needs an HOA [Homeowners' Association], um, Carol [Desrosier]'s neighborhood does not, um, so they don't have one. I guess you can live that way, but this one has so many caveats that they really need it, and, in the event they don't have it, what's the contingency plan? Um, and lastly, um, we, you know, we respectfully request that all conditions and concerns that are written in the Master Plan are followed by the developer, and adhered to, you know, by the construction management company overseeing it. Um, I'd also like to thank the Planning Board and Jim [Lamphere], um, for your comments tonight. Um, I support everything that you guys discussed prior to me standing up here. Um, and the last thing I have is, um, just a, as the, as the Planning Board moves through this process, the Land [Development] and Subdivision Regulations do state for subdivisions like this that there is minimal clearing – that is actually in there, so that the house lots are not just bulldozed into flatness. They're supposed to be minimal clearing, and that is, that is in the [Land Development and] Subdivision Reg[ulation]s. And that will do it for me. Thank you."

Mr. DiOrio thanked Ms. Aharonian. Ms. Desrosiers returned to the podium. She referenced Section 8.6.4 of the Land Development and Subdivision Regulations, "Public Improvement Guarantees". She said that it included "something along the line that all public improvements and infrastructure has to be completed within two years from the initial date of Preliminary Plan approval, and prior to the approval and recording of the Final Plan of a Major Land Development project or Major Subdivision, unless otherwise authorized by the Planning Board."

Mr. DiOrio asked if there were any other members of the public who wanted to be "heard on this application this evening." When he did not hear from the public, he spoke to Mr. Landry again.

Mr. DiOrio: "Okay, so, Mr. Landry – lots of stuff on the table. Uh, let's take care of business first. We are under a timeline – September 8th, if I'm not mistaken."
Mr. Landry: "So, we can extend it beyond that date, and, and jump rock to rock, uh -"
Mr. DiOrio: "Why don't you offer, uh, an extension window that you think is reasonable?"

Mr. Landry suggested a "60-day" window, and that they would "go after the October meeting". He noted that his client was "hoping to start at least the first phase of this, so that people have some greater comfort level." He stated that "there has to be an HOA [Homeowner's Association]", and he did not "know how an HOA [Homeowners' Association] was never created" in Ms. Desrosiers' neighborhood, as the "[Land Development and] Subdivision Regulations require it", and they would not be able to "record a Final Plan these days without all legal documents being sighed as Associations, being set up, there being a provision that if the Association doesn't do what it's supposed to do, and the Town has to do it, they agree to get reimbursed from Homeowners." He continued.

Mr. Landry: "You know, it's no different than any other significant subdivision anywhere else, and we've already submitted those documents for, uh, review, um, so, I, I don't, you know, I don't think that's a particular concern."

Mr. Landry then said that what he saw "happening" would be "that individual phases will be recorded." He said that if there was Preliminary Plan approval, "it would contemplate that Final [Plan] approval would go by phase, and the bond amounts would be established in the Final approval for that stage, based on whatever the numbers are at that time." He said that that was the "only way to do it that makes sense", and noted that the Board "would have to approve the bond", as well as "set the bond", and determine the "conditions of Final approval on the bond."

Mr. Landry: "The bond gets funded, or the work gets done – one of the, one of those two alternatives, um, and that, um, at the same time, um, the Homeowners' Association covenants. There's an operation and maintenance plan that we've submitted to DEM [Department of Environmental Management]. DEM's [Department of Environmental Management] gonna approve that. We've got an attachment, placeholder, in the Homeowners' documents for that operation and maintenance program, to do everything that people have said – make sure that the holding tanks get tested and pumped out periodically, and the Association takes responsibility for that. Owners are assessed on an annual basis. It's not quite like a condominium, but it's very similar to that. People have to do that, in order to remain in standing with their financing and so forth. That was one of the overarching reasons that the Board wanted community systems, instead of individual systems – so that the Town wasn't looking to 140 different people to do what they're supposed to do. They're looking at one association that, that has pledged and liened and whatever, uh, everything, you know, guaranteed, basically, that these things get done. So, they're all good questions, but they're not things that the Town already thought of, and put in a checklist for the Preliminary and Final approval, and that we've already started to, to submit, so we know there's other work to be done. People had other questions - I've got Ms. Aharonian's, uh, address, I've got a copy of the letter – Mr. Lamphere sent it to me. I'll, I'll provide the, the, uh, affordable – it's different levels, based on what's count-, what's considered affordable housing, what the earnings are for each home, so there's a different maximum sales price and, for each of those, right now, they, they range from $250,000 to $400,000, depending on what the income level is, so it's a lot different than it was 10 years ago."
Mr. DiOrio: "Mr. Landry, thank you for your comforting words. I think the concern – I don't think I have to tell you this – we all know of examples where these wonderful plans that we strive to put in place just went to hell in a handbasket. We all know about those examples. Everybody's just concerned about the what-ifs."

Mr. DiOrio said that they knew the applicant was "going to do all the right things in terms of documentation, but, as was pointed out, you – sometimes you can't bring the horse to the water." Mr. Landry replied that he "completely understood", and he noted that Mr. DiOrio was "in the business", so he understood "how much better everybody has got in trying to minimize those" issues. Mr. DiOrio replied that that was "true", and that "most of the example" he was "referring to are in days gone by – but, of course, those are

the ones that stick in our mind." They then discussed the extension date, which was set for the week after their October 6th meeting. Mr. Lamphere suggested that the Board would need to "continue" the hearing to a "date certain". Mr. DiOrio asked Mr. Landry to suggest a date, and Mr. Landry replied that he wanted to "ask that the matter be continued to the September agenda", where they could "report to the Board, more concretely, responses to everything that's been raised." He explained that the applicant was going to review the transcript from the meeting and "address everything that's been" brought up. He cautioned that they may not have "a complete answer" to every question, but that they would "address everything" that they could "address by September, and try to take something that feels this big, right now, and maybe make it a little smaller". He said he thought that they would have "a better chance of getting that done" if they were heard sooner rather than later, as the Board might not "get much more if we waited until October". Mr. DiOrio asked Mr. Lamphere if the September meeting was going to work, and he replied in the affirmative. They also agreed that a 6 p.m. start time would be in effect. Mr. DiOrio asked for a couple of motions.

Ms. Shumchenia made a motion to continue the Public Hearing to the September 1st meeting at 6:00 p.m. She included a recommendation that the Planning Board seek peer review of the engineering elements of the plan. It was seconded by Mr. Prellwitz. There was not any further discussion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia
Abstain: None.
Opposed: None.

5-0, the motion passed.

SOLICITOR'S REPORT:

The Solicitor did not have a report.

PLANNER'S REPORT:

The Planner did not have a report.

CORRESPONDENCE AND UPDATES:

The was not any correspondence, nor any updates.

DATE OF NEXT REGULAR MEETING: September 1, 2021, 6:00 p.m.

ADJOURNMENT:

Ms. Shumchenia made a motion to adjourn at about 9:11 p.m. It was seconded by Mr. Prellwitz. There was not any further discussion.

In Favor: DiOrio, Prellwitz, Lindelow, Light, Shumchenia
Abstain: None.
Opposed: None.

5-0, the motion passed.

By: Talia Jalette, Senior Planning Clerk, 9/16/21

2:59:14
3:04:35