

**TOWN OF HOPKINTON  
PLANNING BOARD**

**REGULAR MEETING**

**Wednesday, January 6, 2021**

**7:00 p.m.**

**Hopkinton Town Hall**

**1 Town House Road, Hopkinton, RI 02833**

**CALL TO ORDER:**

Chairman Alfred “Al” DiOrio called the January 6, 2021 Regular Meeting of the Hopkinton Planning Board to order at 7:00 p.m.

**MEMBERS PRESENT:**

Town Planner James “Jim” Lamphere and Senior Planning Clerk Talia Jalette, as well as Planning Board Chairman Al DiOrio were present in the Town Hall, though the meeting was conducted remotely. Members Ronald “Ron” Prellwitz, Carolyn Light, Keith Lindelow, and Emily Shumchenia attended via Zoom, as did Planning Board alternate John Pennypacker, Conservation Commission Liaison Deborah “Deb” O’Leary, Town Council Liaison Sharon Davis, and Planning Board Solicitor Margaret “Maggie” Hogan.

**INTRODUCTION OF PLANNING BOARD SOLICITOR, MARGARET HOGAN, ESQ.:**

Mr. DiOrio said that before the Board “[got] down to the meat of the matter”, he wanted to begin with a few acknowledgements, the first being the introduction of the Planning Board’s new solicitor, Maggie Hogan. Ms. Hogan stated that she was “delighted to be here”, and that she “look[ed] forward to working with the Board”. She then reminded the Planning Board members to state their names “when they speak – each and every time they speak” as “they need[ed] to identify themselves, because the members of the public and applicants may not know who’s speaking unless they have that identification”. She continued by explaining that “preferably, applicants, and members of the audience should do the same as well”. She also mentioned that Planning Board members should have their video cameras turned on during the meeting. Mr. DiOrio thanked Ms. Hogan for her comments, and he said that he would “be the first to admit that [he was] remiss in this regard”, and encouraged others to “call [him] out on it”.

**INTRODUCTION OF PLANNING BOARD ALTERNATE JOHN PENNYPACKER:**

Mr. DiOrio explained that his second acknowledgment was to welcome the Board’s new alternate, John Pennypacker. Mr. Pennypacker began by thanking the Board, and stating that he saw “a lot of familiar faces”. He continued.

Mr. Pennypacker: “I’m glad to be back, and happy to participate and help out the Town.”

Mr. DiOrio thanked Mr. Pennypacker, and moved on to the next agenda item.

**APPROVAL OF THE MINUTES:**

Mr. DiOrio asked the Board to break the approval “into two pieces”, beginning with the Workshop minutes, and “followed by the minutes of the Regular Meeting of the same date.”

MR. PRELLWITZ MADE A MOTION TO APPROVE THE MINUTES OF THE DECEMBER 2<sup>ND</sup>, 2020 WORKSHOP. THE MOTION WAS SECONDED BY MS. LIGHT.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA  
ABSTAIN: NONE  
OPPOSED: NONE

5-0, THE MOTION PASSED.

MR. PRELLWITZ MADE A MOTION TO APPROVE THE MINUTES OF THE REGULAR MEETING OF DECEMBER 2<sup>ND</sup>, 2020. THE MOTION WAS SECONDED BY MR. LINDELOW.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA  
ABSTAIN: NONE  
OPPOSED: NONE

5-0, THE MOTION PASSED.

**OLD BUSINESS:**

**Master Plan – 4-Lot, 7-Unit Major Land Development Project – Fairview Estates – AP 18, Lot 7K, 66 Fairview Avenue. Shoreline Properties, Inc., applicant.**

The attorney for the applicant, Jeffrey Caffrey, of Resnick & Caffrey, explained that he was “here on behalf of the applicant, Shoreline Properties”, and that Patrick Freeman, an engineer with American Engineering, was also in attendance. He stated that the applicant was before the Board “seeking Master Plan approval for [the applicant’s] Cluster development.” He continued.

Mr. Caffrey: “We’ve have the opportunity to review the comments of, of, the, uh, the Land Trust, the, uh, memorandum of the new solicitor, uh, Attorney Hogan, as well as the comments from, uh, Crossman Engineering, and, uh, [we] are generally in agreement with the comments and the suggestions that were raised. Um, the only, uh, point that I would make – and I’m sure Patrick [Freeman] may have a few comments as well – is with respect to the, um, the, the letter from the Hopkinton Land Trust. Um, we are – we’re certainly in agreement with, uh, deeding to them a yet-to-be-created ‘Lot 5’, off of

the Plat. Um, in, in, the, um, conditions that they raise, one of the things that they mention, is that the Hopkinton Land Trust may install a normally locked drive gate, and, from our perspective, the only thing we would want to do is, we want to make – we either want to have them install, or give us the option of installing a locked drive gate, so that way, we eliminate any type of an attractive nuisance, by giving, uh, free access to the, to the gravel road, that will be, uh, that will be utilized for access. I don't know if the, if the Commission has any comments regarding, uh, that requirement or stipulation.”

Mr. DiOrio responded by suggesting that the Board “tackle that comment after [the applicant had] made [their] presentation”, and that he had “made a notation” to return to that issue. Mr. Caffrey agreed, and continued.

Mr. Caffrey: “Um, in addition, we're seeking a waiver this evening to allow for, uh, the creation of an additional duplex, uh, unit. Um, as, as you know, your Cluster development regulations provide for no more than fifty percent of, uh, duplex units on the subdivision. Uh, if we were to submit what was required, that would give us two duplex units, and two single family units, um, thereby triggering the Inclusionary Zoning requirements of your Zoning Ordinance, uh, and as such, we would, in my opinion, anyway, be entitled to, uh, an additional unit, um, thereby necessitating us having to, uh, request, uh, that third duplex unit, so, uh, and, and I think, from a planning perspective, it enables us to preserve a significant amount of open space that would otherwise not be available, uh, should we go with a, uh, a standard subdivision plan. Um, so that would be the basis for us seeking the waiver of the, uh, of the, uh, two duplex requirements. Um, I think Patrick [Freeman] would like to perhaps address some of the comments that were raised by, uh, Crossman [Engineering], and their, in their, um, suggestions as well.”

Mr. Freeman: “Sure. Um, my name's Patrick Freeman. I'm with American Engineering. I'm a registered, professional engineer. Um, per the Board's recommendations at the last meeting, we made some revisions to our plans. I'm going to go over those, and then I can address Crossman [Engineering]'s, uh, comments. We provided additional buffering on Parcel 1, um, in between the proposed detention pond alongside, uh, Fairview Avenue, and the building on Parcel 1. We also provided-”

Stenographer: “I'm actually not able to hear you? It sounds like someone else's audio is going over you.”

Mr. Freeman: “Can you hear me now?”

Stenographer: “Yes.”

Mr. Freeman: “Okay. Um, so, I'll just go over, uh – alright, so the, the revisions to the plan that we made, per the Board's recommendations – we provided additional buffering on the westerly side of Parcel 1, in between the proposed infiltration pond, and the proposed building on Parcel 1. We've also provided a twelve-inch pipe, with the twelve-inch dome cover that would connect the level spreader to Catch Basin 7, per Crossman Engineering's recommendation. We've also added a note to Sheet 4, describing the limitations within the no-cut buffer. One of Crossman [Engineering]'s recommendations, uh, that they submitted, uh, to you, um, today also included, uh, connecting the buildings on Parcels 1 and 7 to an underground infiltration practice to alleviate any runoff to Fairview Avenue, and we're open to adding, um, those practices. And, that's all, um, thank you.”

Mr. Caffrey: “I think, uh, also, at the, at the last meeting, I think the Board had raised some concerns about the screening and the buffering of the site from, uh, Fairview Avenue, and, perhaps, Patrick [Freeman], you could, you could address what we’ve proposed for that as well.”

Mr. Freeman: “Um, sure. Uh, I did, did mention those. Uh, on Sheet 4, uh, as well as 5, we, uh, proposed an additional row of plantings. Um, would I be able to screen share a .pdf?”

Ms. Jalette: “I, I don’t believe that we have that capability, so, with, um, this form of Zoom – this is Talia [Jalette], the Planning Clerk, uh, that makes it difficult. We’re going to be using a new form of Zoom with a webinar at our next meeting, so, at that point, you would be able to present a presentation. We just don’t have that capability right now.”

Mr. Freeman: “Um, I should be able to describe it, if you’ve got, if you have, um, Sheet 6 of the plan set. It’s more clearly shown on that Sheet. Um, you’ll see Parcel 1 is in the center of that view, there’s a proposed twenty-six by forty-six single-family dwelling. To the west of that, past the outs, there’s an additional row of trees that we provided, to provide buffering from Fairview Avenue.”

Mr. Caffrey: “Um, at this point, Mr. Chairman, we really have no further, uh, comments to make. We’d like to open it up to the, to the Board, to see if there’s any questions or concerns.”

Mr. DiOrio thanked Mr. Caffrey, and suggested that the Board “start with the Planning Board comments or concerns first”, followed by “everybody else’s thoughts.” Ms. Jalette interjected that Doug Allam, with Crossman Engineering, was in attendance if the Board had “any questions”. Mr. Prellwitz said that he had “one question.”

Mr. Prellwitz: “Where do we stand with the, uh, waiver for the three duplexes as opposed to duplexes, and another, single unit? What are the hurdles that have to be addressed to accomplish that, if any?”

Mr. Caffrey: “Uh, are you directing that, uh – this is Jeff Caffrey – are you directing that to me, or are you directing it to the other members of, of the Board?”

Mr. Prellwitz: “Pretty much anybody that has an answer that is gonna work. I don’t know if our Solicitor has to weigh in, or if the Planner can do it?”

Mr. DiOrio: “But why don’t I straighten that out. DiOrio here. Mr. Caffrey, why don’t you start, and then we’ll ask, uh, Miss Hogan to step in.”

Mr. Caffrey: “Sure. As I read your, uh, subdivision regulations, the, uh, Planning Board has a fair degree of latitude to waive or modify any of the requirements, of the, uh, subdivision or land development project approval. I mean, it does require that certain conditions be met. Um, first and foremost, that the modification is reasonable and consistent with the, uh, purposes and intent to the regulations. I think, clearly, um, you know, your regulations place a premium on preserving open space, and maintaining the rural nature of, of the site, so, I think, in this particular instance, by allowing us to do a Cluster Development, um, and to allow us to take advantage of the inclusionary, uh, zoning bonus, I, I think it satisfies your requirements, and makes the project attractive to the developer, um, as a Cluster, um, and it also, per your regulations, it doesn’t reduce the standard to lessen the requirements of the Hopkinton, uh, Hopkinton Zoning Ordinances, so, once again, I think you’ve got the authority to grant the waiver, um, provided that we

meet those requirements, and, certainly, I'm sure Attorney Hogan can, can weigh in on that as well."

Mr. Prellwitz and Mr. DiOrion thanked Mr. Caffrey for his response. Ms. Light was the next Planning Board member to pose a question to the applicant.

Ms. Light: "I have a question regarding the affordable housing? Um, with some of the research that I've been doing over the recent months, regarding affordable housing, my question to the developer, or the attorney is, um, what agency is working with you on this affordable unit. Uh, we had discussion about whether it was going to be for sale or for rent. Um, either way, there has to be an agency that is going to support the construction, monitoring, et cetera, of that affordable unit, and, without that confirmation, I don't think we can call it an affordable unit."

Mr. Caffrey: "Joe, Joe Catelli, do you want to address that, if you've spoken to a monitoring agency yet?"

Mr. Catelli: "Yeah, so, Jeff [Caffrey], I deal with – and the Board, my – this is Joe Catelli. I'm the, uh, developer. Um, I work with Narragansett Housing, um, they're very familiar with me. We've done a lot of these projects. Now, we're in the middle of doing one, right now, so they would be involved, either if I was going to rent or sell, um, and I've already spoke to them about this briefly. They haven't looked at the plan yet, but they know I have another one coming."

Mr. Caffrey: "Does that, does that, um -"

Ms. Light: "Okay."

Mr. Caffrey: "Okay, thanks."

Mr. Catelli: "So, it's Narragansett Housing."

Ms. Light: "Now, on the-"

Ms. Light: "Okay."

Mr. Catelli: "To answer the question, it's Narragansett Housing."

Ms. Light: "So, um, I'm, I'm, I'm open to learn. Uh, what, what kind of documentation would they be providing the Planning Board, to support your application for that additional unit?"

Mr. Catelli: "I don't think they actually supply you guys with any information. Um, what they do is – once I get this prepared, and before I record the plan, I gotta designate the unit. Um, at that point, they'll prepare an agreement that gets recorded, um, so that's right before we record the, uh, the Final Plan. I really haven't given that much thought yet. I'm not sure what unit I'm gonna, I'm gonna put it in."

Mr. Caffrey: "And, as you probably realize, there'll also be deed restrictions that are recorded, in connection with the conveyance of that property, for the creation of that property, that would run, and, uh, run with the land as well."

Ms. Light: "Yep. That's exactly what I'm, what I'm hoping to hear, and I'd ultimately like to see it, uh, you know, support what we're trying to accomplish over here, by, if possible, sharing those documents with us, so that we can, uh, just be thoroughly informed, uh, with what's going on over there."

Mr. Caffrey: "Sure. I, I don't see a problem with getting you a proposed draft of what their, uh, restrictions and requirements would be."

Ms. Light: "That would be wonderful. Thank you."

Mr. Caffrey: "Sure."

Mr. DiOrio then asked if there were any other Planning Board members who had comments, questions, or thoughts for the applicant. Mr. Lindelow said that he did not have any "at this time." Mr. DiOrio said that he had "two comments, and one may be simply [his] inability to find it on [the applicant's] mapping." He continued.

Mr. DiOrio: "I certainly appreciate your specifying the second row of plantings, uh, let's see – westerly of the OWTS [Onsite Wastewater Treatment System] on Parcel 1. I don't, however, see any specifications as to – while stipulating that they must be planted, I see 'proposed plantings'. I don't see any details. I don't know what they are. It seems pretty loose to me. Am I missing something?"

Mr. Freeman: "Um, no, we're proposing them to be, uh, either a white pine, or something, um, of that nature, if you have a preference, um -"

Mr. DiOrio: "No, I would only ask that, perhaps at the Preliminary, you be a little bit more diligent about specifying when they're going to be planted, what they are. If some contractor is assigned to go out there, they know exactly what to do."

Mr. Freeman: "Absolutely."

Mr. DiOrio: "Great. Second question or comment is: I see your, uh, text box, with the no-cut buffer language. Uh, I'm gonna look over at Jim [Lamphere] here. Do we have some standard verbiage that would go with a no-cut zone? Because this, that note right there seems way too liberal."

Mr. Lamphere: "Yes. We have a no-cut buffer notion -"

The Stenographer: "I'm sorry – who is this speaking?"

Mr. Lamphere: "Yeah, this is Jim Lamphere, Town Planner. Sorry."

The Stenographer: "Thank you."

Mr. Lamphere: "We do have a no-cut, uh, buffer notation that we've used in the past. I will be happy to pass that along to, uh, Patrick Freeman, for incorporation on the Preliminary Plan."

Mr. DiOrio: "Very good. DiOrio here. That's great, uh, as long as it gets back on the plan, that would make me very happy. That's all I had. Thank you."

Then, Ms. Jalette asked Ms. Shumchenia if she had any comments. She replied in the affirmative, and said that her first comment was that when she "muted [herself], just to, you know, limit background noise", she was "unable to unmute herself". She said she just wanted to let Ms. Jalette know that, but that she did "have comments" as well.

Ms. Shumchenia: "I was curious about the storm water management issues that were raised by Crossman [Engineering] in their comments. Um, they presented two options for limiting storm water, uh, flow, and, and managing the storm water onto Fairview Avenue, and I was wondering if the applicant, um, had a comment on that."

Mr. Freeman: "Sure. Um, which, um, two items we're referring to, just so I'm clear?"

Ms. Shumchenia: "Sure. So, um, on the very last page of Crossman [Engineering]'s, um, report, uh, their assessment, um, there's two bullets, and it describes, um, that there's, you know, no increase in flow, um, indicated by the calculations, but, the Town has documented that, uh, the storm water drains on this street are just drywells, with not

outlet, so, um, there is a risk, that increased storm water could cause a problem in these areas, especially since the street tends to pond up and ice in the winter, and so the two options that Crossman [Engineering] describes here are, uh, developing a private association to maintain the storm water systems on the property, and provide semi-annual reports to the Town, uh, document the maintenance activities, and then be ready to address any potential failures by expanding those drywell systems, um, and the other option is to, instead, direct any of the rooftop and driveway, uh, runoff, that is expected to drain onto Fairview [Avenue], um, to redirect those to on-site drywells on the property instead. So, just curious which one of those options you guys are considering.”

Mr. Freeman: “Sure -”

Mr. Caffrey: “Let me just interject for one second – the, uh, we’re going to have to create a Homeowner’s Association at some point in time, at, I’m sure, prior to the Preliminary Plan approval, and it would be our intention to, at that point in time to, to, to implement some type of, uh, maintenance program, and incorporate that into the HOA [Homeowner’s Association] documents, so that the Association would assume responsibility for, uh, for future compliance, and, go ahead, Pat [Freeman], and take it from there.”

Mr. Freeman: “Thank you, Jeff [Caffrey], um, that is correct. So, at the next step of this project, we have to submit to Wetlands, DEM [Department of Environmental Management] Wetlands, and part of their submission package is an operation and maintenance agreement that, that will cover the maintenance of those, um, ponds, so that that aspect would be taken care of under that. It would be assigned to the Homeowner’s Association to take care of those ponds and we’d specify how that maintenance should take place. Um, the additional item of connecting the roof leaders of the two buildings to an underground infiltration practice, we’re okay with that. Um, we did design this system not to overflow for the twenty-five-year storm event, which is – it’s a significant amount of rainfall, so, by adding those infiltration practices, it’s only going to provide a small amount of relief for very large storms. So, we will add those, and I’m okay with adding them, but we designed that system, um, the water quality pond adjacent to Fairview Avenue not to overflow until after the twenty-five-year storm, so, we were considerate of Fairview Avenue receiving a lot of runoff.”

Ms. Shumchenia: “Great. Thank you.”

Mr. DiOrio asked if there were any other Planning Board members who wanted to comment on the project. As there were not any other comments from the Planning Board membership at that time, he asked for input from the Planning Board Solicitor, Ms. Hogan.

Ms. Hogan: “Mr. Chairman, I’d like to confirm: what is the date of the plans that are under consideration? I understood the engineer to, um, suggest that a change had been made to plans, uh, but I don’t think I have an updated copy. So, what, what is the most recent iteration of the plans that we’re reviewing?”

Mr. Lamphere: “Yes, uh, Jim Lamphere, Town Planner. One of the, uh, two of the pages of the plan set have been modified as of 12/22/2020.”

Ms. Hogan: “And have all the Board members received that?”

Mr. Lamphere: “Yes.”

Ms. Hogan: “Okay, I’ll need a set at some point.”

Mr. Lamphere: “Fine.”

Ms. Hogan: “Uh, the other item, Mr. Chairman, if I could, please, um would be to circle back to Mr. Caffrey’s, um, sort of opening remarks, if you will, uh, and on the count. Uh, as the Board is aware, I’ve provided you with a memo in regards to this, um, and I just wanted to be clear that, um, there’s not only a, a request for a waiver – that covers one of the duplexes, and then this third duplex – the first one’s allowed by-right, under the count. The second one requires a waiver, and the third one is also allowed by-right because, at that point, you’re at six units. They’re required to include the inclusionary [unit], and that’s the only way you get to it. So, I just wanted to be clear that it, it isn’t a ‘density bonus’, um, it is an inclusionary unit, and, and, um, you are granting a waiver for one unit, one, one duplex – if you grant it.”

Mr. DiOrio thanked Ms. Hogan for her explanation, and said that if she did not have anything further, he was going to ask Mr. Lamphere about “any Planning concerns.”

Mr. Lamphere replied that he would “ask the applicant” if they knew “at this point in time, which one of those seven units will be the affordable unit.” He said that he thought that he had “asked that question last time”, and that, at that point in time, the applicant was unsure. Mr. Catelli replied.

Mr. Catelli: “I’m not sure at this point.”

Mr. Lamphere: “Okay. So, if you’re gonna put, if you’re gonna put an affordable unit in a duplex, I guess that would have to be a rented, uh, a rented unit.”

Mr. Catelli: “Yes, oh, no – it’d be a duplex for sure.”

Mr. Lamphere: “It will be a duplex? Okay. And so, would you – okay. Would you condo-ize the, that duplex, or?”

Mr. Catelli: “No. They’re not gonna be condo-ized at this point. Um, you know, I may even, you know, I got the existing duplex, which I did do, you know, I did do some, I’m going to do some remodeling to that, um. There could be a possibility, I could even put it in that one.”

Mr. Lamphere: “So, if you’re not going to condo-ize it, you pretty much have to – that would have to be a rental unit, wouldn’t it? If it was in a duplex?”

Mr. Catelli: “Well, if I sold it to the duplex, the deed restriction would go over [to] the buyer, you know, they’d buy the duplex, you know, with the, uh, with the deed restriction, um, but, at this point, I don’t plan on sellin’ ‘em.”

Ms. Jalette interjected that Doug Allam, from Crossman Engineering, wanted to weigh in. Mr. DiOrio asked Mr. Allam had any comments. Ms. Jalette directed Mr. Allam to press \*6. He said that he “just wanted to make one, uh, comment”. He said that Mr. Lamphere had said that “two of the plans were changed, uh, with a date of 12/22/2020, but, uh, three other sheets have been revised also.” He continued.

Mr. Allam: “Sheet Number 4, Sheet Number 5, and Sheet Number 10 have a Revision 1 date of 12/8/20.”

Mr. Lamphere: “Yes – Jim Lamphere, Town Planner. Doug [Allam], I, I, I did confer with the applicant. One of those – I believe it was Sheet Number 4, was most recently

amended, uh, of 12/22. It was not reflected, uh, in what the Planning Board had. One of, one of those sheets in the set is 12/22. They've made the correction on, um, on their, on their plans, and it will be reflected with the Preliminary submission. So, there's two sheets -"

Mr. Allam: "Okay, I just -"

Mr. Lamphere: "Two sheets of this plan set, that were actually amended on the 22<sup>nd</sup>, but only one of those two is reflective of that, okay? The other one is, the other one has a date of 12/8, so I, I did catch that, and I mentioned it."

Mr. Allam: "Okay, I just wanted to make sure that, uh, your Solicitor – I just – there's three dates on the plans I plotted out, so, thank you."

Mr. Lamphere: "Correct."

Mr. DiOrio then asked if Ms. O'Leary, the Conservation Commission Liaison, had any comments. Ms. O'Leary replied that she was "concerned about the, uh, storm water", and continued.

Ms. O'Leary: "It seems that everybody's on the same page with that. We're okay. Um, as far as the open space goes, uh, there's no one here from the Land Trust to talk about the gate. Um, I think that can be talked about later, but, I'm really excited that they're keeping this property open in the back. It's going to be open space. That's what we're all about. So, I don't really have any other comments. I think Emily [Shumchenia] touched on a couple of things for me already, so, okay."

Mr. DiOrio thanked Ms. O'Leary for her comments, and then said that he would "entertain any comments from the audience if they're out there." Ms. Jalette directed any "member[s] of the public who would like to make a comment" to press \*9. She then explained that she was going to "read off the last four digits of [the caller's] phone number", and then directed them to state their name for the record.

The first person to call in was Cynthia Johnson, a member of the Hopkinton Land Trust. She said that she was "pleased to hear the acceptance" of elements of a letter the Land Trust had provided to the applicant in regard to the open space, and that she thought that they could "work with the gate". She said that the Land Trust would be able to work with "Mr. Catelli, or someone, and be able to work on an arrangement with a gate, no problem." Mr. DiOrio thanked Ms. Johnson for her comments. Ms. Jalette told Mr. DiOrio that there were not any other members of the public who wanted to comment on the application. He said that "unless there are any other questions or concerns", he was "prepared to entertain a motion from a Planning Board member." Ms. Shumchenia volunteered to make the motion.

**MS. SHUMCHENIA MADE A MOTION TO APPROVE SHORELINE PROPERTIES, INC.'S APPLICATION FOR MASTER PLAN FOR A MAJOR CLUSTER SUBDIVISION, LOCATED AT 66 FAIRVIEW AVENUE, AP 18, LOT 7K, FOR A TOTAL OF FOUR LOTS, WITH SEVEN RESIDENTIAL DWELLING UNITS, BASED ON THE FOLLOWING FINDINGS OF FACT AND CONCLUSIONS OF LAW:**

FINDINGS OF FACT:

FIRST: SHORELINE PROPERTIES, INC. IS THE APPLICANT AND OWNER OF THE SUBJECT PROPERTY BY DEED, RECORDED IN BOOK 575, PAGE 462, AS NOTED ON SHEET 4 OF 11 OF THE PLANS DATED DECEMBER 8, 2020.

TWO: THE SUBJECT PROPERTY CONTAINS A GROSS TOTAL OF 13.23 ACRES, WITH 2.23 CATEGORIZED AS LANDS UNSUITABLE FOR DEVELOPMENT.

THREE: THE PROPOSED CLUSTER DEVELOPMENT WOULD REQUIRE 3.3 ACRES OF OPEN SPACE, BUT PROPOSED 6.99 ACRES, AS SHOWN IN THE NOTES ON SHEET 4 OF 11 OF THE PLANS.

FOUR: AN ADDITIONAL NO-CUT BUFFER OF .94 ACRES IS ALSO PROVIDED, BRINGING THE TOTAL OPEN SPACE AND NO-CUT BUFFER TO 7.28 ACRES, WHICH IS A TOTAL OF SIXTY PERCENT OF THE SUBJECT PARCEL, ALSO AS SHOWN ON SHEET 4 OF 11 OF THE PLANS.

FIVE: THE CONVENTIONAL YIELD PLAN AND DENSITY CALCUATIONS INDICATE THAT THE SUBJECT PROPERTY COULD BE DEVELOPED INTO SIX CONVENTIONAL LOTS. SECTION 9.3 OF THE CLUSTER SUBDIVISION REGULATIONS PROVIDES THAT CLUSTER SUBDIVISIONS ARE PREFERRED OVER CONVENTIONAL SUBDIVISIONS.

SIX: HOPKINTON HAS AN INCLUSIONARY ZONING ORDINANCE. IT PROVIDES THAT SUBDIVISIONS WITH SIX OR GREATER RESIDENTIAL UNITS MUST PROVIDE EITHER AN EXLUSIONARY\* RESIDENTIAL DWELLING UNIT, OR PAY A FEE IN LIEU OF BUILDING THE UNIT OR CONSTRUCT OR REHABILITATE A RESIDENTIAL DWELLING UNIT ON ANOTHER PARCEL.

SEVEN: THE PROPOSED PLAN IS A CLUSTER SUBDIVISION OF FOUR RESIDENTIAL LOTS, AND ONE OPEN SPACE LOT. THE PLAN PROPOSES ONE SINGLE-FAMILY DWELLING LOT AND THREE DUPLEX LOTS FOR A TOTAL DENSITY OF SEVEN LOTS, INCLUDING THE ONE REQUIRED INCLUSIONARY DWELLING UNIT.

EIGHT: SECTION 9.2.2(D) OF THE SUBDIVISION REGULATIONS LIMITS DUPLEXES IN A SUBDIVISION TO FIFTY PERCENT OF THE UNITS. SECTION 11.2.1 PERMITS THE PLANNING BOARD TO WAIVE THIS LIMITATION.

NINE: HOWEVER, THE INCLUSIONARY ZONING ORDINANCE PROVIDES

\*[Clerk's Note: Finding of Fact Six should read "...MUST PROVIDE EITHER AN *INCLUSIONARY* (emphasis added) RESIDENTIAL DWELLING UNIT..."]

THAT THE NUMBER OF DWELLING UNITS PERMITTED ON A PARCEL SHALL BE INCREASED ABOVE THE NUMBER THAT OTHERWISE WOULD BE PERMITTED, IN ORDER TO ACCOMMODATE THE INCLUSIONARY DWELLING UNITS.

TEN: ALL INCLUSIONARY DWELLING UNITS ARE SUBJECT TO THE TERMS AND CONDITIONS SET FORTH IN THE HOPKINTON INCLUSIONARY ZONING ORDINANCE, AS ADOPTED SEPTEMBER 20<sup>TH</sup>, 2010, INCORPORATED HEREIN BY REFERENCE.

ELEVEN: SECTION 9.2.2(F) OF THE SUBDIVISION REGULATIONS REQUIRE A ONE HUNDRED FOOT PERIMETER BUFFER AROUND THE ENTIRE PERIMETER OF THE LOT, AND A FIFTY FOOT OPEN SPACE BUFFER FOR LOTS THAT ABUT A PUBLIC STREET. THE PLANNING BOARD MAY MODIFY THE BUFFER IF OTHER ACCEPTABLE ARRANGEMENTS CAN BE MADE, WHICH REDUCE THE OVERALL IMPACT OF THE PROJECT. THE FULL MEASURE OF THESE BUFFERS ARE NOT PROVIDED ON THE PLANS IN THE APPLICANT PROPOSED REDUCED BUFFERS, WITH A PORTION OF THEM BEING A NO-CUT BUFFER. THE APPLICANT WAS DIRECTED TO PROVIDE LANGUAGE DESCRIBING THE NO-CUT BUFFER.

TWELVE: THE SUBJECT PROPERTY CONTAINS A UNIQUE CULTURAL AND NATURAL RESOURCE KNOWN AS WITCH ROCK.

THIRTEEN: ON DECEMBER 22ND, 2020, THE HOPKINTON LAND TRUST FILED A LETTER REQUESTING CONVEYANCE OF A PORTION OF THE SUBJECT PROPERTY TO IT, AND THAT VARIOUS OTHER CONDITIONS BE PLACED UPON ANY PLAN APPROVAL. THAT CORRESPONDENCE IS INCORPORATED HEREIN BY REFERENCE AND MADE A PART HEREOF.

FOURTEEN: THE TOWN'S CONSULTING ENGINEERS, CROSSMAN ENGINEERING, REVIEWED THE PLANS AND EXPRESSED CONCERNS WITH: 1) THE SIZE OF THE PROPOSED BUFFERS IN LIGHT OF THE REQUIREMENTS OF SECTION 9.2.2(F).7, AND 2) THE PROPOSED OVERFLOW FROM THE SAND FILTER SYSTEM AT FAIRVIEW AVENUE. BY LETTER DATED NOVEMBER 12<sup>TH</sup>, 2020, AND LAST REVISED DECEMBER 29<sup>TH</sup>, 2020, CROSSMAN PROFFERED RECOMMENDATIONS IT MIGHT MITIGATE THE OVERFLOW ISSUE, INCORPORATED HEREIN BY REFERENCE AND MADE PART HEREOF.

CONCLUSIONS OF LAW:

ONE: THE PROPOSED DEVELOPMENT IS CONSISTENT WITH THE COMPREHENSIVE COMMUNITY PLAN AND/OR HAS SATISFACTORILY ADDRESSED THE ISSUES WHERE THERE MAY BE INCONSISTENCIES.

TWO: THE PROPOSED DEVELOPMENT COMPLIES WITH THE HOPKINTON ZONING ORDINANCE, INCLUDING THE INCLUSIONARY ZONING ORDINANCE, WHICH REQUIRES ONE INCLUSIONARY RESIDENTIAL DWELLING UNIT.

THREE: THERE WILL BE NO SIGNIFICANT NEGATIVE ENVIRONMENTAL IMPACTS FROM THE PROPOSED DEVELOPMENT, AS SHOWN ON THE FINAL PLAN, WITH ALL REQUIRED CONDITIONS FOR APPROVAL.

FOUR: THE SUBDIVISION, AS PROPOSED, WILL NOT RESULT IN THE CREATION OF INDIVIDUAL LOTS WITH SUCH PHYSICAL CONSTRAINTS TO DEVELOPMENT THAT BUILDING ON THOSE LOTS, ACCORDING TO PERTINENT REGULATIONS AND BUILDING STANDARDS WOULD BE IMPRACTICAL, BECAUSE LANDS UNSUITABLE FOR DEVELOPMENT ARE EXCLUDED FROM DEVELOPMENT.

FIVE: ALL PROPOSED LAND DEVELOPMENTS AND ALL SUBDIVISION LOTS SHALL HAVE ADEQUATE AND PERMANENT PHYSICAL ACCESS TO A PUBLIC STREET.

SIX: THE PROPOSED DEVELOPMENT PROVIDES FOR A SAFE CIRCULATION OF PEDESTRIAN AND VEHICULAR TRAFFIC, FOR SURFACE WATER RUNOFF CONTROL, FOR SUITABLE BUILDING SITES, AND FOR PRESERVATION OF NATURAL, HISTORICAL, AND CULTURAL FEATURES THAT CONTRIBUTES TO THE ATTRACTIVENESS OF THE COMMUNITY, WITH REQUIRED CONDITIONS OF APPROVAL.

SEVEN: THE DESIGN AND LOCATION OF STREETS, BUILDING LOTS, UTILITIES, DRAINAGE IMPROVEMENTS AND OTHER IMPROVEMENTS IN THE PROPOSED DEVELOPMENT MINIMIZES FLOODING AND SOIL EROSION, WITH THE REQUIRED CONDITIONS OF APPROVAL.

THE ORDER IS:

ONE: THE WAIVER FROM SECTION 9.2.2 IS GRANTED BECAUSE: FIRST, THE REGULATION IS REASONABLE AND CONSISTENT WITH THE GENERAL PURPOSES AND INTENT OF THESE REGULATIONS, WHICH PRIORITIZES CLUSTER SUBDIVISIONS OVER CONVENTIONAL SUBDIVISIONS; TWO, OR B, THE CLUSTER SUBDIVISION PRESERVES A SUBSTANTIAL TRACT OF OPEN SPACE WITH A KNOWN CULTURAL FEATURE, SO THE WAIVER IS IN THE BEST INTEREST OF GOOD PLANNING PRACTICE; AND C, THE WAIVER DOES NOT REDUCE THE STANDARD TO LESS THAN THE REQUIREMENTS IN THE ZONING ORDINANCE.

NUMBER TWO UNDER THIS ORDER: THE PROPOSED MASTER PLAN FOR FAIRVIEW ESTATES IS APPROVED, TOGETHER WITH THE FOLLOWING CONDITIONS OF APPROVAL:

FIRST: AN ADDITIONAL ROW OF PLANTINGS, WITH A DESCRIPTION OF THE TYPE OF VEGETATION TO BE PLANTED IS PROVIDED ON PARCEL 1, BETWEEN THE DWELLING AND THE WATER QUALITY POND, ADJACENT TO FAIRVIEW AVENUE, AS SHOWN ON THE PLANS.

[SECOND]: THE APPLICANT WILL ADDRESS CROSSMAN ENGINEERING'S RECOMMENDATIONS FOR STORM WATER MANAGEMENT BY REQUIRING A HOMEOWNER'S ASSOCIATION TO, AMONG OTHER THINGS, PERFORM MAINTENANCE OF STORM WATER SYSTEMS, MONITOR THEM FOR FAILURE, AND EXPAND THE DRYWELL SYSTEMS IF NECESSARY, AS WELL AS TO DECREASE RUNOFF IN GENERAL BY DIRECTING ROOFTOPS AND DRIVEWAYS THAT DRAIN TOWARD FAIRVIEW AVENUE INTO ON-SITE DRYWELLS.

THIRD: THE ACQUISITION BY THE HOPKINTON LAND TRUST OF THE OPEN SPACE FOR THE ACCESS TO, AND PRESERVATION OF, WITCH ROCK IS CONSISTENT WITH THE GOALS AND POLICIES OF THE COMPREHENSIVE PLAN, AND,

FOURTH, AND LASTLY: THE DETAILED LANGUAGE FOR A NO-CUT BUFFER TO BE PROVIDED BY THE TOWN PLANNER WILL BE ADDED TO THE MASTER PLAN.

MR. PRELLWITZ SECONDED THE MOTION.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA  
ABSTAIN: NONE  
OPPOSED: NONE

5-0, MOTION PASSED.

**Reinstatement/Extension of the Approved Master Plan – 2-Lot Major Subdivision – CALSAR – AP 9, Lot 22, 56 Woodville Alton Road. CALSAR, LLC., applicant.**

Mr. DiOrio asked if the representatives for the application were in attendance. Ms. Jalette replied that they were, and she instructed them to press \*6. Chris Duhamel, an engineer and principal at DiPrete Engineering, and Kelly Fracassa, an attorney with Naccarato & Fracassa, appeared before the Board. Michael Hennessey was not in attendance. Mr. Fracassa spoke before the Board first.

Mr. Fracassa: "Um, just, uh, just to start out here – this was before the Planning Board quite a while ago, um, and, uh, just looking over it, uh, to familiarize myself with it, there

are two issues with this right off the bat. It's a two-lot, uh, Cluster subdivision. Uh, we meet pretty much all of the requirements. There is one, um, issue that we have, is that the total site area is a shade under the required ten acres, however, the Planning Board does have the authority, authority to vary that under the circumstances, and I believe there's also an area where we have the, uh, one-hundred-foot, um, required buffer, uh, would not be practical, and, um, the Planning Board has the authority to, to vary that as well. Um, those are issues which, um, Chris [Duhamel]'s going to be able to, uh, speak to tonight. Um, you have the plan in front of you. Um, I believe one of the problems here is that a good portion of this lot is wet, so, uh, a good portion of this lot is, uh, is not usable, and it, uh, constricts the portion of the, uh, property which is. Um, so, Chris [Duhamel], um, what are your thoughts on the, uh, uh, the ten-acre requirement, and also the, uh, one-hundred-foot buffer.”

Mr. Duhamel thanked Mr. Fracassa, and then presented before the Board. He explained that he had “represented the project when it received Master Plan approval in, uh, September of 2018.” He continued.

Mr. Duhamel: “At the time, we had evaluated different, um, development potential, uh, for the property – extending the public road on the site, um, showing three lots that could meet the RFR-80 zoning, uh, showing a, a two-lot subdivision, uh, showing a variance, which was, uh, a variance for frontage in the RFR-80, uh, that was, was not approved in a previous application. Um, so, we looked at it fresh at the time, uh, two years ago, and, uh, we looked at a Cluster subdivision, how we could best preserve open space on the property, buffers to the abutting properties, and provide just for one, one additional residential lot, uh, for Mr. Hennessey. Um, we, uh, asked for a waiver to the ten-acre requirement, um, the lot being 9.7 acres in size. Um, that waiver was granted. Now, we have the consideration of the buffers, um, to the, to the abutting properties. Uh, that, that consideration was given on this, uh, concern, with the, with the text of the, uh, the minutes that said the buffer to the west, to the, uh, Woodville Alton Road, the existing roadway, would have to be one hundred feet. Um, I, I'm not certain that that was, uh, discussed, or, or, considered, uh, mainly because the existing septic system of the existing house is, uh, is only seventy feet off of that, that, um, right-of-way, and then, we were proposing another septic system, uh, for the new house, uh, ninety feet off that right-of-way, so, we, we propose – I, I think we talked about a fifty-foot buffer along the west, along the Woodville Alton Road, so that's, that's the only thing that I would, uh, present to the Board at, at the, uh, Preliminary Plan here, in consideration of that, of that buffer, um, but all other aspects of the, uh, Master Plan are, are met. Um, the, the area of the site is 9.78 acres, so the area of wetlands and buffers, which buffers now can count, as per State law, but, but, with, notwithstanding that, uh, there's 4.6 acres of wetlands and buffers, yielding 5.1 acres of upland area. Uh, so, we, we've subdivided, uh, the land to the, um, Cluster subdivision requirements, uh, which is three-thousand-square-foot lot, with one-hundred-and-twenty-foot of frontage. We have two lots, uh, one existing house and septic system would sit on a two-acre lot, a proposed house and, uh, septic system would sit on a 1.5-acre lot, and then we'd have six acres of, of preserved, uh, open space around the property, into the Wood River, as well. Um, so, the houses would be served by private wells, and, uh, an on-site wastewater treatment systems. The new house would

be developed to the, uh, storm water regulations for family home, where the roof leaders are wrapped to a drywell, and the dri-, driveway has a, uh, has a, um, stone trench for infiltration. The soils on-site are optimum. They're, they're, uh, well-draining, including gravelly, sandy loam, seven-foot of greater water tables. Uh, they're Category 1 soils, if you're familiar. DEM [Department of Environmental Management] requirements, uh, that require even a larger septic. They're so well-drained, it requires a greater separation to the, to the single-family wells. Instead of one hundred feet, it's a one hundred and fifty feet, so, we've accommodated a one-hundred-and-fifty-foot minimum to the, um, on-site wells, and one-hundred-and-fifty-foot minimum to any off-site well, so, for the septic design. So, um, we're here tonight to reinstate the 2018 Master Plan, and, and then, uh, if, if approved, we would continue with the Preliminary Plan, a submission, and a full Board review of that, uh, Preliminary Plan."

Mr. DiOrio thanked Mr. Duhamel for his explanation, and said that the discussion would begin with comments from the Planning Board members. He said that he did not "mind leading off on this." He continued.

Mr. DiOrio: "I was, uh, one of the Planning Board members, and I'd like to – when this was, uh, initially approved, and I'd like to return to the uh, the issue of the one-hundred-foot buffer on the west side of the property, that is, the road side. So, of course, it was, in fact, a discussion of a one-hundred-foot buffer, not fifty, and, I'd like to make some recommendations with regards to your proposed limit of disturbance, because I think –"

Mr. Duhamel: "Certainly."

Mr. DiOrio: "I think that the one-hundred-foot buffer is – we may not get to 100.0, but I think we're gonna get a lot closer than what you're proposing. So –"

Mr. Duhamel: "Okay."

Mr. DiOrio: "If I may – can you tell me the distance from Test Hole 19-1 to the westerly edge of the proposed OWTS [On-site Wastewater Treatment System]? An estimation is acceptable."

Mr. Duhamel: "Uh, it's, it's dimensioned on, um, on Sheet 6, uh, it's, it's dimension to the corner of the septic field is 92.4 to the property line. So, uh, another, ten feet or so to 19.1."

Mr. DiOrio: "So, the distance from 19-1, to the westerly edge of the OWTS [On-site Wastewater Treatment System] – what's the distance?"

Mr. Duhamel: "I'm, I'm, I'm estimating ten feet."

Mr. DiOrio: "There we go. Very good. So, if you were to pick that OWTS [On-site Wastewater Treatment System] up, and move it fifteen feet to the east, keeping 19-1 twenty-five feet from your system, and you revise your limit of disturbance to run along ten feet west, of the westerly edge of the proposed OWTS [On-site Wastewater Treatment System], that's now been relocated, you're going to be much closer to having a one-hundred-foot buffer. Would you agree?"

Mr. Duhamel: "Yeah. That would work."

Mr. DiOrio: "Yes, so why don't we do that?"

Mr. Duhamel: "Well, I could say the consideration given was, uh, you know, the existing home has, has a circular drive – gravel, circular drive, with two curb, curb openings, and we were, we were, uh, eliminating a lot of that, um, disturbance, and replanting it, uh,

with a buffer, so, you know, there was consideration given, to, to having a buffer to the public right-of-way.”

Mr. DiOrio: “So, I applaud, I applaud that -”

Mr. Duhamel: “I could move that fifteen foot.”

Mr. DiOrio: “Yep. So, why don’t we do that. So, why don’t you make your limit of disturbance for the proposed lot much closer to being one hundred feet?”

Mr. Duhamel: “Okay.”

Mr. DiOrio: “In addition, why don’t we reduce the limit of disturbance as you move toward the easterly portion of the site, so, instead of being as large as you have it, can we bring the limit of disturbance down, to simply get to the well and back? So, essentially, you’re going to bring the northerly limit of disturbance, essentially, going to create a corridor to the well. Am I explaining myself accurately?”

Mr. Duhamel: “I’m trying to picture – there wouldn’t be any backyard, Al [DiOrio], to, to, uh, for the house. Is that – we are, we have a walkout designed now for the house.”

Mr. DiOrio: “You’re, you’re certainly entitled to have some kind of, uh, backyard, of course, but, uh, if you’ve heard previous conversations this evening, our objective is to maintain the existing vegetation to the greatest extent possible. So, if we allow everybody to cut their backyard, we’re defeating our, one of our primary objectives. So, I’m asking you to reduce your limit of disturbance in the backyard, to something a little bit more reasonable.”

Mr. Duhamel: “I, I can certainly move, move the, uh, limit of disturbance in, uh, to reach the well, but to have a corridor, I, I don’t know that, that’s what Hopkinton wants, um. We, we have six acres of, of, uh, of open space to the east, um.”

Mr. DiOrio: “I applaud that. That’s not my concern.”

Mr. Duhamel: “Okay. Well, that, that’s a good part of this, so -”

Mr. DiOrio: “So, how about redu-”

Mr. Duhamel: “I’ll move the disturbance line in?”

Mr. DiOrio: “Very good. Excellent. Those are the only comments that I had.”

Mr. Duhamel: “Okay.”

At this interval, Mr. DiOrio asked if any other Planning Board members had any questions or comments on the application. Mr. Lindelow replied that Mr. DiOrio “said it well”, and that he was “all set”, with “no questions.” Ms. Light also said that she did not have any comments. Ms. Shumchenia stated that she “agree[d] with the points” made by Mr. DiOrio. She said that she was “curious” about “how the wording about the western buffer can be incorporated, uh, since it’s gonna be as close as practicable to one hundred feet, but” she thought that the Board was “recognizing in, in this discussion, that a hundred feet exactly might not be attainable.” She continued.

Ms. Shumchenia: “Is this something that maybe we should look for updated plans, Al [DiOrio]? Is that what you’re thinking, before we, um, put anything in writing here?”

Mr. DiOrio began to reply, but Mr. Duhamel interjected. Mr. Duhamel explained that he had “another meeting to go to – the Preliminary Plan meeting, so it would be a submission” that included the thoughts of the Planning Board, as well as those of the Planner. Mr. DiOrio replied that he was “comfortable with what might seem to be

waffley language about the one hundred feet”, and that he was “confident” that Mr. Duhamel understood his objective. He continued.

Mr. DiOrio: “And you will endeavor to get as close to that number as you can possibly get, because if you don’t, of course, I will bring it to your attention again. So, I have the greatest confidence in you, and Emily [Shumchenia], to address your concern, uh, I’m, I would be perfectly comfortable with language that reiterates that fact – that the applicant will strive to, uh, attain a number as close to one hundred feet as possible.”

Ms. Jalette then told Mr. Prellwitz that if he wanted to make a comments, that he would have to press \*6, as she had briefly muted his microphone “because there was a little bit of background noise” from his phone. Mr. Prellwitz apologized for the noise, and explained that he was “following [his] plans along with the conversation that was carrying on.” Ms. Jalette asked Mr. Prellwitz if he had any comments, and he replied that he “agree[d] with the consensus of everybody so far”, and that Mr. DiOrio had “worded it very nicely”. Ms. Light then said that she had one question, based on what Ms. Shumchenia “had mentioned about fuzzy language.” She continued.

Ms. Light: “Is it – would it be practical to at least put a minimum on that buffer?”

Mr. Duhamel: “If I could, I would, I would like to work on the, um, the Preliminary Plan, and, and, and show what – how we can get to, on, one hundred feet on the west, and allow, uh, Planning Board review. At Mas-, right now, at Master Plan, I don’t, I don’t have a, a strong idea, and it’s hard to work with, to discuss with the Board, back and forth.”

Mr. DiOrio: “Yep. DiOrio here. Uh, Carolyn, I, again, I’m – I, I don’t want to beat the thing to death here. I, I think that the applicant understands what we’re trying to accomplish, uh, I, I don’t think I have to, uh, shackle him here with, uh, maximums and minimums, and all that. I, I’m very confident that we’re going to do exactly what we’ve asked them to. Uh, I appreciate that that’s not the way we might normally handle it, but, uh -”

Ms. Light: “Okay.”

Mr. DiOrio: “You know, we, we’re really close to abiding by the conditions of the original approval to begin with, and I’m really just looking for refinement here, so, again, I have confidence in the applicant.”

Here, Ms. Hogan weighed in, with “a suggestion to offer to the applicants.” She continued.

Ms. Hogan: “They, they have a request to reinstate their Master Plan approval, which is accompanied by their request to reduce the size of the buffer. Based upon the conversation, the applicant could simply withdraw its request to reduce the size of the buffer at the present time, and then address the Planning Board’s concerns at Preliminary stage of, uh, review.”

Mr. DiOrio replied that he thought that that was an “excellent idea”, and asked the applicant how they felt about that course of action. Mr. Duhamel said that he “would agree with that.” He continued.

Mr. Duhamel: “I hope that would give us latitude to work with the, with the Board.”

Ms. Jalette then told Mr. DiOrio that Mr. Pennypacker wanted to make a comment. His question was, based upon how the parcel was divided, what would “happen with the open space in the background”, and if there was “a possibility that it could be subdivided in the future”. He continued.

Mr. Pennypacker: “Could they put a road in, in between the, the two units, uh, to access the, the lot in the back? I – just trying to get a sense of, you know, what, what happens next with the open space?”

Mr. Duhamel responded that that was a question for Mr. Fracassa. Ms. Hogan asked if he was going to be unmuted, and Ms. Jalette replied that he was.

Mr. Fracassa replied that they “would put a deed restriction on, on the open space, so that, uh, with the oversight of the, of the Town on that, so that that open space would be preserved in its existing wooded, wooded state, and not be, uh, available for, uh, sheds or recreation areas, or cutting.” He continued, stating that it “would be absolutely no problem”. Ms. Hogan asked Mr. Fracassa to identify himself for the record, which he did. He then reiterated that it was going to be “no problem whatsoever.”

Mr. DiOrio replied that that was “terrific”, and thanked Mr. Fracassa for his response. He asked the Board if they had any other thoughts or comments. Mr. Prellwitz, Ms. Light, and Mr. Lindelow said that they did not have any further questions. Ms. Shumchenia didn’t have any questions either, so Mr. DiOrio asked Ms. Hogan if she had any other comments. She replied that she did not have any at that time. He then asked Mr. Lamphere if he had any additional things to say. He said that he wanted to “reiterate what was just said”. He continued.

Mr. Lamphere: “What, uh, what the applicant is asking for is to reinstate this application, so that would be reinstated with the two waivers that were granted at the time of approval. We got the second one, with the buffers, and then also an extension request, so, you should really put a time limit on that extension request. I think we can agree that that plan that you have in your packet does not reflect one of the two conditions that we put on it at Master Plan approval. Now, um, but – the Master Plan, with that condition is what is going to be reinstated, so, when they come back for Preliminary, we expect to see the Preliminary Plan to reflect the interpretation that was made by the Chairman just now, to increase that buffer to the extent that they can, so, that will be done at Preliminary. So, basically, we, basically, all we’re doing is, is, uh, reinstating the Master Plan that was approved, extending it, but we have to acknowledge, which I think we did in our course of our discussion acknowledged that the, what is on that rendering does not reflect the

condition of Master Plan approval, but, it will be modified for Preliminary, so, that – I just want to make that clear, if I, if I can.”

Mr. DiOrio requested that Mr. Lamphere “talk to [him] about this extension” in regard to the duration of the extension. Mr. Lamphere replied that it was “really up to the Planning Board” to make that determination, and he asked the applicant what kind of extension they felt that they would need. Mr. Duhamel replied that it was a one-year extension, but that they intended to submit the Preliminary Plan “next month”. He asked if two, one-year extensions were “available.” Mr. Lamphere replied that he hoped that if the applicant was granted a one-year extension, that the Board “could dispense with this subdivision within twelve months, and get it, and get it approved.” He asked the applicant if they agreed with that, and that he thought that the applicant “shouldn’t really need any more than twelve months on this” project. Mr. Duhamel replied that that was correct, and said that that extension “would be dated from September” of 2020. Mr. Lamphere said that he was “fine with that”. Mr. DiOrio thanked Mr. Lamphere, and then asked if there were any members of the public who wanted to comment. Ms. Jalette replied that there were not any people in the audience who wanted to weigh in. Mr. DiOrio then said that he was “prepared to entertain a motion.”

**MS. SHUMCHENIA MADE A MOTION TO APPROVE CALSAR, LLC.’S REQUEST FOR THE REINSTATEMENT OF A MASTER PLAN FOR A TWO-LOT RESIDENTIAL SUBDIVISION, FOR PROPERTY LOCATED AT 56 WOODVILLE ALTON ROAD, ALSO KNOWN AS PLAT 9, LOT 22, WITH THE FOLLOWING FINDINGS OF FACT AND CONCLUSION OF LAW:**

**FINDINGS OF FACT:**

**NUMBER ONE: CALSAR, LLC., IS THE APPLICANT AND OWNER OF THE SUBJECT PROPERTY, BY DEED RECORDED IN BOOK 532, PAGE 132, AS REPRESENTED BY NOTE 2 ON SHEET 3 OF 6 OF THE PLANS, DATED DECEMBER 23<sup>RD</sup>, 2020.**

**NUMBER TWO: BY AN UNANIMOUS VOTE OF 4-0, THE APPLICANT WAS GRANTED MASTER PLAN APPROVAL ON SEPTEMBER 4<sup>TH</sup>, 2018 FOR A TWO RESIDENTIAL SUBDIVISION LOT, WITH AN OPEN SPACE LOT.**

**NUMBER THREE: THE APPROVAL EXPIRED ON SEPTEMBER 4<sup>TH</sup>, 2020.**

**NUMBER FOUR: THE DEVELOPMENT OR SUBDIVISION REMAINS CONSISTENT WITH THE COMPREHENSIVE PLAN, WHICH HAS NOT CHANGED SINCE THIS APPROVAL IN 2018.**

**NUMBER FIVE: THE ZONING OF THE SUBJECT PARCEL, RFR-80, IS THE SAME AS IT WAS AT THE TIME OF THE ORIGINAL APPROVAL.**

NUMBER SIX: THE SUBDIVISION REGULATIONS ARE SUBSTANTIALLY THE SAME AS THEY WERE AT THE TIME OF THE ORIGINAL APPROVAL.

NUMBER SEVEN: THE PHYSICAL CONDITIONS OF THE SUBJECT PARCEL ARE SUBSTANTIALLY THE SAME AS THEY WERE AT THE TIME OF THE ORIGINAL APPROVAL, AS TESTIFIED TO ON JANUARY 6<sup>TH</sup>, 2021, BY CHRIS DUHAMEL OF DIPRETE ENGINEERING.

[NUMBER EIGHT:] ANY APPLICABLE STATE OR FEDERAL REGULATIONS ARE SUBSTANTIALLY THE SAME AS THEY WERE AT THE TIME OF THE ORIGINAL APPROVAL, AND ALL APPLICABLE STATE AND FEDERAL APPROVALS HAVE NOT EXPIRED.

[NUMBER NINE:] THE APPLICANT MASTER PLAN APPROVALS ARE VALID FOR AN ADDITIONAL TWO-YEAR TERM, AND MAY BE EXTENDED FOR UP TO TWO ADDITIONAL TERMS UPON WRITTEN REQUEST. THE APPLICANT FILED ITS WRITTEN REQUEST TO REINSTATE MASTER PLAN APPROVAL ON DECEMBER 23<sup>RD</sup>, 2020.

[NUMBER TEN:] AND, LASTLY, THE APPLICANT HAS ALSO REQUESTED A ONE-YEAR EXTENSION OF THIS APPROVAL.

SO, THE CONCLUSIONS OF LAW ARE AS FOLLOWS:

[NUMBER] ONE: THE CONCLUSIONS OF LAW FROM THE APPROVAL, DATED SEPTEMBER 4<sup>TH</sup>, 2018 ARE INCORPORATED HEREIN BY REFERENCE.

NUMBER TWO: RHODE ISLAND GENERAL LAW §45-23-40(g)(1), AND THE HOPKINTON SUBDIVISION REGULATIONS, SECTION 11.3 PERMIT REINSTATEMENT OF EXPIRED MASTER PLANS FOR MAJOR SUBDIVISIONS, SUBJECT TO SPECIFIC CRITERIA.

AND, NUMBER THREE: THE APPLICANT HAS MET THE REGULATORY BURDEN OF PROOF, SET FORTH IN SECTION 11.3 OF THE HOPKINTON SUBDIVISION REGULATIONS, AS DEMONSTRATED BY THE FINDINGS OF FACT SET FORTH ABOVE.

SO, THE ORDER IS AS FOLLOWS:

NUMBER ONE: THE MASTER PLAN APPROVAL FOR A TWO-LOT RESIDENTIAL SUBDIVISION FOR PROPERTY LOCATED AT 56 WOODVILLE ALTON ROAD, ALSO KNOWN AS PLAT 9, LOT 22, IS HEREBY REINSTATED, WITH ALL REQUIRED CONDITIONS OF APPROVAL, AS OF SEPTEMBER 4, 2020, WITH AN EXPIRATION OF SEPTEMBER 4, 2021.

NUMBER TWO: IN THE EVENT THAT THE APPLICANT DESIRES A SECOND, ONE-YEAR EXTENSION OF THIS APPROVAL, THE APPLICANT SHALL FILE ITS REQUEST IN ADVANCE OF THE EXPIRATION DATE, PREFERABLY WITH SUFFICIENT TIME FOR THE BOARD TO HEAR AND DECIDE THE MATTER IN ADVANCE OF THE EXPIRATION OF THE EXTENDED APPROVAL.

AND, [NUMBER] THREE: THE APPLICANT’S PRELIMINARY PLAN WILL REFLECT A WEST SIDE BUFFER OF AS CLOSE TO ONE HUNDRED FEET AS PRACTICABLE, AND A REDUCTION IN THE LIMIT OF DISTURBANCE ON PROPOSED LOT TWO.

THE MOTION WAS SECONDED BY MS. LIGHT.

IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE

5-0, THE MOTION PASSED.

**Pre-Application Meeting – Comprehensive Permit – Brushy Brook – Plat 32, Lots 1 through 71, Dye Hill Road. LR 6-A, LLC., applicant. Applicant discussion with the Planning Board, relative to the Master Plan Decision of November 23, 2010, and their upcoming Preliminary Plan submission.**

Mr. DiOrio began by explaining that the Board had this agenda item “identified as a ‘Pre-Application Meeting’”, though it was “not really a Pre-Application”. He asked Mr. Lamphere to weigh in.

Mr. Lamphere: “I would, I would call it – I don’t know what else to call it. It, uh, if they’re coming back to clarify the Master Plan, I would, I would term this a pre-application meeting – pre-application to the Preliminary Plan.”

Mr. DiOrio: “Okay. Thank you for the clarification. I just don’t want there to be any confusion in the audience that, somehow, we’re entertaining a Pre-Application right from the get-go type.”

Mr. Lamphere: “Correct. It is not that.”

Mr. DiOrio: “Very good. Thank you.”

Mr. DiOrio, “with that, uh, clarification”, then asked if the applicant or their representative was in attendance. Ms. Jalette directed William “Bill” Landry to press \*9, and then \*6. When that did not take place, Ms. Jalette stated that Mr. Landry was “in the audience”, that she had directed him on how to participate, and that she believed that Eric Prive, of DiPrete Engineering, was also in attendance. Mr. Prive spoke up and confirmed that he was in attendance. Ms. Jalette then stated that there wasn’t any reason as to why Mr. Landry was not able to speak before the Board, and asked Mr. Prive if he could contact Mr. Landry. Ms. Jalette then stated that it appeared as though Mr. Landry had “actually exited the meeting”, and she asked Mr. Prive to tell Mr. Landry to “call back

into the meeting.” He replied that he was doing so. After a few minutes, Ms. Jalette asked Mr. Prive what Mr. Landry’s “holdup” was. Mr. Prive said that Mr. Landry had communicated to him that he had pressed both \*9 and \*6, but that he had not been recognized. Mr. Prive had told him to call back into the meeting. Ms. Jalette replied that she had recognized him, and that she felt that this issue with Mr. Landry happened “frequently”. She then asked for his patience. After a few more minutes had passed, Ms. Jalette asked Mr. Prive if he had received any updates from Mr. Landry. Mr. Prive replied that Mr. Landry was “calling back in now”. He then said that there were two numbers listed on the agenda, and he was “not sure if one has more difficulties than the other at times”. He said that he believed Mr. Landry had called the “888 number”. After a while longer, Mr. Lamphere asked the Chairman if he could “interject here in this interludes”. Mr. DiOrio replied that he could. Mr. Lamphere began to speak, “in the interest of saving some time”, and started to ask Mr. Prive a question, when Ms. Jalette interjected that Mr. Landry had “just joined the meeting.” Ms. Jalette asked Mr. Landry to press \*6, and then state his name for the record. Mr. Landry said that he had tried that, and that he “could not be heard for some reason.” Ms. Jalette responded.

Ms. Jalette: “Yeah, you have to press the \*9, and then \*6. So, the \*9 indicates that you are in the audience. That ‘raises’ your hand. Then, I can unmute you, or request that you unmute yourself, and then you press \*6. So, it’s two separate functions. So, do one, and then the other – just for future reference.”

Mr. Landry: “I did both of those, but I’m not complaining. I’m just happy to be connected at this point.”

Ms. Jalette then told Mr. Landry that he could “go ahead” with his presentation. He then began.

Mr. Landry said that he was “not sure if all of the Board members were participating the last time [the applicant] had an update meeting on this”, so he was “going to provide a very, very brief context” for “where” the applicant had been, and “why” they were before the Board. He continued.

Mr. Landry: “The project was approved ten years ago, uh, in December of 2010 – a Master Plan approval, uh, on a project that sought three hundred units, but was approved for less than that, based on a, a formula, that was in the decision. It was left up to the applicant to design the project to meet the lower density, which is one hundred and forty units. Uh, we followed the same design parameters, but turned a three-hundred-unit project on three hundred and fifty-eight acres into a one-hundred-and-forty-unit project, and this is the second of two calls that we’ve had with the Board, uh, in recent months, as we prepare our Preliminary Plan, uh, uh, submission, to get some feedback from, uh, the Board with respect to their preferences on this design. It’s not every day that a Preliminary – it’s almost never that a Preliminary Plan comes in – that the Board hasn’t really seen before, in the context of the Master Plan submission, but it was a, uh, feature of that Master Plan approval – that this would happen, and it had happened, and we appreciate this second opportunity for some advanced input. The last time, we did this with respect to, uh, community septic, uh, issues. It was, very – the input that we received

was, uh, very helpful, so, this one here relates to the distribution of the affordable units within the development, and how that will occur. Uh, we're required to have twenty-five percent of our one hundred and forty affordable units – that's thirty-five units – uh, be deed restricted to households of low- or moderate-income, uh, and we have a couple of, several different ways to do that. Now, I want to tell you that we have been preparing our Preliminary Plan submission over the past several months, and we have prepared it, uh, in a way that it's almost imminent for its submission, and we've done it in a way, uh, in which the key, uh, design elements would accommodate any one of the alternatives for distributing the affordable units. So, we're not, uh, here to, uh, advocate or stress, uh, a preference, for any one of these features, for any one of these alternatives, uh, but, are really looking for the Board's, uh, input, and I know this is a little bit difficult, because we don't have the ability to share, in real time, the four drawings, uh, that we submitted to the Board, with the alternatives. Uh, they are in the meeting packet, and are available, uh, online, but, I'll have to do my, my best to very succinctly describe the, the four different alternatives that we have, uh, presented. Uh, the first one, our, our Option Number A is very simple. We would have one hundred and forty single-family lots, that meet the design requirement, and one hundred and five of those single-family lots are, uh, single-family, uh, dwellings, are our market rate, single-family dwellings, and the other thirty-five are deed restricted, low- or moderate-income housing, single-family dwellings. One lot, one single-family dwelling on the lot. Uh, the second alternative, uh, would have some of the affordable, uh, units consist of accessory apartments, to a principal, single-family residential use. This would permit fewer lots. There would actually be two-dwellings on each of the lots – one of them, a single-family dwelling, the other – an attached or detached accessory, uh, rental, uh, apartment, with one bedroom. Uh, that feature, uh, would provide for more open space in the development, less infrastructure, uh, and, perhaps, add to the housing options available to Hopkinton, uh, residents, and a more diverse, uh, housing stock. So, that one – you'd have one hundred and five lots. Each one would have a single-family dwelling on it, and then, thirty-five of the lots would have attached, uh, one bedroom apartments, uh, that would be deed restricted, um, the whole lot would be deed restricted, so that the use of those accessory apartments could only be by quality – uh, qualified – low- or moderate-income households, enforced by a monitoring agent. Uh, the third option is kind of a mixture of the first two – the affordable, the thirty-five affordable units would be, uh, some of them would be single-family homes on their own lots, and some of them would be, uh, accessory apartments that share a lot with a, uh, with a market rate single-family home, and that option, that sort of hybrid option calls – would have one hundred and twenty-two lots to the development, uh, plus seventeen more single-family lots, with single-family, uh, houses on them, and those would be deed restricted for households of low- or moderate-income housing, and then, another eighteen, uh, of the affordable units would be associated with houses, single-family houses, uh, that have, uh, that would also have the accessory apartment feature in the way I described earlier. Again, uh, saves on open space – not as much as, uh, Option B, uh, but, but has more single-family homes, being used, uh, for affordable and fewer of this alternative for, uh, for apartments. And then, finally, the last option would include, uh, one hundred and five single-family, uh, market rate lots, but, toward the entrance to the development, there would also be, uh, a series of apartment buildings – nine, four-plex units, uh, that would be units for low- and moderate-income

deed restricted housing, uh, that would, again, you know, permit, uh, a more compact development. It would actually push the development back a little bit, the entrance, from the entrance. It would require more infrastructure than the other options, but that was one that was suggested by, uh, someone within the, the Town administration, as something else to possibly consider. So, those are the four alternatives we have. Again, we're, we're not laying on the railroad tracks here, as to any, uh, any one of them. Some are obviously more expensive than others, but that's not a consideration for purposes of this, of this process, uh, so, unless, you know, you have any further questions, we're, we're interested in having your comment. We have Eric Prive, of DiPrete Engineering – is available to provide any, any additional, you know, technical questions that, that you might have, um, and, of course, I'm happy to answer any questions you might have as well."

Mr. DiOrio thanked Mr. Landry for his explanation, and asked to start with questions and comments from the Planning Board. He said he did not mind "leading off", and he began.

Mr. DiOrio: "For me, it would be Option A. Uh, Option D fails immediately on its inability to distribute the affordable housing discreetly throughout the project, which was an important consideration for the Planning Board upon the approval. Options B and C, uh, I gotta be candid. I have asked for information as to how this mechanism would actually work since it was first proposed. To the best of my knowledge, I have never received anything, so, I can only, therefore, go with my gut instinct, which tells me that this approach is nothing but a nightmare waiting to happen. So, I can't, in good conscience, endorse B or C. So, very simply, that's my rationale. Uh, I would just, uh, issue this cautionary language: that there were a set of conditions attached to this approval. They have withstood, uh, SHAB [State Housing Appeals Board]. They've withstood the Courts. These are the conditions that I believe should apply to the project, without deviation. My two cents."

He then asked for input from the rest of the Planning Board. Mr. Prellwitz spoke first.

Mr. Prellwitz: "Ron [Prellwitz] here. I have to agree with our Chairman. Uh, Option A, in my opinion, is the only one that's looked like, looks like, it could be workable. Again, my thoughts on B are the same as Al [DiOrio]. It doesn't seem like it's gonna actually come to fruition in any way, and if you combine A and B to get C, you're just kind of shooting yourself in the foot, so, I would have to agree with our Chairman, that I go along with Option A, but, not the other three. That's all."

Ms. Shumchenia spoke next.

Ms. Shumchenia: "I concur. I, uh, see that Option A is really the only option that's consistent with the Master Plan that was approved in 2010. Um, Option B and C, because they each include one bedroom apartments, are not consistent with that Master Plan, which dictates single-family houses, um, and, Option D, uh, as Al [DiOrio] mentioned, um, because of the affordable units, the apartments, are clustered in the entrance, or anywhere really, um, in the development, it actually makes that Option completely inconsistent with the Hopkinton Inclusionary Zoning Ordinance. So, it's more than just

the Planning Board's preference – it's the Ordinance that state they have to be integrated throughout a development, so, that one is a complete non-starter, um, I think, as else, as Al [DiOrio] mentioned, and I rely on the Master Plan that was approved in its entirety for my basis of rejecting Options B and C.”

Ms. Light spoke after Ms. Shumchenia.

Ms. Light: “I'd like to point out to our applicants that we do have an Ordinance that specifically speaks to accessory dwelling units – Chapter 151. Uh, the units that are being proposed as apartments, um, have a lot of requirements tied to them, but, as far as our Ordinance is concerned, uh, those units cannot be made available to anybody but a blood relative, so, uh, any accessory, unit, proposed in any of these plans are – they don't meet that requirement. Um, I have, in front of me, a small plan, dated 9/30/2019 – excuse me, 9/30/2009, and, uh, if it weren't a micro version, it would be a lot easier to understand the, uh, mapping that the approved Master Plan requires. So, I can't – while I agree Option A mirrors, very much closely, what the Master Plan is asking for, I can't agree that it is completely representative of the plans that were approved back in 2010. Uh, so, I, I, I take issue with that. I, I think that, um, we deserve a lot more detail than what's been provided to us, but, if I had to agree with the direction this would be going in, I would say Option A would be my preference as well. I do have a concern with the amount of time that has passed since Master Plan approval, uh, to where we are today, and it has to do with the actual potable water. Um, we experienced a drought condition in our, uh, community over the last year. Since Master Pan-, Plan, approval, there has been development around this particular area, that would be infringing on the aquifer and the water flow. Uh, I would like to have that element of this project revisited by a professional, because I'm not confident that, in today's conditions, that the, uh, approvals that were granted back then would be applicable today. Our community has issues with water, and, over the last ten years, that has changed, so, I would like to know that the developed community will be protected, and I would like to know that the abutters in the community – their water flow, uh, the, uh, I would like just verification that all of this is still intact, and that this large development will be able to support itself and the abutters. Uh, at this point, I don't have any additional comments.”

Mr. DiOrio thanked Ms. Light for her comments. Mr. Lindelow then made some comments.

Mr. Lindelow: “Uh, Keith [Lindelow] here. I haven't chimed in yet, but I'm gonna follow your lead, Al [DiOrio], and agree with [you] - Option A is the best, and, uh, and Carol [Light], and you hit the nail on the head there, about pre-existing conditions, and can they still be met, so, thank you for voicing that.”

Mr. Pennypacker spoke next.

Mr. Pennypacker: “I have, um, I guess, two observations. Uh, the first is: without knowing where and how large the, the wellheads, and the, uh, leech field infrastructure, um, needs to be, I'm, I'm having a hard time really getting a sense of how things go, and

I'm also cognizant of the, the second, uh, the, the second restriction on the 2010 decision, that was specific to minimize, uh, how many lots about Arcadia [Management Area], um, so, I agree with what the other members are saying – that A through C, uh, don't meet the plans, but, I, I'm concerned that D is also stacking up a lot of lots of – as close to Arcadia [Management Area] as possible, so, I've – that's my thoughts."

Mr. DiOrio thanked Mr. Pennypacker for his thoughts, and then asked to "move around the room" for comments from others. He asked Ms. Hogan if she had anything to add, and she replied that she did not have any comments at that time. He then asked Mr. Lamphere if he had any comments. Mr. Lamphere also replied that he did not have anything to add. Mr. DiOrio then asked if Ms. O'Leary had any comments.

Ms. O'Leary said that Mr. Pennypacker had brought up a "very, very interesting point about the distance from the border of Arcadia [Management Area]" to the proposed house lots. She mentioned that "that is an area that's hunted", and that she thought that the distance needed from residential homes for hunting was "five hundred feet". She thought that she saw a notation on the plan that only read "four hundred" feet. She also said that the "well issue is an important one." She continued.

Ms. O'Leary: "There are houses in my neighborhood, in Pleasant View, who have had to redrill a well, so, having an expert look at that would be extremely reassuring, and I'd hate to see any families move into that large neighborhood, and not have water."

Mr. DiOrio thanked Ms. O'Leary for her comments. He said that he had looked at the plans, and asked Mr. Prive to "square [him] away", as he thought that the "four hundred" mark was "an errant contour ID." Mr. Prive replied that Mr. DiOrio was correct – that "that four hundred is the label of the contour in that area – that is not a dimension between the lots and the property line." Mr. DiOrio thanked Mr. Prive for his response. He then asked if there were any members of the public who wanted to weigh in. Ms. Jalette stated that if a member of the public wanted to comment, they would have to press \*9.

The first person to call in was Carol Desrosiers. She said that she wanted to thank Ms. Light "for bringing up the concern about the wells." She explained that over the summer, her own well had had issues due to the "dry conditions". She said that her household had run low "several times", and that they "had to curtail [their] water usage". She said that she was "hopeful that there could be some sort of protection put in place for, um, the existing homeowners if these community wells should have an impact" on the abutters. She said that that has been one of her "worries" about the project.

The next person to call in was Sherri Aharonian, of Dye Hill Road. She said that she also wanted to thank Ms. Light for drawing attention to the "concerns, um, about the water usage, um, and the effect on – the potential effect on abutters". She also thanked the Board for proposing that an expert would "validate" that "no abutter's water will be affected by this, um, project." Ms. Aharonian then wanted to ask the Board a question, but she was not sure if it was the right time to ask. She said that there are "many, many

conditions” to the Master Plan approval, and that the most recent map that she had was dated 9/30/2019. She said that “according to the scale” on the map, “there is a three-hundred-and-fifty-foot buffer, um, from the project to [her] property line, which was agreed upon by Chris Duhamel, who was the engineer at the time, ten years ago, for this particular project”. She wanted to “ensure that that three hundred and fifty, no-cut buffer remains”. She said that “although it’s on the map”, she said that she “would like it built into the verbiage of any decisions, if that’s possible, by the Board, just so that it’s in two places”. She wanted to know if that could be done. Mr. DiOrio thanked Ms. Aharonian for her comments.

The next person to speak before the Board was Eric Bibler, of Woodville Road. He began by stating that he was “not thoroughly familiar with all of the details of this” as it “was approved ten years ago.” He said that he was “at a loss to understand how an applicant, um, with a prior Master Plan approval can come back ten years later and ignore several important aspects of the Master Plan that was approved, except for the number of units, and propose four new plans.” He said that it seemed to him “that if the Planning Board, um, approved a Master Plan, and then there were a series of legal challenges that played out, and now is back in front of the Planning Board, as if time has stood still, and they want to pursue their Master Plan, they should be obligated to meet all of the provision, um, that were agreed to in the previous, in the prior Master Plan approval.” He said that those in attendance had “heard on and off, various things like road and bridge, uh, improvements, you know, road needing to be widened and a bridge rebuilt”, and that the original plan had “called for a community septic, and this plan may show individual septic”. He said that there were “a number of issues like that”, and it seemed like the project was “kind of proceeding as if it has a blank check”. He said that he “never understood how it could go forward and present to the Planning Board four completely new plans, and offer them up as a choice”. He said that he did not think that “any one of the four actually, uh, conforms to the Master Plan that was originally approved.” Mr. Bibler then said again that he did not “fully understand the process”, but that he found it “extremely concerning that these, um, concerns that were raised by the Planning Board ten years ago”. He said that there was “only one person on the Planning Board” today who had sat on the Board then, and that those “concerns were raised and addressed, and now they’re, they’re just sort of being shunted to the side”. He said that the thought that “the applicant ought to be obligated to, uh, to meet those, uh, requirements.” Mr. DiOrio thanked Mr. Bibler for his comments, and responded.

Mr. DiOrio: “Eric [Bibler], I think I just made it pretty clear that - at least, in my opinion – every condition that was initially set forth in the Master Plan approval is going to be honored. I, I don’t know how you could have been left with the impression that conditions are being tossed off to the side. Now, admittedly, there are some quirks about this application – I think Mr. Landry actually answered your question, with regards to the configuration, early on, uh, but I just want to focus on the conditions of the Master Plan. Uh, they’re in writing. They’ve stood the test of time. As far as I’m concerned, that’s what’s going to get done if this project wants to be approved. So, for whatever that’s worth – anyone else in the audience?”

Ms. Jalette replied that Mr. Bibler wanted to respond. Mr. DiOrio replied that if there were not any other members of the public who wanted to comment, Mr. Bibler could proceed. Ms. Jalette replied that there were not any other 'hands raised', so Mr. Bibler spoke before the Board again. He wanted to thank Mr. DiOrio, as he did not "fully understand" the discussion, and that he "appreciate[d]" his clarification. He said that he had just been "going by some of the plans" that were available. Mr. DiOrio thanked Mr. Bibler again, and asked Ms. Jalette if there were any other people who wanted to weigh in. She said that there were not. Mr. DiOrio reiterated that there were not any other people who wanted to comment on the project, and that the Board had "already agreed it's not quite a pre-application", but a "pre-Preliminary". He said that, "as a result", he did not "think that there" was an action or vote to be taken by the Board. He asked Ms. Hogan for confirmation.

At first, Ms. Hogan said that she was muted, but, as she could be heard on the Zoom call, Ms. Jalette replied that she was not. Ms. Hogan reported that the platform told her that she was unable to unmute herself as she had been muted by the host. Ms. Jalette explained that that was a "function of Zoom – so that people in the public can't just unmute themselves." She said that that had "been, um, a running problem with Zoom meetings on the municipal level, where people will just enter and then start saying random things or playing videos". She said that that was why the Board "mute[s] all participants, and then [she would] unmute them." She also said that if a Board member muted themselves, they would not be able to unmute themselves after, unless she gave them "the ability to do so." Ms. Jalette explained that she wanted to give a little background as to why that was taking place. Ms. Hogan replied that that explained the situation. Mr. DiOrio, Ms. Hogan, and Ms. Jalette laughed. She continued, and said that she had now "lost track", and asked Mr. DiOrio what the question had been. Ms. Jalette laughed and apologized for the confusion. Mr. DiOrio laughed, and said that that was "pretty interesting" before returning to the issue at hand.

Mr. DiOrio asked Ms. Hogan if the Board, "given the, the format of this application" which was "not quite a pre-application", but had been defined as a "pre-Preliminary" stage, was required to take "formal action". Ms. Hogan replied that they were not required to do so, and, moreover, they did not have the "authority to take any formal action because it is not in an application status", and the applicant had not "asked for anything yet." She continued.

Ms. Hogan: "This is just a discussion."

Mr. DiOrio then asked the applicant if they had what they needed to move forward. Mr. Landry replied in the affirmative, and thanked Mr. DiOrio. Mr. DiOrio replied that he thought that that "conclude[d] business on this particular application."

## **NEW BUSINESS:**

### **Planning Board Election of Officers: Chair, Vice Chair, and Secretary.**

Mr. DiOrio began by explaining that he would “continue to accept the slate of candidates.”

MR. PRELLWITZ NOMINATED MR. DIORIO FOR THE CHAIRMAN. THIS WAS SECONDED BY MR. LINDELOW.

Mr. DiOrio replied that he “certainly appreciate[d] that”. He then asked if “someone want[ed] to put forth an entire slate”, or if they were “going to do this one by one”. Ms. Light said that they should go with the slate.

MS. LIGHT NOMINATED MR. PRELLWITZ FOR VICE CHAIR.

MR. LINDELOW NOMINATED MS. SHUMCHENIA FOR VICE CHAIR.

Mr. DiOrio replied that there was “nothing wrong with two Vice Chairs”, and that the Board did not “really have a Secretary.” He said that he had seen it on the agenda, and said that that was “not a position that has value here.” Ms. Jalette explained that in the past, the Board had voted to appoint a Secretary, and that that post was most recently held by Ms. Light. She said that her understanding was that the role of the Secretary would have “a lot of the same functions that” she did, so it did not “seem necessary to duplicate that”. She said that she “included it because it had been done in the past”. She said that she did not know if the Board needed to have a Secretary, “like, if it’s a requirement, um, to have someone fulfill that title”. Mr. DiOrio replied that “that could be a great legal question”, and asked Ms. Hogan what she thought. She replied that there was “no legal requirement for that.” She explained that the Board did “not have Rules of Procedure to the best of [her] knowledge”, so the Board could “organize itself in the absence of those Rules of Procedure”. Both Mr. DiOrio and Ms. Jalette thanked Ms. Hogan for her comments. Mr. DiOrio then said that he had heard a nomination for two Vice Chairs, and he reiterated that he did not “have a problem with that”, and that, in fact, he thought it was a “good idea.” Ms. Jalette asked Mr. DiOrio “who would preside” over the meeting “in the event that [he would] recuse.” Mr. DiOrio replied that he was “pretty sure” that the Board was “all grown up”, and that they “could probably work that out”, but that it was an “interesting question.”

Mr. DiOrio then stated that he had a slate of nominations, but he wasn’t “quite sure how” to proceed. Ms. Hogan explained that the nominations would need to be seconded.

MS. LIGHT SECONDED THE SLATE OF MR. DIORIO AS CHAIRMAN, AND MR. PRELLWITZ AND MS. SHUMCHENIA AS VICE CHAIRS.

IN FAVOR: DIORIO, PRELLWITZ, LIGHT, LINDELOW, SHUMCHENIA

ABSTAIN: NONE

OPPOSED: NONE

5-0, MOTION PASSED.

Mr. DiOrio thanked the Board, and said that he “appreciate [d the Board’s] confidence”, and that he would “continue to do [his] best”.

### **Planning Board - Set Time, Date, and Location of Board Meetings.**

Mr. DiOrio began by stating that he didn’t think that he had seen this on an agenda before, so he thought that it “must be a formality.” Ms. Jalette explained that this was “something that [she] found in [the Department’s] files”, and that the Board was “empowered to change the day, and the time, and the location” of their meetings, though she didn’t think that the Board would necessarily change the location.

Ms. Jalette: “I don’t think that we would change the location, but we could change the day and the time. It really is up to the Board. Um, I know that this has been the long-standing date, and, well, day of the week, and time, but I think it’s been different in the past. Um, I’m not quite sure which days it was on previously, but I’ve read past minutes from many years ago, where it’s been on a different day of the week.”

Mr. DiOrio replied that that was “interesting”, and that the changes would have “more to do with the availability of the facility than anything else”. He asked that if there had “been a conflict over time” in regard to the days and times, that someone would let him know. He said that the Board “can entertain a change”, but, “otherwise, [he’d] be looking for a motion to keep it on the first Wednesday of the month at seven o’clock”. Mr. Prellwitz and Ms. Light started to speak at the same time, but Mr. Prellwitz deferred to Ms. Light.

**MS. LIGHT MADE A MOTION THAT THE BOARD RETAIN THE MEETING DATE AND TIME: FIRST WEDNESDAY EVERY MONTH AT SEVEN O’CLOCK P.M. THIS WAS SECONDED BY MR. LINDELOW.**

**IN FAVOR: DIORIO, PRELLWITZ, LINDELOW, LIGHT, SHUMCHENIA  
ABSTAIN: NONE  
OPPOSED: NONE**

**5-0, THE MOTION PASSED.**

Here, Ms. Hogan asked if she “could jump in for one quick second.” She said that one of the reasons why these discussions were on the agenda was because the Open Meetings law “requires all public entities to post their meetings for the year, um, in the, in this month”. She said that she was “virtually positive” that that was why it was on the agenda. Mr. DiOrio thanked Ms. Hogan for “covering that for” the Board.

Ms. Jalette then said that Mr. Pennypacker wanted to weigh in. He said that he wanted to know if the Google Invite could be changed to reflect that the Board was meeting digitally, and provide the “technical connection information in the actual invite”. He said that he thought that “many others subscribe to” that Invite system. Ms. Hogan replied that that information was “certainly on the agenda that’s posted”, as that was how she entered

the meeting. Mr. Pennypacker replied that it was in the agenda, but he was referring to the functionality of the Google Calendar platform, which he subscribes to. He said that he did not know if that was something that could be done, and that it was a “minor inconvenience”, but he wanted to know if that had to be done to “satisfy the requirements of the Open Meetings Act.” Ms. Jalette replied that she did not know if she had the ability to do that, as it “might be something that our IT personnel, Chris Schieb, would do”, but that she would ask him “if that’s something that we can change”. She reiterated the point Ms. Hogan had raised, which was that the instructions and directives were included in the agenda, and that “usually, people will look at our agenda before they decide to come to a meeting, but that’s not always the case”. She said that she understood his concern, and that she was going to “see if there’s something that maybe we can do about that – so that it shows in that alert that it’s, uh, a virtual meeting.” She repeated that she was not sure “if that’s actually something that we can accomplish”, but she would “give it a shot”. Ms. Hogan said that “in the absence of” that kind of change, Mr. Pennypack could be “assured that [the Board’s] agendas are compliant” with the Open Meetings Act. Ms. Jalette stated that she posted them. Mr. DiOrio thanked Mr. Pennypacker for his comment, and moved on to the next item on the agenda.

**Pre-Application - Major Land Development Project – Photovoltaic Solar Energy System – Comolli Solar – AP 2, Lot 73 – 0 Chase Hill Road, Unit 2. Centrica Business Solutions, applicant.**

Mr. DiOrio explained that he was going to recuse himself, as his firm had “performed surveying services for this applicant in the past”, though he was “not involved in any aspect of this project and/or application.” He then asked Mr. Prellwitz to take over as Chair. Ms. Jalette stated that she accepted Mr. DiOrio’s recusal.

Mr. Prellwitz began by explaining that what was before the Board was a Pre-Application for a Major Land Development project. He then asked if the applicant had anything that they wanted to “bring forward at this point.” Joelle Rocha, the attorney for the applicant, appeared before the Board with Jason Gold, the project engineer. Mr. Lamphere quickly interjected before Ms. Rocha’s presentation got underway. He explained that as Mr. DiOrio had recused, Mr. Pennypacker, the Planning Board alternate, could be moved up to serve as a sitting member, “such that he can hear this, and, and potentially vote on this at some point in time.” Ms. Hogan said that that was correct, and that that would be what would happen. Ms. Jalette told Mr. Pennypacker that he was “on”. She then told Ms. Rocha that she could continue with her presentation, and apologized for the interruption. She continued.

Ms. Rocha: “So, this – many of you, uh, probably recall this application before, uh, the Board for a recommendation on the zone change back in September. Um, this, uh, property is thirty-nines acres of, uh, the full property, thirty-nine acres of forested land with some cleared areas. Um, it’s a former junkyard, uh, most recent use portion of the site was a quarry. Um, this Board, as well as the Council and the Wood-Pawcatuck Wild and Scenic Rivers Stewardship Council, provided some good comments, concerns, and feedback, and we actually can – reconfigured part of the proposed array, um, taking it

further away from both the Pawcatuck River and the Polly Coon Bridge. Uh, the Council approved the zone change in November, with seventeen very detailed conditions. Uh, some of the conditions are with respect to coverage amounts for lot coverage, and some are with respect to the conservation easement, which is to be deeded, post-decommissioning, of this project. We're here tonight, uh, simply for Pre-Application, uh, to show you the design, the updated design, get some constructive feedback with respect to the design features, so we can prepare for, and submit, Master Plan. Um, two things I just want to say up front - we, we won't be, um, unless the Board so chooses, getting into the weeds on tonight are the following: um, yesterday, I received a copy of the letter from the Land Trust, um, with their input with regard to a few conditions of the zone change. Um, we intend on communicating directly, um, we're - we're still digesting that, and, um, we're, we're gonna communicate directly with the Land Trust, um, in the next couple weeks, and respond to their letter offline, um, and see if we can work towards implementation of the Council's conditions, uh, which, which were, with respect to the Reforestation Plan, and the conservation easement itself. Um, I can certainly loop in your new Solicitor, uh, with the draft of the conservation easement when, uh, we get to that point. Um, second, this, late this afternoon, I received a copy of Mr. Bibler's letter, which, were purports to make several legal arguments, most of which were addressed by both myself and the previous Solicitor, on the record, at the Council meetings, uh, for the zone change. Some of the issues are actually also addressed in the zone change itself. Um, I don't believe there are any pending legal issues to address tonight, but I would be happy to address or discuss any questions this Board or your Solicitor has. If not, um, I have our project engineer here, to provide an overview of the design, and open a conversation with you all, with respect to any questions or concerns you have, so we can take a look at them, and move further along in this process."

Mr. Prellwitz thanked Ms. Rocha for her introduction, and asked if "Mr. Gold [would] like to weigh in at this point", or if the applicant would prefer to "have questions [from the Board] first." Ms. Jalette told Ms. Rocha that that was directed to her and her team. Ms. Rocha responded that if the Board didn't "have any specific questions, right now", it would be their "preference." She explained that they could "present the design, and then deal with all the questions or comments", and that it was "entirely up" to the Board. Mr. Prellwitz responded.

Mr. Prellwitz: "Okay. I'll start off here, with one quick question. Do we have any documentation from the DEM [Department of Environmental Management] about the condition of the property?"

Ms. Rocha: "Sure. So, um, they're - DEM [Department of Environmental Management] is not yet involved. We'll be submitting to them with respect to the wetlands and storm water. Um, at, at that time, um, they'll take a look at the, the, the features of the property. Um, the DEM [Department of Environmental Management] doesn't have an active file at this site. Um, there was - years ago, which is in the Town records, um, a Notice of Violation issued, only with respect to the, um, junkyard itself, for storage of too many, um, tires and the like, um, that file does not include any releases of any, uh, material that needed to be remediated. It was simply a, uh, remove certain things from the property.

So, um, there is nothing active, um, and no active DEM [Department of Environmental Management] remediation file on this site.”

Mr. Prellwitz: “Now, if I could throw my own two cents worth in there – I’m very familiar with this property. I’ve lived in this Town for sixty-nine years. There’s stuff on that property, or in that ground, from the cars and the junk that was done there, that, uh, the DEM [Department of Environmental Management] may want to look at. They may have some conditions that need to be met. They may give it a blessing, and say, ‘Go ahead’, but I think they should be, at least, questioned on this. If they’re happy with -”

Ms. Rocha: “Right.”

Mr. Prellwitz: “The way things are or not. Go ahead.”

Ms. Rocha: “Right. So, um, this, this came up be-, before, um, and the condition – there is a condition on the zone change that, um, we do whatever the DEM [Department of Environmental Management] basically requires of us at this site – if, if anything – um, for, the solar use itself. So, um, they will – I’m confident that, as soon as they get the applications, um, at this property, they’ll, they’ll give whoever needs to look at it over at DEM [Department of Environmental Management], um, it’s been a long process with these applications lately. Uh, they’re pretty backed up, so, uh, they’ll, they’ll be doing the thorough review, and the normal course, I would think.”

Mr. Prellwitz thanked Ms. Rocha for her response, and then asked if the Board had “any questions or comments.” Ms. Light spoke next.

Ms. Light: “I, I need to voice my concern. DEM [Department of Environmental Management] remediation of that property is the elephant in the room, and I’m disappointed that the developer and the attorney haven’t been proactive about talking to our community about the steps that they’re gonna be taking to remediate that property. It’s a big problem. I feel like the applicant is dismissive of that concern, and I’m not comfortable moving forward until there is an active file there, from DEM [Department of Environmental Management]. It’s not a small issue – it’s a major issue. We’ve got the Pawcatuck River at the other end. We’ve got over fifty years of junkyard. It, it’s not appropriate to be dismissive of that, and assume, or, or present it, like it’s a small matter. If that matter isn’t addressed, it’s going to impact your ability, financially, to move forward with this project. There are remediation grants out there – all kinds of support for it, so, from a developer’s perspective, I don’t understand why you wouldn’t proactively address that issue, and I’m opposed to moving forward until that major elephant, that big question, is acknowledged and answered.”

Ms. Rocha: “I, I appreciate your -”

Ms. Light: “And I’m sure DEM [Department of Environmental Management] feels the same way.

Ms. Rocha: “Okay. I appreciate your comments. We’re at Pre-Application on this project. I’m not dismissive of these hypothetical issues that may or may not be on the site. We’re aware of the history of the project. There’s been due diligence materials done. There will continue to be. This isn’t our first rodeo with projects. We know about financing contingencies. We know about all of that. Um, we will deal with the DEM [Department of Environmental Management], and the requirements they have for the use at the site. Um, when we go through that process – this is a Pre-Application for the project – we’re

looking for comments with respect to design. If you're opposed to the project from the outset - we haven't even presented it to you – that's fine, I understand your position, but, we're gonna move forward with comments on the design, and we'll deal with DEM [Department of Environmental Management] to the extent we need to. This is a solar project. This is not a residential proposal in front of you. It is a very different analysis, uh, with respect to the DEM [Department of Environmental Management] process. We will do what we need to do, as is required for our zone change. Thank you."

Ms. Light thanked Ms. Rocha, and said that she was "confident that [the applicant] will move forward in the right direction with DEM [Department of Environmental Management]." She continued.

Ms. Light: "Here's another question. One of the co-, conditions that the Town Council placed on this property was that the, um, quarry cease the operation immediately, and, in the letter we received from ESS, it states that this is an active quarry. So -"

Ms. Rocha: "Right. Right."

Ms. Light: "So, I'm looking for some confidence in the things that you're telling us. I, I, I'm asking you to validate these things, so, where are -"

Ms. Rocha: "Understood. That is a very fair comment. I didn't pick that up - we didn't – I didn't pick that up on the narrative material, so I apologize for that. You're correct. As part of the condition, uh, for the zone change, was to abandon, um, the quarry use, and that, that is what we stand by."

Ms. Light: "Has it been abandoned? Because it was effective immediately."

Ms. Rocha: "Uh, I – it hadn't been used in, in some time – in a couple months. Um, I think George Comolli may be on the line, and he could probably answer that. It is my understanding that that's a yes, but I cannot, you know – I'm the attorney. Uh, I think he can appropriately give you the response on that."

Ms. Light: "Um, if – and, I would – I'm not a legal expert, but, it would be my understanding that the zone change can't move forward until we receive confirmation that the quarry activity has ceased, um, but that's not for – I don't know what direction that would go in, but if George [Comolli] wants to respond to that concern -"

Ms. Rocha: "Yep. Understood."

Ms. Jalette told Mr. Comolli that if he wanted to comment, he would have to press \*6, as he had already been recognized and pressed \*9. He spoke.

Mr. Comolli: "Uh, as far as abandoning the quarry – we will not abandon the quarry 'til we get approval for the solar project, but, we have not removed any stone, put any machinery down there since – I don't want to mislead anyone – I believe it was May of 2020."

Ms. Light: "That sounds inconsistent with – no, well, that sounds inconsistent with what we, we've heard at previous meetings? But the quarry operations are supposed to be abandoned, according to the conditions that were laid out by the Town Council. So, I would suggest that you guys revisit that, and, um, you know, support the rest of this application by following through on that recommendation by the Town. Thank you."

Mr. Comolli: “We most assuredly will follow through with the abandonment of the quarry. We’re not utilizing it, or have we since we’ve presented this petition.”

Mr. Prellwitz thanked Mr. Comolli for his comments, and asked if there were any other comments from the Planning Board. Ms. Shumchenia said that she had a question.

Ms. Shumchenia: “I have a question for – and this is probably directed at our Solicitor – um, so, the zone change applies to Unit 2 of this development, um, which is a condominium development, with three units. Um, this is a, uh, scheme unfamiliar to me, and it’s very uncommon in Town, so excuse my lack of knowledge on this. Um, the Unit 1, which provides the access to the Com-, the now Commercial Unit 2, is still a Residential, zoned Residential. Um, how does this function, um, where the road by which you would access this Commercial property, and the road, it’s included in this limit of disturbance, so, I assume this, this road is taking on a Commercial designation as well? It’s difficult for me to tell from the plans how this functions. Can, can we talk about that a little bit, and can you provide your opinion on how, how this might function from a, a zoning and land use perspective?”

Ms. Hogan replied that she could, but that she was “not prepared to address that this evening.” She continued.

Ms. Hogan: “I do not have a copy of the zone change, um, and, so I understand, based on the map that I’m looking at this evening, that what you’re saying is that the, the, uh, lot to the front was not included in the zone change? Is that what you’re suggesting?”

Ms. Rocha: “That’s correct.”

Ms. Shumchenia: “That’s my understanding – yeah, okay, thanks, Joelle [Rocha].”

Ms. Rocha: “That’s actually – yeah, so, I, I can add a little bit of clarity, and I can certainly provide, uh, your Solicitor with what was submitted, um, with respect to this issue, um, previously, and, um, the previous Solicitor did weigh in on this, um, issue, because it did come up at the, at the zone change before the Council, um, so, yet, the, the, lot, pursuant to the Zoning Enabling Act, is lot, is Condominium Unit 2, um, only, so that, that’s the only applicable zone change – was respect, with respect to Condominium Unit 2. Um, the roadway, in and of itself, and we went through this, so I’ll do this, I’m gonna tell you the same thing we said there, is - so, that roadway – so, these units are already Commercial, including the front one, um, so, the roadway services trucks, and so on and so forth for the front unit, as well, um, this is a unique, you know, set of property, that will probably, despite their zoning, uh, always remain Commercial, um, but that – there’s Commercial traffic now, coming through there, and there’ll be the construction vehicles, and then the, the very rare, uh, maintenance people, maintenance vehicles, fingers crossed.”

Ms. Hogan: “Attorney Rocha, did I, did I understand you to say that this front lot is Commercial?”

Ms. Rocha: “It’s Commercial in use, not zoning.”

Ms. Hogan: “It’s, so it’s a Residential -”

Ms. Rocha: “Pre-existing. Yeah -”

Ms. Hogan: “It’s zoned Residential.”

Ms. Rocha: "Correct."

Ms. Hogan: "With a pre-existing Commercial roadway to service the quarry?"

Ms. Rocha: "No, and the front lot – there's actually a Commercial use. It's a mixed use on the front lot as well, but it does -"

Ms. Hogan: "Yeah."

Ms. Rocha: "To service the junkyard previously, and the quarry, and the front lot."

Ms. Hogan: "Okay. Um, Mr. Chairman, I would like a little bit of time, just to be able to review the zone change, as I've said. Um, this is not a question that, um, I think I'm prepared to answer right at this very moment."

Mr. Prellwitz suggested that Ms. Hogan "buy a little bit of timing", and asked if she wanted "to come back" with a response, or if she would "just need a few minutes." Ms. Hogan replied that it would not be within a few minutes, and Mr. Prellwitz replied that that was "acceptable." He continued.

Mr. Prellwitz: "It's always best if everybody's got all the information you need to have, to deal with these things."

He then asked if there were any other members of the Board who wanted to weigh in.

Ms. Light responded. She told Ms. Hogan that she was "looking at this", and she thought "it would have to be in the form of some kind of a[n] easement". She then asked Ms. Hogan to let the Board "know what [the Board would] need to do." Mr. Pennypacker commented next. He said that he had a "similar question."

Mr. Pennypacker: "Again, you know, my first day was, uh, yesterday, so, I'm, I'm just catching up to this. I just kind of skimmed through the, uh, the zone change. What about Unit 3? Is, um, are we – I don't know how the condo thing works either, but I know that we're not permitted to create non-buildable lots, so, it's not a separate lot, but it looks like the road is going under the solar panels, so, will there, will that road reach Unit 3?"

Mr. Gold: "I can answer that question. Yeah, there's, um, it's kind of hard to see -"

Ms. Hogan: "Please identify yourself, please!"

Mr. Gold: "On this concept – I'm sorry. I'm sorry about that. Uh, yeah, this is Jason Gold, um, civil engineer with ESS Group. It's a little hard to see on those, on these concept plans, but there is access, um, maintained around the outside edge of the array, that will lead to Unit 3. So, it goes to the east -"

Mr. Pennypacker: "I'll make this -"

Mr. Gold: "Side."

Mr. Pennypacker: "Okay."

Mr. Gold: "Yeah, between the fence and the side yard."

Mr. Prellwitz: "So, looking at this map, that would be on the east side? Is that what you're saying?"

Mr. Gold: "Yes."

Mr. Prellwitz thanked Mr. Gold, and then asked if there were any other comments from the Board. Ms. Shumchenia replied that she had "one last thing".

Ms. Shumchenia: “Uh, not sure if it’s been alluded to, or directly stated, but, the Planning Board, um, in its September meeting, unanimously, uh, provided a recommendation, or an, uh, Advisory Opinion to the Town Council, that this rezone would be inconsistent with the Hop-, the Hopkinton Comprehensive Plan. Um, so, I just wanted to be forthcoming about that. It’s – it – I still believe that this is inconsistent with the Comprehensive Plan, um, and, the, the reasons we gave, related to, um, the Land Use Goals and Conservation Goals stated in the Plan, and I could enumerate them, um, but, you know, they’re in the meeting minutes for that September 2<sup>nd</sup> meeting. Um, the very minimal difference in the structure of this plan since we saw it last time in September – I don’t believe makes it, all of a sudden, consistent with the Comprehensive Plan, and I’ve stated that about other projects that have received zone changes from the previous Town Council as well. Um, I think, uh, a lot more is needed to be done to make it consistent with the Comprehensive Plan Land Use, Natural Resources, and Conservation Goals that we outlined in our Advisory Opinion in September, um, so, I just wanted to be very clear about that up front. Thanks.”

Ms. Rocha: “Thanks, and, and, I’m – that we’re very cognizant of, uh, of the determination in September. I just want to, um, be cautious of what, where we go with that, because, um, the use itself is allowed, um, because of the zone change, so, while I understand the Planning Board, uh, very thoroughly listed, um, all of the, all of the reasons why it thought it wasn’t consistent with the Comprehensive Plan, uh, the very passage of the, the zone change, um, means that the use itself is consistent, so, uh, we’ll be looking to address the other aspects of design, um, but, but, we’re not going to move forward to address the, the consistency of the use at that point, and that, I would defer to your Solicitor, um, on that. I’m not here to give you legal advice, but, um, I, I, will – our presentation’s going forward. We’ll focus on, on the design portion of it.”

Ms. Light asked if she could comment again. Mr. Prellwitz replied that she could comment again. She said that she wanted to “address the, um, setbacks.” She continued.

Ms. Light: “And – consistently, in our community, this Planning Board has insisted that the setbacks support the properties they are abutting. So, twenty-five feet doesn’t work for us. Um, it might work in the pretty pictures, because there is a lot of forest and trees around everything, but it doesn’t support the eventuality that those trees – those owners have rights to take down some of that, those trees, so, at the end of the day, I think the buffer zone, around the entire project, needs to be widened. Could you speak to that, please?”

Ms. Rocha: “Uh, I’d like to actually present the design, um, and then we can -”

Ms. Light: “Yeah. That’s a great idea.”

Ms. Rocha: “I don’t, I don’t – and, and, I don’t – I’d like to get your feedback on, on that type of stuff, but, you know, I don’t want to spend the evening going back and forth on stuff. I think we’ve got to, we’ve got to apply for Master Plan, and think about, and digest your comments, and then kind of move forward. We’ll certainly be back in front of you again on this.”

Ms. Light: “Okay. So, let’s talk about design, then? Why don’t you present, so that we can give you our input?”

Ms. Rocha: “Right – is that? Go ahead, Jason [Gold].”

Ms. Light: "Okay."

Ms. Rocha: "Yep."

Mr. Gold reintroduced himself to the Board, and explained that he is "a professional engineer with ESS Group." He said that the Board "should have the plans in front" of them, and that any person who wanted to view the presentation documents could do so by following the instructions included in the agenda. He continued.

Mr. Gold: "The plans that I'll be referring to are titled, uh, Comolli Solar Pre-App Plans 12-17-20. Uh, we already described the existing conditions, uh, back in September, so I won't spend any time going through that again, unless, um, any questions come up. So, the main sheets are Drawing C-1, which is the first sheet, and P-1, which is the fourth sheet. These are the concept plans, which are similar to what you've seen in September, but we did make, uh, some changes, which I will, um, review briefly. So, in summary, uh, just in case you don't remember from September, uh, it's a 3.4 megawatt, uh, DC, ground-mounted system, with access, as we've been talking about, along an existing, uh, gravel driveway that'll be improved, uh, from Chase Hill Road. So, since we presented in September, we've moved the eastern array, um, we actually eliminated the eastern array, and, uh, extended the western array south, uh, providing a much larger setback to the Polly Coon Bridge. It's now about nine hundred feet from the [Pawcatuck] River. We also significantly reduced, uh, the limits of disturbance in the clearing, and reduced the fence size slightly. Uh, limits of disturbance, and the total trees being, um, cut have been reduced by, uh, almost three acres since, uh, the previous plan presented in September. Uh, as a reminder, the setbacks from the property lines along the sides are, you know, several hundred feet, or a couple hundred feet. Um, in most areas, it's about five hundred feet from the north, or almost a thousand feet from Chase Hill Road, uh, about two hundred and sixty feet from the property to the west, and as I said, it's, uh, several hundred feet from the property line to the east, uh, the far east. The closest spot, uh, there is a twenty-five-foot yard, side yard setback, which is what's required, that is actually where setback is greater than that – we're beyond that twenty-five-foot side yard. The nearest residence is over six hundred feet away, uh, to the west. Looking at Drawing P-2, which is the fifth sheet – this is the exact same drawing that I presented, uh, back in September. Uh, no changes have been made to this. Uh, what this does, as a reminder, is it demonstrates that, due to the topography, the array is not visible from Chase Hill Road. What you're seeing in the bottom there is a Google Street View, um, looking down the driveway, which would be the most visible spot, as there's no trees along the driveway, and the profile above it shows the topography, and the sight line from, uh, high height, and, as you can see, that sight line gets blocked by the topography, so the array's not visible from Chase Hill Road. The next sheet is new, um, Drawing P-3, which is the last sheet in the set, and this is similar, only it's a view from Polly Coon Bridge. So, looking from the Bridge towards the array, um, similarly, the topography blocks the view from the Bridge, and that's not even counting the several hundred feet of trees to remain. So, that is, um, a very brief overview of things that have changed since September. Uh, future work that will be needed as this progresses, as, um, Joelle [Rocha] stated, this is the Pre-App stage, um, so as this progresses, the permit level design will be advanced, uh, based on your feedback tonight in a Master Plan, uh, as well as the noise study, preparation of

the decommissioning plan, the storm water report, the erosion control plan, and, of course, uh, RIDEM [Rhode Island Department of Environmental Management] permitting.”

Mr. Gold then said that he was “happy to take questions.” Mr. Prellwitz spoke first. He thanked Mr. Gold, and continued.

Mr. Prellwitz: “The only question I have is – it’s not a question, but it’s like, a request. On the twenty-five-foot yard setback on the eastern side, can you describe to us the property that belongs to Leslie and Margaret Wright? I’m thinking it goes uphill from where the array is, onto the Wright property. Am I correct in assuming that?”

Mr. Gold: “It goes – I’m sorry, my computer froze on me.”

Mr. Prellwitz: “You know, the natural lay of the land, from where the array is proposed, into the Wright property? I think the Wright property is at a higher elevation.”

Mr. Gold: “I don’t have the topography of that in front of me, um -”

Mr. Prellwitz: “Okay.”

Mr. Gold: “But, it – I believe it does. I-, i-, it slopes up that way, across the site, so I assume that it continues, and that area is, uh, it’s wooded, and, there are actually wetlands, not delineated, but you can tell from looking at some of the GIS maps, um, between the house and that lot that’s up near Chase Hill Road and the array, that’s all blocked by what appears to be, uh, streams and wetlands, so that area’s, uh, not likely developable.”

Mr. Comolli: “Would you like me to answer that question? George Comolli again.”

Mr. Prellwitz: “Yes, George [Comolli]. Go ahead.”

Mr. Comolli: “I walked that site numerous times, with several of the Councilors. As you go in an easterly direction, you go towards the [Pawcatuck] River, towards Polly Coon Bridge, it slopes downwards into a wetlands. As you go towards Chase Hill Road, and Michael Grills’s property, and the Wright property, it starts going uphill. It’s all vegetated and wet as you go in an easterly direction.”

Mr. Prellwitz: “Okay. Thank you, George.”

Mr. Comolli: “You’re welcome.”

Mr. Prellwitz: “That was the way I was remembering it, but it’s been a while since I’ve been on that part of the property.”

Mr. Prellwitz then said that he “would like a little direction” from Mr. Lamphere on where the Board would “go from here.” Mr. Prellwitz said that he was “thinking comments from the general public.” Mr. Lamphere replied that Mr. Prellwitz could “go in any direction [he felt] comfortable going in at this point.” He continued.

Mr. Lamphere: “We’re at the Pre-Application. Basically, this meeting here tonight is just for an exchange of information between the Planning Board and the developer. If you choose to open it up for public comment, that’s your choice to make. Um, that’s it.”

Mr. Prellwitz thanked Mr. Lamphere for his answer, and then asked Ms. Jalette if there were any members of the public who wanted to comment. She replied that there were.

Mr. Prellwitz said that the Board would hear what the public had to say, and then they would “move on from there.”

The first person to comment was Eric Bibler, of Woodville Road. He said that he had “sent a letter to the Planning Board” that afternoon, and that he “imagine[d] several” of the Board members “may not have even had a chance to read it”, so he was “not looking for any answers or comments this evening.” He continued.

Mr. Bibler: “It was a pretty simple request. I, I raised a number of legal issues, that are of, uh, great concern. They’ve actually been issues of ongoing concern, with other projects, uh, but especially this one, most recently. Um, I made a simple request that the, uh, Town Planner not, um, certify that the Master Plan application is complete, and that the Planning Board not grant any approval to the project until your Solicitor is able to review these questions, and advise you on them. I’m aware that the Counsel for the applicant has been dismissive of these concerns in the past, but, um, I think the Planning Board really needs to, um, obtain the opinion of the Planning Board Solicitor, uh, to advise them on these questions. I think they’re pretty important. Um, one question I will highlight is that, um, I think, as Emily [Shumchenia] said, um, this is an unusual property. Um, there’s one large property, that’s divided into three land condominiums. Um, the property itself, the larger property is zoned Residential, and this project had proposed to split zone the, um, larger property into, um, split zone Unit 2, as Commercial property, and, um, have the remaining two units, land condominium units remain Residential. Um, I don’t believe, based on advice that’s been provided to me, or, at least, I’m not confident that, uh, that a land condominium, uh, const-, the establishment of land condominiums, uh, constitutes a subdivision of the property, and I do not believe that you can have a, uh, re-zoning of a unit without subdividing the property. You can’t subdivide the property without approval of the Planning Board, so, um, I would just like the Planning Board to, uh, I don’t think any of us are experts in this, but I would like the Planning Board, uh, to ask their Solicitor to, um, give them a determination on that point, and the other points that I raised. Um, and I would also, uh, beg you to, uh, ask your Solicitor to share her determinations on these points, with the public. Sometimes, we ask these questions in hearings. Uh, we’d like to have answers, um, in the past, there have been instances where the Town Solicitor refused to address the question in public, and then wrote a memo to the, uh, Town Council, or some other Board, and then didn’t share it with the public, so, none of us was, you know, was educated on the point, so I think if, if, if a memo’s going to be written, and the point’s gonna be addressed, um, and defended, then I think that it should be shared with the public, so that we all understand what the, uh, rules of the game are. Thank you very much.”

Mr. Prellwitz thanked Mr. Bibler for his comments, and asked if there were any other members of the public who wanted to be heard. She said that there were not, but that she would “ask again.” She replied that she did not see “any hands”. Mr. Prellwitz thanked Ms. Jalette, and asked the Town Planner if the Board needed “a motion on this”, or if they would “just send this off to the next step.” Mr. Lamphere replied.

Mr. Lamphere: “Mr. Chairman, no votes are taken in a Pre-Application meeting. You can – if you’re done with this, you can send it on to the next step, which is the Master Plan submission.”

Mr. Prellwitz thanked Mr. Lamphere. Ms. Light asked if she could “chime in, please.” Mr. Prellwitz replied that she could. She spoke.

Ms. Light: “Regarding the setbacks, um, I, I’d like to bring that back, and I’d like to ask our developer, our engineers, to support the Planning Board’s desire to have, uh, a lot more buffer between property lines. Um, those, uh, owners can’t speak for themselves, but, we’re thinking about long-term goals, and keep everybody that’s paying taxes happy, so, twenty-five feet, uh, wouldn’t necessarily satisfy what we’d like to see there, and I encourage you guys to get closer to a hundred feet, um, and, uh, step over the twenty-five feet. It’s just not going to work for us, and if that means that the project needs to be moved a little over, to the, uh, north, um, or west, please do. Um, I don’t have any other comment at this stage. Thank you.”

Mr. Prellwitz thanked Ms. Light for her comments. Mr. Prellwitz said that he had a question for Mr. Gold.

Mr. Prellwitz: “Uh, what are your thoughts on moving the buffer on the eastern, eastern side? Maybe reconfiguring something, go along with it, whatever – whatever it takes?”

Mr. Gold: “Yeah, this is, uh, Jason Gold with ESS. We can, um, you know, that’s why we’re here, is to get these, these recommendations, so we can, uh, take a look at it, and, at least, address that, that concern at Master Plan.”

Mr. Prellwitz: “Okay. Thank you.”

Mr. Prellwitz then said that it appeared to him that the Board was “at the end of this”, and that the applicant “can move on, to the Master Plan, and get this on the agenda for another time.” He then asked Mr. DiOrio to return to his role as Chair.

## **PLANNER’S REPORT:**

None.

## **CORRESPONDENCE AND UPDATES:**

### **Letter from State Senator Elaine Morgan, regarding runoff on Maxson Hill Road.**

Mr. DiOrio said that he had the letter from Ms. Morgan, and that he saw that she had submitted from photographs. He asked Mr. Lamphere for his “thoughts.”

Mr. Lamphere: “That, uh, letter was submitted to my Office, and, uh, at her request, um, I give it to the Planning Board, for your information. Uh, I can tell you that, um, the Planning Department is on top of [the] 310 Main Street Solar Project, as well as Doug Allam, and Crossman Engineering. Uh, we are aware of those problems, and we will

ensure that they are corrected, um, probably in this, probably in this spring, here. Um, we're going to make some observations over the winter, and we're going to work with the developer to come up with some solutions that, uh, take care of the storm water runoff onto Maxson Hill Road, as well as, uh, Route 3, Main Street, so we're on, we're on top of that. Crossman [Engineering] is all over that thing, and we've have a number of reports from them, and conversations, conversations with the developer are ongoing on this, so, um, I only forwarded that to you for your information. We are on top of it, and we will take corrective action, as may be necessary."

Ms. Jalette interjected to say that Mr. Allam was in the audience, if the Board wanted to "have him make a few comments about this." Mr. Lamphere said that he was "free to have Doug [Allam] comment on it", but that he "would say, you know, this, this item is really not on the agenda for discussion", and "because the applicant is not here and privy to it", he did not "personally believe there's any need for Doug Allam to weigh in on this."

Mr. Lamphere: "Uh, I was asked to give the letter to the Planning Board. I gave the letter to the Planning Board. It's not on the agenda to – really, the discussion, the, the, the crux of that, of that matter."

Ms. Jalette replied that she "just wanted to offer that up." Mr. DiOrio thanked Mr. Lamphere for his comments. He said that the "only thing that [he] would add here is, perhaps, a response to Elaine [Morgan], indicating we received the memo, just the way [Mr. Lamphere] said it", and that the Department, Town Engineers, and Board were "on top of it, just so that we close the loop." Mr. Lamphere replied "absolutely."

**PUBLIC FORUM:**

Mr. DiOrio asked Ms. Jalette if there were any public forum participants. She replied that there were not.

**DATE OF NEXT REGULAR MEETING:** February 3, 2021

**ADJOURNMENT:**

MR. PRELLWITZ MADE A MOTION TO ADJOURN. IT WAS SECONDED BY MR. LINDELOW.

IN FAVOR: DIORIO, LINDELOW, SHUMCHENIA, PRELLWITZ, LIGHT

ABSTAIN: NONE

OPPOSED: NONE

MOTION PASSED, 5-0.

Ms. Jalette asked if Mr. Pennypacker could vote to adjourn. Mr. DiOrio replied that “alternate members can vote, but, uh, their votes don’t count if full members are sitting”, so he could “suit himself.”

Mr. DiOrio thanked everyone for their time.

THE MEETING WAS ADJOURNED AT 9:41 P.M.

By: Talia Jalette, Senior Planning Clerk, Hopkinton, RI, 1-22-21