

HOPKINTON PLANNING BOARD HYBRID MEETING

Minutes September 7th, 2022 Meeting at 7 PM

Hybrid Meeting

Moment of Silent Meditation and Salute to the Flag

Call to Order: Chairman Prellwitz called the meeting to order at approximately 7:00 PM

Roll Call: Chairman Prellwitz, Mr. DiOrio, Mr. Lindelow, Ms. Light, Ms. Shumchenia, and Mr. Wayles

Pre-Roll Call for October 5th, 2022 Planning Board Meeting: Planning to attend the October 5th, 2022 Planning Board Meeting, Chairman Prellwitz, Mr. DiOrio, Mr. Lindelow, Ms. Shumchenia, Ms. Light and Mr. Wayles.

Approval of Minutes: August 3rd, 2022 regular Meeting Minutes, Ms. Shumchenia made a motion to approve the minutes from the August 3rd, 2022 meeting of the Hopkinton Planning Board. Her motion was seconded by Ms. Light. Chairman Prellwitz, Mr. Lindelow, Ms. Light, Ms. Shumchenia and Mr. DiOrio all voted to approve. There were no opposing votes or abstentions.

Advisory Opinion:

Advisory opinion to the Town Council- amendments to the Zoning Ordinance District Use Table- Appendix A, "Zoning", Chapter 134, Section 5 (Filed August 15th, 2022). The proposed amendment would establish use Code 144, "Commercial Water Distribution Center". Proposed by Thomas J. Byrnes, Jr. Petitioner.

Attorney Leah Boisclair appeared to represent the applicant, Thomas J. Byrnes, Jr. Attorney Boisclair addressed the Planning Board and advised she had provided an extensive packet for Planning Board review prior to this meeting. She also distributed to the Planning Board a set of definitions for their review that evening. Ms. Light asked as to if these definitions had been approved by Town Council review, Attorney Boisclair indicated that they had not. Attorney Boisclair indicated what they proposed was a Commercial Water Distribution Center. She stated that the applicant's vision for the proposal did not include buildings on the property. She discussed a hydro fracked well that she described as both Department of Health and Department of Environmental Management approved. That through a Jeffrey Benn and a local water delivery service, water is to be provided for residential and commercial use locally. She described water use as filling pools, hot tubs, and should a well be less than productive, cisterns to have extra water for various uses. That water derive from this well be utilized to support private and commercial consumers in the region. Attorney Boisclair said she understood that there was concern in abutting properties that this operation could "dry up" existing wells but that there was no evidence that this had occurred. She indicated what she sought was an advisory opinion of approval to the Town Council from the Town Planning Board, and she sought guidance as to what the concerns of the Planning Board were so that her client could address them and seek to remedy the concerns.

Chairman Prellwitz then asked a question to clarify the presentation currently before him from Attorney Boisclair. He asked that if the water acquired on the premises is to be distributed to other private entities, and specifically to Mr. Benn to clients, he felt that would be better described as a commercial activity. Attorney Boisclair agreed and indicated that this was as a result of a 2009 attempt to become public water sourcing, but this proposed use was denied by the Town of Hopkinton. What they seek this evening is the ability to now do so commercially. Ms. Light asked if this is occurring now. Attorney Boisclair indicated that it was not. Attorney Boisclair indicated that there was a cease and desist order imposed on her client from several years ago. She stated that this was as a result of truck traffic proximal to their site and other factors including, "allegedly drying up wells". Ms. Light sought to clarify if these commercial activities were undergoing without the approval of the Town of Hopkinton. Asked further if the commercial activity was continuing, Attorney Boisclair advised that it was not and all stopped once the cease and desist order was served in 2020. There was discussion as to the timing of the complaint(s) and as to if trucks had been on premises after it, how recent, and as to if there was involvement by the Hopkinton Police Department. Attorney Boisclair made issue of the cease and desist order making reference to buildings and not as to trucks being on the property in question. As an Attorney she found the order confusing as to what the town sought from her client. The cease and desist order referenced buildings she stated and not the transport of water. Attorney Boisclair furthered, "it's not even referencing what we are doing". Ms. Light expressed at length her concern as to what the precedent of approval of this advisory opinion could potentially set. She utilized the analogy of tree removal outside approval to removing the natural resource of water from a property outside approval. Chairman Prellwitz asked if the property was in a commercial zone or was in a RFR 80 zone. Attorney Boisclair answered it was in a "Vacant Commercial" zone or RFR 80. Chairman Prellwitz corrected that assertion indicating that RFR 80 was rural, farm and residential, and not commercial. Ms. Light asked Attorney Boisclair specifically as to the volume of trucks that will be at that location for this business. There was discussion as to the sizes of the trucks entering the property and volume of water transported by them. Ms. Shumchenia expressed concern for amending the District Use Table as it had implications for the entire town. She felt that act was "a bigger deal to me." She believed this was a matter to be discussed. Mr. DiOrio was concerned that in discussion of special use permits, and permitted by right, the Board is moving a step ahead and needs to assure this use is in fact acceptable. Mr. DiOrio asked the Solicitor for clarification and direction as to his concerns. Mr. DiOrio was particularly concerned with changes to the District Use Table, and the ability of the Board to regulate and say one party could undertake a use, and later state that another could not. Solicitor Hogan indicated that a commercial use in a residential zone is a change and expressed concern as to if this use was consistent with the Hopkinton Comprehensive Plan for Development. She was concerned that amending the use tables and accepting this usage could open the proverbial, "Pandora's Box" as parties would immediately come forward for uses outside the zoning definitions. Mr. DiOrio indicated after seeking the solicitor's opinion that this was not a use that he could approve of in a residential zone. Mr. Wayles concurred and was concerned the precedent of taking a natural resource and moving it out of the community. He gave the analogy of moving dirt from property elsewhere; he was in favor of conserving resources as well as enforcing zoning and the comprehensive plan. Chairman Prellwitz agreed and stated they had residential zones for a reason, and was concerned this proposal opened up

issues for the whole town. Ms. Shumchenia was concerned with the Board ensuring protecting the Comprehensive plans tenants and specifically aquifers in the town of Hopkinton RI.

Mr. Moreau commented and stated he is a concerned resident of the town. He indicated he was at the Town Council meeting the evening previous. Mr. Moreau asked Attorney Boisclair if she had commented on behalf of the party seeking the advisory this evening. Mr. Moreau spoke regarding whether a building was proposed on the property affected by this advisory. He spoke of a conflict between the plans proposed and the statements made publicly by Attorney Boisclair. He spoke of a cease and desist order based on complaints in 2020 that the property was in violation of "terms and conditions" and ordered not to haul water. This being issued by Anthony Santilli the Hopkinton Building Official. Violation of this order could result in a municipal summons for violation of his order. Mr. Moreau discussed residents concerned and believes that water is being hauled from the property in violation of this cease and desist order. Mr. Moreau discussed a workshop on this issue scheduled in October and encouraged residents to attend. Mr. Moreau stated this was not right. Attorney Boisclair asked what specifically the workshop that Mr. Moreau was discussing was; Planner Jalette indicated it was a Public Hearing scheduled for October. She believed the date set by the Town Council.

Mr. Timothy Gould of 30 Egypt Street spoke on this issue. Mr. Gould indicated that he was a 30 year resident of Hopkinton, RI and indicated he has serious concerns about wells near this property seeking the Planning Boards advisory this evening. He discussed that neighbors who had attended the Town Council meeting, could not attend the Planning Board meeting. He advised one of the neighbors had experienced significant issues with well water. Mr. Gould advised the Planning Board that this was a Commercial Operation that was being undertaken in a residential neighborhood. Chairman Prellwitz advised the audience that the party in question had the right to petition for an opinion to approve their proposed zoning waiver and the Board needed to weigh the conflicting opinion.

Mr. Michael Geary of Bradford Rhode Island spoke and asked the Planning Board to review carefully the 2009 Well report on this parcel. He indicated the well report performed then showed that the well could accommodate 21 gallons per minute and approximately maximum of 30,000 gallons a day, an amount not sufficient to fill a 30,000 gallon local swimming pool.

Mr. Josiah Stanley who identified as a previous Hopkinton resident and a certified well driller discussed this proposal and local wells and depths of the wells in question. He indicated that as a professional he understood Hopkinton's concerns as to protecting well water and its natural resources. He discussed the water being drawn as broken up into small portions to be forwarded to use in Rhode Island and Connecticut. He referenced his experience in dealing with wells and the recent drought. He discussed the well as set in bedrock and down nearly 980'. He discussed a 20' casing and not taking water from the shallow water table. He stated as to impacts from the effort, he wanted to see professional testing and related reports as to its actual impact. Absent these reports he indicated impact discussions were guessing. He advised that they sought guidance from the Planning Board as to what actions could be taken to make the use being discussed acceptable. He asked the Planning Board to point them in the "right direction". Ms. Light commented that the guidance sought in a cease and desist situation as the property was not commercial it was residentially zoned. She encouraged the applicants to seek and do it

the correct way through established processes in Hopkinton. Planner Jalette advised the Board to stick to issue germane to the topic at hand or the District table. Ms. Shumchenia stated that the topics discussed were better addressed at a public hearing. She wanted to have an expert to point out what the impact would be. Planner Jalette stated that under the aquifer primary classification “a” or “n”, a designation of “n” would preclude this pursuit in most of Hopkinton. Planner Jalette wanted to ensure the Planning Board carefully weighed the District Use Table proposed for change.

Attorney Boisclair spoke again and thanked the Planning Board for clarifying what was a workshop as opposed to a Public Hearing as it was confusing to her. She indicated she did not want to testify as to well pumping capabilities, however it was her primary concern that her client was getting blamed (for drying up wells) a consequence she felt had not been proven but only accused. She had proposed a broad use table for consideration to open it up town wide for consideration and not simply for her client alone. Chairman Prellwitz indicated to Attorney Boisclair that he was concerned it opened it up so that others could, “do anything they wanted”. Solicitor Hogan asked Attorney Boisclair as to delineate where her proposal fit into the Comprehensive Plan for the town. Attorney Boisclair referenced that in the past they had approached to be a public water source and were denied. She wanted to show what had been done and existed on the property. Solicitor Hogan advised Attorney Boisclair that she may not have understood what she was asked and may have resulted as to how she asked the question. Solicitor Hogan advised Attorney Boisclair it was the burden of the applicant to prove the proposal was consistent with the Comprehensive Plan in order to garner a positive recommendation from the Board. This all delineated under Rhode Island Law. Attorney Boisclair responded it was probably not based on what was heard today. She discussed zoning by residential versus commercial and sought for this table to become an addition to the comprehensive plan. She reiterated that there would be no building on this site.

Ms. Shumchenia made a motion for discussion that this advisory not be recommended to the Town Council and her motion was seconded for discussion by Mr. DiOrio. It was the consensus of the Board that this proposal was not consistent with current zoning or the District use table. Ms. Shumchenia sought to include input from Mr. Wayles as to concerns with allowing this use.

Ms. Shumchenia than amended her motion to include the following, that the Planning Board of the Town of Hopkinton Rhode Island recommend to the Town Council of the Town of Hopkinton, Rhode Island that amendments to the Zoning Ordinance District Use Table – Appendix A, “Zoning”, Chapter 134, section 5 (Filed August 15th, 2022). The proposed amendment would establish use Code 144, “Commercial Water Distribution Center”. Proposed by Thomas J. Byrnes, Jr. petitioner not be recommended by the Town Planning Board for approval or included in the Town table of uses.

That the proposal is not consistent with the Comprehensive Plan specifically GOAL 1 – Specifically preserve and protect the significant natural resources of Hopkinton, Rhode Island as an endowment for the uses of the town. That this proposed change is not consistent with existing zoning regulations of the Town of Hopkinton, Rhode Island. Specifically as to NR2 to protect surface groundwater sources so as to ensure safe and adequate drinking water supplies.

That the proposal is not consistent with Rhode Island General Law 45-24-30- General Purposes of Zoning Ordinances, specifically section (a) (1) Promoting the public health, safety and general welfare, (2) Providing for a range of uses and intensities of use appropriate to the character of the city or town, and reflecting current and expected future needs. (4) Providing for the control, protection and/or abatement of air, water, groundwater, and noise pollution, soil erosion and sedimentation. Her motion was seconded by Mr. Lindelow. Chairman Prellwitz, Ms. Light, Mr. DiOrio, Mr. Lindelow, and Ms. Shumchenia all voted to approve the motion. There were no votes in opposition or abstentions.

A secondary motion was made by Ms. Shumchenia to consider including Commercial Water Distribution Center as a use, but with specifying very clearly that it is not allowed in any of the existing zones, or the aquifer secondary zones consistent with the existing use table. Her motion was seconded by Ms. Light. Chairman Prellwitz, Ms. Light, Mr. Lindelow, Mr. DiOrio and Ms. Shumchenia all voted to approve, with no opposing votes or abstentions.

Advisory Opinion to the Town Council- Amendments to the Zoning Ordinance Use Table- Appendix A "Zoning", Chapter 134, Section 5 (filed on August 15, 2022). The proposed amendments would amend Hopkinton's existing Accessory Family Dwelling Unit Ordinance. Proposed and sponsored by Town Council President Steve Moffitt.

Planner Jalette addressed the Planning Board and gave a definitive time line of actions and legal definitions occurring over the past several years, and specifically from the last legislative session. That the recent action of Rhode Island Governor McKee in signing into law RIH-7942 which amended many of these definitions compelled a municipal response. This specifically came with regard to conflicting definitions that amended Accessory Dwelling Units. That the advisory opinion before the Planning Board is the attempt of Town Solicitors and staff to address inconsistencies in the law, and define Accessory Dwelling Units and so it is consistent with the new law and existing town ordinance. Hopkinton Officials were very concerned with inconsistencies that exist within the new law. It is an attempt to ensure comportment with the state law, while protecting the concerns of and wishes of, Hopkinton residents. Planner Jalette advised that as the Planning Board considers this that is how they should frame their discussion and cautioned they may not have the latitude they had previously, as this new law has impacts by its verbiage. This is in relation to changes made at the state level and unique as this is typically not something that would come before the Planning Board.

Mr. DiOrio began the discussion by complementing Planner Jalette and staff at Town Hall for reviewing a recent Rhode Island initiatives and incorporating appropriate language concepts to assist the town of Hopkinton in addressing its impacts.

Solicitor Hogan stated she was compelled to point out the specific inconsistency in the language in the new law regarding the legislative act and definition of a "family member" with reference to an accessory dwelling unit. She pointed out to the Planning Board exactly where the statutes language was different and the advisory before them to address it. The statute referenced was 45-25-37(e) and she discussed specific definitions from the appropriate impacting laws. She indicated that the language was "diametrically" opposed provisions and no doubt will be corrected in the coming legislative session.

What is discussed tonight is the town's effort to comport with the existing law to the best of its ability. This is an action by Hopkinton to comply with the State law. She advised this will be an action that will occur in all Rhode Island municipalities.

Mr. Wayles discussed the definition what a family member is and how vague the definition is. Ms. Light asked if there would be another version available that was corrected in the future. Planner Jalette indicated that it is likely that this will be changed, and the action is a stop gap in the interim. Solicitor Hogan made reference to why the District Table had been slashed out, and Planner Jalette indicated it appeared to be stricken but she did not know why. Chairman Prellwitz indicated that it appeared to be very contradictory what the state had presented, and was concerned there were ulterior motives. Solicitor Jalette indicated this is a town attempt to comport with the new law that has conflicting language. Mr. Wayles discussed the status of Airbnb in this ordinance. Solicitor Hogan said it was not in the statute and believed this statute was an attempt to address the "dearth" of housing options in Rhode Island presently. Ms. Shumchenia credited staff and saw it as an effort to comply with the new law. She questioned why the Zoning Official was the sole determinant and wanted more Board review. Planner Jalette indicated the impacts of the new law created this contingency. Mr. DiOrio discussed Planning Board language reference the Board of Design Professionals which is an "ever broadening landscape". Solicitor Hogan would review area 8c to address Mr. DiOrio's concern to ensure it is broad enough to meet current practice. She concurred with his concerns.

Solicitor Hogan encouraged the Board to address the stricken zoning use table. Discussion was made as to the R-1 zone and its size requirements and the minimum lot size for ADU which is 20,000 square feet by the new law. This would allow complying in the minimum lot size of 20,000 square feet to incorporate an ADU. She referenced state statute 45-24-74(b) as the governing law. Ms. Shumchenia discussed her concerns as to how this new law comports with aquifer concerns. Solicitor Hogan discussed her concerns with this new law. Mr. Wayles made mention of limiting one ADU to the property and wanted to confirm septic concerns on properties, discussion was made with Mr. DiOrio to ensure compliance and allay some of his expressed concerns. Mr. Wayles was concerned as to limiting loopholes until the law is corrected, particularly with regard to short term rentals.

Planning Board Vice Chairwoman Emily Shumchenia made a motion that the Board had reviewed the text of the revised Section 5.2- Supplemental Regulations- Accessory Dwelling Units, and found no additional edits required there, with the exception of recommending that language be included somewhere in the body of the Ordinance that references Rhode Island General Law 45-24-74(b), as to the minimum lot sizes and the types of zones where these ADUs would be allowed, from the original Rhode Island General Law on this topic, and they would recommend the District Use Table reflect some of that general intention so that in our town, RFR-80 and Residential-1 or R-1, ADUs would be allowable in both of these zones, not allowed in Neighborhood, Business, Commercial or Manufacturing, and consistent with other Residential uses of the Town, Aquifer Permits would be required in both the Primary and Secondary Aquifer Protection zones for all ADUs.

Ms. Shumchenia added to her motion that Section 8(c) be amended so as to engage in broadening the language to include other design professionals, beyond just professional Engineers, that are appointed to prepare site plans and other documents that are mentioned in Section 8(c).

She further noted that the Board did discuss that they felt those changes are consistent with the general purposes of Zoning Ordinances as expressed in 45-24-30, and consistent with the Hopkinton Comprehensive Plan, specifically Goal H3, which is called out by the Rhode Island General Law that sort of originated this proposed change, related to maintaining sufficient levels and proportions of affordable and accessible housing stock for residents.

Her motion was seconded by Mr. DiOrio. In favor were Chairman Prellwitz, Ms. Light, Mr. Lindelow, Ms. Shumchenia and Mr. DiOrio. There were no votes in opposition and no abstentions.

OLD BUSINESS:

Continuance Request- Development Plan Review- **Hopkinton Industrial Park General Warehousing**- Plat 4, Lot 13B, 0 Wellstown Road. Hopkinton Industrial Park LLC., applicant

Prior to the meeting Mr. DiOrio issued a notice of recusal as his business did work on the project. Mr. Wayles assumed his position on the Board. Planner Jalette indicated that the Hopkinton Industrial Park representatives sought a continuance to be heard as they sought state permitting. She also advised there was a likelihood of a continuance to another date.

Mr. Wayles enquired as to if the October meeting would be laden with large projects for review. Chairman Prellwitz asked if this was an issue and Planner Jalette indicated that it was not.

Discussion was initiated as to the heavy agendas of the Planning Board as they dealt with the varying proposals coming before the Planning Board. Planner Jalette acknowledged that there were heavy agendas coming in the months ahead, she wanted to affirm that large scale projects were time inclusive and did not slow the pace of smaller projects that would require due time and consideration. She advised the Board they faced several long meetings in the future with very heavy agendas to prepare for.

Ms. Shumchenia made a motion that the Development Plan Review for the **Hopkinton Industrial Park General Warehousing** Plat 4, Lot 13B, 0 Wellstown Road, Hopkinton Park LLC., applicant be continued to the October 5th, 2022 meeting of the Hopkinton Planning Board. Her motion was seconded by Mr. Lindelow. Chairman Prellwitz, Ms. Light, Ms. Shumchenia, Mr. Wayles, and Mr. Lindelow all voted to approve the motion. There were no votes in opposition or abstentions.

Master-Plan- Public Informational Meeting- 7 – Lot Major Subdivision/Land Development Project- **Preserve Business Park** – Plat 23, Lot 56A1, 50 Alton Bradford Road. S.M. Trombino Properties, LLC., applicant

Prior to the meeting Mr. DiOrio issued a notice of recusal as his business did work on the project. Mr. Wayles assumed his position on the Board.

Mr. Trombino spoke on behalf of the application and sought a waiver of pavement thickness recommended under peer review. Mr. Trombino discussed a recent site walk for the premises in question, where the Town Planner, DPW Staff and Crossman Engineering participated. Mr. Trombino stated that he was prepared to accept all other staff recommendations but did seek this waiver. Planner Jalette advised the Board that their collective role was to review and possibly waive or modify the proposal before them. She discussed their obligations and advised they determine based on the testimony that has been put before them, in conjunction with the memorandums forwarded by Steven Cabral of Crossman Engineering and David Caswell of Hopkinton Public Works. Mr. Trombino further indicated that the property is zoned manufacturing, and it is his intended use as a business park not an industrial park. It will have commercial vehicles traversing it not heavier industrial vehicles. Mr. Trombino cited numerous regulations that met his burden of 4" of asphalt being "sufficient" and the increased amount being discussed of 5 1/2" as "excessive". With seven lots he is under the eight cited to be a road as considered in regulations. Planner Jalette referenced the discussions between the applicant, DPW and Crossman Engineering that this was based on this being a Business Park not an Industrial Park. If Tractor Trailer traffic is discussed this matter could be revisited. Solicitor Hogan said another option was to defer the decision onto the next stage of review.

Mr. David Caswell the Public Works Director of Hopkinton than spoke. He believed the 5 plus inches were not conducive to the needs of this project. He stated it was not necessary. Mr. Caswell knew of no roads with that degree of asphalt and he believed that 4" was sufficient. Mr. Lindelow asked where the 5 inch requirement came from. He was advised that it was part of the regulation and had been discussed under peer review by the Solicitor and the Planner. Ms. Light indicated she had no issue with granting the waiver at this point. Ms. Shumchenia stated she did not strongly disagree, but she believed a separate course was prudent. She believed putting the waiver off to the next stage would allow the Planning Board to have more information and make a more informed decision as the project evolved during its review. Mr. Wayles believed the Planning Board was not causing any undue hardship to the applicant, and moving this matter on to the next stage of review was prudent. He believed it gave the Board great latitude to address changes or new contingencies. Mr. Trombino stated he understood their concerns but was very concerned a differently seated Planning Board exercising less common sense could change the spirit of this decision making. He respectfully asked that after four years he wanted a decision and not "kick the can down the road" as he has been very cooperative. He did not want to be right back to square one. He stated he had done everything he had been asked to do. Solicitor Hogan stated that uses were not defined and it has the board grappling with that issue. More definitive information will allow the Board to know the tenants. Mr. Trombino was concerned construction steps could be impacted negatively. Solicitor Hogan stated he was not at the construction phase of approval. Ms. Shumchenia clarified that the memo from the Director of Public Works in regard to truck traffic was

in contrast to oral testimony, she sensed hesitancy in his memorandum. Ms. Light sought to summarize and clarify her interpretation of the memorandums. Discussion of authority of the Board was made between Ms. Light and Ms. Shumchenia in recent scenarios of similar impact. Ms. Shumchenia was concerned in lack of evidence that control in a regulatory fashion could be lost if a waiver was granted that evening. She believed there was a good reason not to grant the waiver at this stage on this evening. Mr. Trombino believed the five inches discussed was overkill but would comply with the wishes of the Planning Board. Mr. Steven Cabral of Crossman Engineering then spoke via zoom. He referenced that 5" is part of the regulations of the town. Thicker pavement was called for, and he indicated that the state at times have used as much as 9" on a roadway. The 5" in his opinion was a reasonable amount of the roadway being discussed. The unknown is at this point the Planning Board does not know who the tenants are and what their vehicular volume would be by type of vehicle and projected use.

Ms. Shumchenia made the following motion to approve which was seconded by Mr. Lindelow. She moved to grant Preliminary Plan Approval for the Master Plan for **Preserve Business Park**, a 7 lot Major Subdivision/Land Development project proposal for Plat 23, Lot 56A1, 50 Alton Bradford Road. Trombino Properties LLC is the Owner/Applicant. Stano Trombino represented the Applicant.

Findings of Fact:

- 1) On February 28, 2022, the Application was certified as complete
- 2) The Applicant has agreed to extensions of the review date to accommodate peer review and address issues raised through both that process and public hearing.
- 3) On July 5th, 2022, Andrea Panciera filed a letter with the Planning Board outlining her questions and concerns about the project. In that letter, she specifically requested that the town set construction time limits, such as 8:00 AM to 5:00 PM, weekdays only. She also identified traffic volume and speed, drainage, potential well impacts, and potential tenant noise as concerns.
- 4) On July 23rd, 2022, the Town's Consulting Engineer, Steven Cabral, P.E., of Crossman engineering issued a (6) page written report and recommendations.
- 5) On July 26th, 2022, On Site Engineering, Inc. submitted an (8) page response to the Crossman Engineering Report.
- 6) On August 29th, 2022, the Applicant filed a request to pave the access road according to the requirements of Figure 2, Typical Cross Section for a Local Road. This is in essence a request for a Waiver of the requirements set forth for a Collector Road as required for Commercial/Industrial Zones.
- 7) The Applicant's August 29th, 2022 request for a waiver was accompanied by a Memo from the Town's Director of Public Works dated August 22, 2022. The memo stated in pertinent part: "We recognize that the project is in the Master Plan Phase and there is no specific information on future tenants. If during the Preliminary or Final Plan review stages, additional information on tenants indicates the potential for truck traffic typical of an Industrial Park, as opposed to a Business Park, we request the ability to amend our recommendation. Also, if during the Development Plan Review process for the permitting of each lot, a proposed use will generate daily truck traffic (Tractor trailer or Greater Weights), the applicant should be required to upgrade the road pavement. "

- 8) The Planning Board conducted public hearings on the Application on July 6, 2022, August 3rd, 2022, and September 7th, 2022.

Conclusions of Law:

- 1) Proposed development is consistent with the Comprehensive Community Plan and/or has satisfactorily addressed the issues where there may be inconsistencies.
- 2) The proposed development complies with the Hopkinton Zoning Ordinance.
- 3) There will be no significant negative environmental impacts from the proposed development as shown on the Plan, with all required conditions for approval.
- 4) The proposed addition shall have adequate and permanent physical access to a public street.
- 5) The proposed development provides for safe circulation of pedestrian and vehicular traffic, for surface water run-off control, for suitable building sites, and for preservation of natural, historical, and cultural features that contributes to the attractiveness of this community, with required conditions of approval.
- 6) The design and locations of streets, building lots, utilities, drainage improvements and other improvements in the proposed development minimizes flooding and soil erosion, with required conditions of approval.

Order:

- 1.) The Master Plan is hereby approved, subject to the following conditions of approval.
- 2.) The request for a waiver of the pavement thickness shall be deferred to the Preliminary Plan stage of approval, once the Applicant has identified the type of occupants of the units. The Planning Board reserves the right to impose the full requirements of the "Collector Road" regulations at the Preliminary Stage of Review.
- 3.) Construction of the Development, including the buildings, shall be limited to weekdays, between the hours of 8:00 AM and 5:00 PM.
- 4.) All recommendations made by Crossman Engineering in its July 23rd, 2022 memo, including the items from a review in 2019 are adopted and incorporated herein as conditions of approval.

Ms. Shumchenia, Chairman Prellwitz, Mr. Wayles, Ms. Light and Mr. Lindelow all voted to approve this motion. There were no votes in opposition and no abstentions. Motion passed.

Development Plan Review- **Anderson Mixed Use**- Plat 15, Lots 4, 5, and 6A, 916 Main Street Woodland Ridge, LLC., application.

Planner Jalette indicated that the applicant was available via Zoom. Mr. Sam Hemenway and Mr. Jad Anderson spoke on behalf of the applicant. Planner Jalette sought for Crossman Engineering to speak on their most recent concerns during their continuing peer review. Mr. Steven Cabral speaking via ZOOM, discussed the concerns addressed in his August 26th, 2022 memorandum.

Mr. Hemenway stated he would advise the Board as to how they were seeking to address concerns and meet the demands of peer Engineering review from Crossman Engineering. Mr. Anderson is being very

receptive to peer review and meet the expectations. Mr. Hemenway wanted to ensure Phasing was recognized and that signage was complying with the regulations of Hopkinton. The barn is used for equipment storage and he reminded the Board this was a lumber company and storage is a concern. Short term storage as opposed to long term storage, as long term storage, that was not the intent. The Barn is for inside storage and to protect purchased equipment. In regards to drainage the existing culvert is not functioning well, and the intent was to put a similarly sized culvert on the intended property. Flow pattern was not being considered at this point. He agrees with Crossman's summary as to water control and standards of channel protection. In resolution and moving forward the applicant is prepared to meet expectations and have site walks and discussions ensuring their plan meets them without incurring any delays. He specifically referenced landscaping as an example on site. They seek a high quality design that all will be happy with.

Mr. Steven Cabral of Crossman Engineering addressed the Planning Board via ZOOM as well. Mr. Cabral referenced a memorandum he provided the Planning Board on the project in question on August 26th, 2022. The memorandum was drafted after review of the Development Plan Review site plans prepared by Garafolo and Associates, and their project narrative, and storm water management report dated February 2022 revised July 7th, 2022. Mr. Cabral noted his concerns by item number in the memorandum he drafted. His concerns included but were not limited to 18 points. He was concerned with front yard setback, fire apparatus turning radius, fire lane, lot merger, volume of water usage, style of catch basin grates, parking and type of gravel materials on site to ensure dust control, property survey, signage, overnight parking and storage of trucks, loading areas, landscaping recommendations by the town, survey the 18 inch culverts, guardrails, slope of the Southern driveway, status of state permitting, and drainage. Mr. Cabral believed that this project with less impervious surfaces will improve drainage on site. Due to Phasing his review focused on proposed Phase 1. Mr. Cabral indicated he was certain any outstanding issues can be worked out.

Mr. Sam Hemenway weighed in for the applicant to advise the Board and discuss. He indicated that the phasing of the project and that they sought a focus on the parking part of the project reference the Garden part of the project. The brewery part is part of a long term plan. As such due to complexities it has to be passed. The applicant stated they stood ready to answer questions. Mr. Hemenway believed signage would be addressed and specifics ironed out. They sought to comply with any and all Planning Board and Zoning requirements. They will seek and acquire any permits necessary. The Barn is for equipment storage and he reminded the Board that this is a lumber company and tools will be stored and protected in it. It is substantial and designed to protect valuable equipment. They were working with Crossman to address the slope with the emphasis that it be designed to accommodate heavy industrial equipment. They also indicated they are reviewing the culverts on site and there was no intent on the part of the applicant to change any flow pattern. Mr. Hemenway indicated he was working with the Planner and Crossman Engineering and have hosted site walks. It is a matter of catching up and making sure the plan reflects those discussions and inputs. They want to get to work and ensure there are no unnecessary delays for the applicant. They wanted to reassure there were no objections with adhering to Crossman's recommendations, and stood ready to address any recommendations and input from the Planning Board. Chairman Prellwitz thanked him for his input, and Mr. Hemenway indicated

they would avail anything the Board needed in regard to their plans, and commented on the status of their State permitting. They are in the process of the second serving to the State in its permitting process.

Ms. Shumchenia asked if the recommendations were being included into a revised plan for submission at a future meeting. Planner Jalette affirmed that was the case. Ms. Shumchenia asked if the applicant was prepared to move forward at its November meeting. Mr. Hemenway asked if they could be on the October agenda. Planner Jalette advised that was the prerogative of the Planning Board. Mr. Cabral indicated that he has had opportunity to review Garafalo's response and he believed 99% of the technical aspects have been complied with. Solicitor Hogan wanted to know what the status of the landscaping issues were. The Landscaping Plan has been submitted and is under the review of the Planner. Discussion was made as to the size of the October agenda and could this be dealt with in November.

Ms. Shumchenia made a motion that the Development Plan review for **Anderson Mixed Use** be continued to the November 2nd, 2022 Planning Board Meeting. Her motion was seconded by Chairman Prellwitz. Chairman Prellwitz, Ms. Light, Ms. Shumchenia, Mr. Lindelow and Mr. DiOrion all voted yes with no one in opposition and no abstentions.

A break was taken from 9:42 to approximately 9:52 PM by The Planning Board

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

Attorney Landry spoke on behalf of the applicant before the Planning Board. Attorney Landry discussed the history of the project and hoped that a witness, Mr. Ferrari an expert in water wells and issues could testify and answer questions by the Board in relation to this project. In his discussion as to the history of the application for this project, Attorney Landry indicated the project encompassed 358 acres. That currently the project sought to include a proposed 140 units. Of those 140 units 105 of the units would be market rate homes. Approximately 25% or 35 of the units would have an affordable housing component. Of note was that of the 90 acres plus set aside for home lots, there would be approximately 256 acres of open space. There would be 7 water owts systems on site. He discussed a seven phase development with approximately 20 homes moving forward in each phase. Attorney Landry discussed the history and time line of this proposal and introduced Mr. Ferrari who was already sworn for additional testimony.

Mr. Robert Ferrari than addressed the Planning Board and testified on behalf of the project. He is the owner of Northeast Water Solutions of Exeter, RI. Mr. Ferrari referenced his previous testimony at the June meeting and said he was retained to study and advised as to access to water quality and water availability. Mr. Ferrari indicated that since June he has performed geological investigations on site, as well as overall on site investigation. That also reviewed were geologic mapping of the site, soils mapping, groundwater mapping, historic reports and well logs for 100 bedrock wells drilled in the area;

evaluation even included an aerial photography of the site. Mr. Ferrari discussed subsurface fracturing and fault lines on site. He described the bedrock flow below surface as going Northeast to Southwest in its alignment. These were areas more likely to find water. Mr. Ferrari indicated this work availed and identified the target area for exploratory wells. Mr. Ferrari reiterated that these exploratory well drillings were exploratory as the project had a "long way to go". Discussion was made of properties abutting the proposed site on a map displaying the findings of studies conducted by Mr. Ferrari of the proposed site and proximal to the Dye Hill Road area. He discussed in drilling the wells in question going down on the proposed property 500' deep, and initially 50 to 55' down to hit a fracture point, and then boring at a point down 200' where they hit "significant fractures". Water was drafted from the exploratory well in question at a rate he indicated the Driller estimated was at 40 to 50 gallons a minute. This does not mean that is the wells yield. He described these findings as "promising". Mr. Ferrari cautioned that this was preliminary data and needed more study. A camera inspection of the well however had confirmed the data and work done. Mr. Ferrari discussed pumping tests and utilizing a transducer as a next step, and stated the recent rain event in the current drought is "fortuitous" to be a data collection timeframe.

Mr. Ferrari stated they had contacted 17 neighbors in the area to ascertain by evaluation as to if there were any impacts on private wells in the area. They have heard back from 5 of the 17 contacted. The cost is born by the developer and a transducer would be placed to evaluate the impact on the local nearby wells. Mr. Ferrari indicated he had sent a letter out with an incorrect town denoted on the letter, but immediately corrected the letter. He said he encouraged all to participate, as the more participants in the testing, the better and the more extensive the data acquired. He stated property owners had "nothing to lose and everything to gain". Pumping Tests he noted have to follow all appropriate RI Department of Health and RI Department of Environmental Management ground Water Withdrawal Program as they are under their regulatory oversight. These are described as very extensive testing protocols. The pumping tests are done for 72 hours minimally and continuously, and phase the tests to establish all baseline conditions, existing, pumping, in excess, and post pumping phase of recovery. Water quality testing will also occur. This must go through the RIDEM regulations so as to gain approval for this proposal. He can't prejudge what the findings will be. "I'm not in the business of making predications" but the testing conducted will define the situation with all appropriate data needed from the testing conducted.

Ms. Light asked Mr. Ferrari that he testified that he suggested it would be done for the entire development she asked him to clarify. Mr. Ferrari indicated that although they appear to have found a productive well on site, they feel it is in everyone's best interest that they test at all times for 100 % development at heavy use and maximum rate. This will give the maximum water demand and impact scenario. Mr. Ferrari explained the difference between an exploratory and an approved well and what that entails. He suggested having a minimum of two wells on site. He explained the issues in acquiring a well digger as a result of the severe drought conditions in the region. He indicated the vast majority of the site has glacial tilt and outwash which can be very transmissive and good for recharge and transmitting water. This was obvious as a place to go as it met need and critical setback requirements and was "open and accessible". It also was in the target zone they had set. He said so far it had been a

good call. Ms. Light asked if this was different than the location on the plans given to the Planning Board for review. Did it specifically change the plans they had been reviewing. Mr. Ferrari stated that it would require likely review and modification of site design. Mr. Ferrari stated “if you don’t have water you don’t have a project”. He stated, he had not designed the septic but he imagined there may have to be changes made in the design. He advised he has been with the project from the end of May onward, and tasked to locate water, and perform pumping tests. Ms. Light asked that of the seven wells proposed where did Mr. Ferrari believe they would be put. Mr. Ferrari discussed redundancy in well lines to ensure water source and availability and a two to three well pattern. He indicated wells would be located near the most plentiful source. Mr. Lindelow asked what the distancing would be for the wells near houses. Mr. Ferrari discussed where wells have to be located with regard to potential contaminant sites to comply with existing Rhode Island statutes, he stated they are cognizant of that and conform as much as possible. The pumping tests he indicated are going to be critical. Mr. Ferrari discussed a 200’ setback meet boundaries, and to avoid contaminant sources, which a house would constitute. Chairman Prellwitz advised that they were rapidly approaching 10:25 PM and would have to curtail the presentation to conclude the meeting. Solicitor Hogan asked who would be responsible of maintenance of the proposed system. Mr. Ferrari stated he assumed this would be a fiduciary responsibility of the homeowners association, but they would need a certified public water operator. Mr. Joseph Capalbo of Woody Hill Road Hope Valley, RI asked Mr. Ferrari to define for him locations of the map he provided and he did so.

Attorney Landry spoke and concluded their presentation that evening and sought to continue to the next available meeting.

Ms. Shumchenia made a motion to extend the public hearing on the **Brushy Brook** Preliminary Plan Public Hearing to the Planning Board’s November 2nd, 2022 meeting, and continue review until November 30th, 2022. Her motion was seconded by Mr. Lindelow. Voting to approve were Chairman Prellwitz, Mr. DiOrio, Ms. Light, Ms. Shumchenia, and Mr. Lindelow. There were no opposing votes nor any abstentions.

NEW BUSINESS:

No new business was discussed.

SOLICITOR’S REPORT:

Attorney Hogan had nothing to share with the Planning Board.

PLANNER’S REPORT:

Planner Jalette advised an Administrative subdivision was addressed and a boundary line was transferred between properties under her purview.

CORRESPONDENCE AND UPDATES:

There were no correspondence and updates.

PUBLIC FORUM:

Ms. Sherry Aharonian of Dye Hill Road asked the following questions. Her questions were reference the Brushy Brook project. The engineers had left and were unable to respond but the questions were entered into the record. First as to exploratory wells, how many gallons a day were being pumped, and how many houses could be served by that volume of water? She was curious specifically as to the water volume number being pumped daily. Second how close was exploratory well to her property line?

DATE OF NEXT REGULAR MEETING: October 5th, 2022 at 7 PM

ADJOURNMENT:

Ms. Shumchenia made a motion seconded by Ms. Light, Chairman Prellwitz, Ms. Light, Mr. DiOrio, and Mr. Lindelow all voted to adjourn. There were no votes in opposition and no abstentions.

The meeting was adjourned at approximately 10:39 PM.

Michael J. Spellman

Senior Planning Clerk

Hopkinton, Rhode Island