

**TOWN OF HOPKINTON
PLANNING BOARD**

Thursday, August 24, 2023

7:00 P.M.

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

CALL TO ORDER:

In Hopkinton on the twenty-fourth day of August 2023 A.D. the meeting was called to order by Chairman Ronald Prellwitz at 7:03 P.M. in the Town Hall Meeting Room, 1 Town House Road, Hopkinton, RI 02833.

MOMENT OF SILENT MEDITATION AND A SALUTE TO THE FLAG: Chairman Prellwitz led the meeting in a salute to the Flag.

ROLL CALL:

Mr. Prellwitz, Ms. Shumchenia, Ms. Light, Mr. DiOrio, Mr. Lindelow, Mr. Wayles and Ms. Bolek were all in attendance. Town Planner Spellman and Solicitor Hogan were also in attendance.

PRE-ROLL FOR SEPTEMBER 6, 2023, PLANNING BOARD MEETING: Mr. Prellwitz, Ms. Shumchenia, Ms. Light, Mr. DiOrio, Mr. Lindelow, Mr. Wayles and Ms. Bolek all indicated that they would be in attendance.

APPROVAL OF MINUTES:

A MOTION WAS MADE BY MS. SHUMCHENIA AND SECONDED BY MS. LIGHT PURSUANT TO R.I.G.L. 42-46-7(b)(1) TO GRANT AN EXTENSION REGARDING THE FILING OF THE MINUTES FROM THE JULY 24, 2023, MEETING, TO ALLOW THE PLANNING DEPARTMENT OPERATING WITHOUT A CLERK, TIME TO PREPARE THEM FOR REVIEW.

IN FAVOR: Shumchenia, DiOrio, Light, Lindelow, Prellwitz
OPPOSED: None

SO VOTED

OLD BUSINESS:

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, Green Lane. LR-6A Owner, LLC., and Realty Financial Partners, applicants.

The Planning Board will discuss, consider, and possibly vote on this Preliminary Plan application at this meeting.

Attorney Landry was present on behalf of the applicant.

The Chairman noted that there would be comments taken from the attorney, abutters and community. Attorney Landry was the first to speak. He said that he was disappointed in the changes to the draft decision. He felt the Board was attempting to relinquish their rights granted at master plan approval. He believed they had an approval with no growth control component with 140 units that the town said they needed in order to satisfy its housing goals; this has a statutory time period of five years. He stated there were never any sidewalks required, the regulations did not require sidewalks, and it was at concept stage that they should have nailed down all of the important elements. The Board did require community septic, community water, public infrastructure and the engineering items were nailed down. Attorney Landry suggested that his client was willing to limit the development to less than fifty units per year, which was negotiable. He also was concerned that growth control could not be so limiting under the Act stating the Act requires market rate units to be built at the same time as the affordable units. They are operating under the Low- and Moderate-Income Housing Act and the idea is that the market rate units pay for the affordable housing units and they receive no public subsidies from this. This is a density bonus and the incentive is municipal subsidy. Attorney Landry reiterated that the plan has already been approved and explained how unfair it was to his client and the property owner to restrict the construction with growth control, though they were willing to work with the Town with an agreed to number of units per year and having it start when the first building permit is pulled. Mr. Landry then opened it to the board for questions.

Ms. Light explained the town's growth management ordinance noting that it was to control the town's growth for residents will not be able to afford the tax implication from this significant growth. She asked how the applicant proposed to compensate the town for the burden of supporting these new families coming into this community. Attorney Landry responded by saying that this was not a factor in the Low- and Moderate-Income Housing Act and if the town has an impact fee ordinance that is being used then the town would receive that money. The fee ordinance is supposed to calculate the cost to the town of the fiscal impacts. He noted that there was a provision that would make that applicable but questioned if impact fees had actually been implemented. He believed the impact fee was set up to offset education costs and other costs, although the impact fee does not apply to low- and moderate-income housing. Attorney Landry clarified that the fiscal impacts are not considered until the municipalities get to the 10% required by the state. The Act concerns a state wide emergency regarding affordable housing and his client was being very reasonable. Previously they had proposed a solar development at this site which was turned down. Attorney Landry asked to create a time table and discuss impact fees which could offset the costs of developments and make both parties happy. Mr. DiOrio felt that the proposed motion suggested that the concept of growth management was not addressed at the master plan stage of review. Attorney Landry disagreed and felt that it was addressed and there was a statutory mandate in the Low- and Moderate-Income Housing Act that they had to complete their project in five years. They were approved for 140 units, and nobody said anything about limiting the number of units that could be built. Solicitor Hogan believed that the legal question was if the

growth management ordinance was not applicable, why did they request a waiver. Attorney Landry advised that there was a request for a waiver from the growth management ordinance as well as a request for a density bonus. There were a lot of things that they could not do under the ordinances that were implicitly waived as part of the approval. Solicitor Hogan understood that but asked for the items that were obvious in the sense that they were an inherent decision in the approval; however, there was a specific separate request for a waiver from impact fees as well as the growth management ordinance. That decision was silent on that issue and a decision was not reached at that stage of review. Attorney Landry did not agree with her statement. Solicitor Hogan noted that there was an ability to extend the five-year deadline in the Low- and Moderate-Income Housing Act if the applicant wished to do so. Attorney Landry stated that the project has to begin and be completed within five years and Ms. Light added “or you request a waiver.” Attorney Landry advised that they were not requesting a waiver. Ms. Light read a portion of the comprehensive plan that indicated that they were to promote controlled residential growth that serves the needs of the community while preserving Hopkinton’s environmental and historic assets and rural quality. Attorney Landry and Ms. Light argued over this matter and Attorney Landry reiterated that they were willing to introduce some type of growth control on this project, however he was not hearing any receptivity to that. Ms. Light asked him what they proposed, and he suggested 45 units a year maximum. He felt that right now they could build 80 units a year and advised that there were companies out there that would buy these large projects and they would build the units for rentals, and they build them like an apartment building. Ms. Light wished that he had not stated that and noted that this had been on her mind. Attorney Landry felt that the biggest mistake Planning Boards make is denying these projects or making them subject to impossible conditions for when they get appealed to the state there become no conditions. Ms. Light and Attorney Landry argued over this and what Ms. Light called reckless well siting. Attorney Landry stated that he did not understand what she meant about reckless well siting and Ms. Light explained that the applicant put the first well in the wrong place and it had to be disregarded and then they put a second one in and then a third well in eighty feet away from the second one, which is going to require a waiver from the RI Department of Health. Attorney Landry stated that none of those things were true. Mr. DiOrio asked if there was any way that they could agree on the number of homes to be built; that 45 might not be the number. He asked if there was something else, they could do to get to an agreement. Mr. Prellwitz asked if the growth management ordinance and the number of building permits issued was under the jurisdiction of the zoning department. Solicitor Hogan responded that the Planning Board sits as the only Board to make decisions on this application. They have all the power, authority and responsibility which is why this matter was so complicated. She noted that the issue regarding the homes being two-bedrooms was picked up from a note on one of the plans that referenced two-bedrooms. Attorney Landry suggested that there has never been a two-bedroom proposal ever contemplated or made. Solicitor Hogan advised that she had picked that up from the application itself and if that was not accurate, that was not the Board’s fault. Attorney Landry indicated that they had never agreed to limit the development to two-bedroom homes. Mr. Wayles read the note on the current plan, which was also on prior plans, which stated: “The site is proposed to be built in seven phases and homes are proposed to be two-bedrooms. Phases may be built out of sequence.” Mr. DiOrio noted that this was along the same line as the sidewalk issue. The applicant’s expert opened the door to sidewalks and in his mind that was all

that was necessary to require them. Their expert also noted on the plan that these would be two-bedroom homes. Ms. Light asked if the Applicant had anticipated having some homes with two-bedrooms and then other houses that had more bedrooms and Attorney Landry indicated no, they had never anticipated having two-bedroom homes and this was a mistake. David Allen stated that originally when they were anticipating building 320 or 370 units, there were some buildings up front that were to be two-bedroom condo units. When the project got reduced to 140 homes, two-bedroom homes were never contemplated. Ms. Light asked what they were contemplating building and Mr. Allen suggested, depending on the market conditions, three-to-four-bedroom homes. Mr. Allen noted that the Board required him to put in community wells and a community septic system and then only allow him to put in five houses a quarter, it was economically unfeasible. Ms. Light asked Mr. Allen why he would not ask for a waiver from the requirement to complete this project within five years and he indicated that he could not economically do that. Attorney Landry noted that the Town Council could change the growth management ordinance to allow more permits to be issued; the formula was based on school enrollment from the year 2000 and everyone knows the school enrollment has dropped dramatically in all communities. He noted that Hopkinton is not going to be the only municipality that never has to grow. Solicitor Hogan noted R.I.G.L. 45-53-4, the procedure for approval of construction of the housing, Section 4(xi): “A comprehensive permit shall expire unless construction is started within twelve (12) months and completed within sixty (60) months of final plan approval unless a longer and/or phased period for development is agreed to by the local review board and the applicant. Low- and moderate-income housing units shall be built and occupied prior to, or simultaneous with the construction and occupancy of market rate units.” She understood that as not being a hard and fast rule and a longer and/or phased period could be agreed to by the local review board and the applicant and this is what their discussion was focused on. Attorney Landry noted that they could go as low as a number in the 40’s but they did not want to bid against themselves. He felt the approval they had gotten was for no limit and the reference to the five years was in the approval that they have already received. He stated that no one had suggested they phase anything longer than five years or being able to complete 140 units within five years. Solicitor Hogan argued that they could build all of the units within five years which could mean 30 units per year; Attorney Landry disagreed due to the time that it would take to do the infrastructure work. Solicitor Hogan suggested that they agree to a longer timeframe and that they build the units within five years. Attorney Landry indicated that his client needed to recover his costs and they did not want this project to last seven years. Mr. Prellwitz asked why extending this project to seven years was not acceptable. Attorney Landry advised that it was the units that paid the bills, not the time. Solicitor Hogan asked if the infrastructure had to be completed at the same time or could it be completed in stages. Attorney Landry advised that some of it could be completed in stages; however, most of it could not, you really cannot build half of a water system. Mr. Allen explained that this would not be in the best interest of the community and to do this would become very expensive and very problematic. Ms. Light discussed the number of units that they wished to build a year and Attorney Landry explained that they would impose a limit of 44 units they could build, stating that those units would not be subject to any type of growth control. They would make themselves subject to growth control over 40 units. Solicitor Hogan felt the Board also wished to determine if there was a willingness to limit some of the number of units to two-bedrooms as depicted on the plan. Attorney Landry did not believe anybody

was thinking these would be two-bedroom units and Mr. DiOrio suggested that he was incorrect, and he definitely did not remember any discussions regarding four-bedroom homes. Mr. Lindelow asked if the septic design was based on two-bedroom houses and Attorney Landry advised that it was not a septic system, it was a community septic. Mr. DiOrio asked how that septic plan was developed for on the plans it noted two-bedroom homes. He believed that changing these units to three and four-bedrooms would significantly change the required system; Attorney Landry noted that they would find out for this was an important question. Mr. DiOrio suggested that if Attorney Landry was indicating that this was just a mistake on the plan, then he would wonder what else on the plan was incorrect. Attorney Landry advised that they were attempting to contact Mr. Prive of DiPrete Engineering, as well as Mr. Ferrari to determine if the calculations used were for three-to-four-bedroom homes. Solicitor Hogan also wished to discuss how long the number of years of affordability was to be imposed on the low- and moderate-income homes. Attorney Landry agreed to impose a 99-year affordability requirement. Mr. Allen advised the Board that he had spoken with the engineer who confirmed that both the water and sewer systems, as well as the traffic count, were designed for three-bedroom homes. Mr. DiOrio indicated that he would take that representation at face value that water and septic were designed for three-bedroom homes, not four, and he would be willing to acquiesce to the fact that the note on the plan was erroneous. Solicitor Hogan wished to discuss the request for a waiver from the impact fee ordinance which had not been decided at master plan as you can see from the decision. That decision contemplates a waiver, but as to the low- and moderate-income units only. Attorney Landry did not believe that this could be legitimately contested. He noted that there were a lot of communities who had impact fees and there was a State Housing Appeals Board case, that did not require a municipality to extend a waiver of impact fees on market rate units, just the low- and moderate-income units. They agreed to pay impact fees on the units that were not low- and moderate-income units, so long as there was a real impact fee ordinance that was implemented.

Solicitor Hogan wished to address the sidewalk issue. She noted that their expert had spoken about sidewalks, and someone had also mentioned pedestrian pathways and traffic calming measures, such as lowering the speed limit. Attorney Landry suggested that this was how the last draft looked and Mr. Bannon mentioned having a dedicated lane, like a bike lane, with signage and striping, that could be used for pedestrians and possibly biking. This would be put on one side of the road. There was also talk about adding speed bumps and Attorney Landry noted that those were the types of things that they expected to be doing. Mr. DiOrio noted that his dilemma was that he liked the bike path analogy, but he had nothing in front of him. He wished that before they got to final review, he would like to see the applicant work with the Town Planner and the Planning Board on this issue. Solicitor Hogan asked Attorney Landry to review section 11 on page 23 and advise what the applicant's objection was. He noted that what was in red in the second to last paragraph should be stricken. He also noted that there was a whole litany about how sidewalks were required at the master plan level which he felt should come out. Town Planner Spellman advised Attorney Landry that he wished to see included on the traffic safety plan some discussion of a school bus stop area. Mr. Lindelow noted that he liked the idea of mini roundabouts as opposed to speed bumps. Attorney Landry did not feel that they were designed for that but felt they could use a smaller speed bump which required a vehicle to slow down in order to keep your tires on either side of it.

They also would use signage and an internal speed limit. Ms. Shumchenia wished to read and discuss the second to last paragraph in Section 11 that the applicant had highlighted. It said: “The final mapping will also depict sidewalks at critical and significant roadway locations, including along the main entrance roadway at each roadway intersection within the project and as suggested by the applicant’s traffic expert during the decision-making process.” That decision-making process was referenced earlier and it involved the town’s Department of Public Works, Police Chief, engineering consultant and the Planning Board. Mr. Prellwitz noted that Mr. DiOrio had mentioned having sidewalks in specific areas and the school bus stop comes to mind. He felt that at a minimum, the lower half of the development should have a sidewalk on one side, especially so the children can get to the school bus stop safely. Attorney Landry advised that he had suggested the pedestrian lane for they were attempting to preserve the town’s required drainage design. They did not wish to redesign the drainage for they would have to go back to DEM. They are required to follow the town’s designs on swales which does not accommodate sidewalks. They could put in a travel lane and have it painted and striped. Mr. DiOrio suggested that if they could do that, why not make that area a sidewalk. He noted that he was prepared to strike the words “including along the main entrance roadway at each roadway intersection within the project,” leaving it up to the applicant to decide where to put these sidewalks, as noted by their expert. Attorney Landry agreed as long as this did not require more pavement. They could use some type of suitable surface for pedestrian travel within the roadway, even a rumble strip. Solicitor Hogan wished for clarification on that number and Attorney Landry noted that the final mapping will also identify mechanisms to move pedestrian traffic from the project roadways to easily accessible pathways that will facilitate travel throughout the project. He felt that this was their trail system for recreation and there would also be a suitably constructed dedicated pedestrian path within the current roadway design appropriately striped and designated for safe pedestrian travel at select locations within the development. Mr. DiOrio noted that the pedestrian pathway in the roadway would run throughout the project and then at significant and critical locations they might consider something raised, or a rumble strip. Mr. Allen suggested that if they design walking within the road and use striping, every forty houses or so have an area where the school bus would stop and put little ballads around it so that there is an area for the children to stand and so they know where to stand. Taking a little out of the roadway will slow the cars down. Mr. DiOrio was concerned that at significant intersections there may be sloping that requires more than just some paint on the road. He wished to leave that up to Mr. Allen’s designer to determine how that would be accomplished. Mr. Lindelow suggested that a two-person pedestrian pathway was four feet wide and asked Mr. Allen if the road would be four feet wider. Mr. Allen advised that the road would be four feet less. Mr. Lindelow felt that would be more dangerous and Mr. Allen believed that would slow the traffic down. Ms. Light also wished to bring to their attention that this was good for the initial build-out but afterwards the town would be responsible for maintaining that. Mr. Prellwitz noted that he liked the idea of a rumble strip rather than just painted stripes. Solicitor Hogan felt that the language gave the applicant some latitude in that they could speak with the Public Works Department and then come back to the Planning Board and talk about it before they are going to file, so everyone can be on the same page, the Board could not design the roadway. Mr. Prellwitz was in agreement with Mr. Allen and Mr. DiOrio that there are things that can be done, and he wished something on the record that they are willing to do something in this regard. Attorney Landry agreed with the statement that

the applicant, in consultation with DPW, would return to the Planning Board before filing the final approval application with specific proposals for the Board to consider.

Solicitor Hogan asked Attorney Landry if he had received letters submitted by abutting property owners that the Board had received in the last week or two; he noted that he had. She stated that one issue which was raised concerned the statement that people could potentially put in a private well for irrigation. The letter objected to there being any private wells because the numbers that Mr. Ferrari generated were not based on private wells. Attorney Landry stated that their preference would be for private homeowners to have the option to do what they would like to do, provided they get the appropriate permits. Ms. Shumchenia believed that she had read a condition (page 25, paragraph 23) which left her believing that only the HOA had to approve a private well. She believed the Board learned from the applicant's experts and the Board's own expert in a prior discussion, that this was not the case, and a permit would need to be applied for from DEM or the Department of Health; they could not just simply drill a well. Attorney Landry agreed. Ms. Shumchenia reiterated that she would not agree to allowing any irrigation wells with only HOA approval. Solicitor Hogan felt they could amend the language to reflect that irrigation wells could be added with HOA approval and if all regulatory approvals were in place. Ms. Light felt that this skews what they were told, for if there could potentially be 140 wells on 20,000 square foot lots and the project was planned, tested and reported to support the community wells at 64,000 gallons per day, then they had inaccurate information. Ms. Shumchenia noted that was exactly her point. Her recollection was that they asked Mr. Ferrari the question that if they allow people to put in irrigation wells, are they going to have 140 wells because everybody could have their own and he seemed to indicate that this type of design was very unlikely to be approved by the Department of Health and DEM because they need to secure the aquifer for the other wells. She was okay with adding the language "and all regulatory approvals as required" but noted that if none were required then the 140 well scenario could happen as long as the HOA approved them. Ms. Light felt that if they allowed one well than they were going to have to allow them all. Ms. Shumchenia noted that they had spoken about the option of having a group of homeowners getting together to put in a community irrigation well. She wished to be assured that there would be some oversight and protection for the abutters to this project's wells and the drinking water wells of the actual homeowners in the project. Solicitor Hogan felt that the Board required more technical information on this issue and suggested that they consider the issue of irrigation wells at the final stage of review. Ms. Light wished to note for the record that she did not like the idea of irrigation wells specifically because the master plan was very specific and very careful about the way the project was to be designed and irrigation wells were not part of the consideration. The influence of even twenty homeowners putting wells in against what was already proposed to satisfy the immediate community and the abutters, threatens that intention. Ms. Shumchenia felt the same way, however, stated that the reality was that people were going to water their lawns so they were either going to break the HOA rules and consistently draw water out of the drinking water well or they provide them, as best they can, an approved way to water their lawns. Mr. DiOrio added that he did not see any language that talked about alternatives such as cisterns. There was more than one way to water a lawn or garden and not everyone needs to have a well. Several property owners could agree to put in a large tank and have it filled and use that to water their gardens and lawns. Solicitor Hogan believed that the issue of irrigation could be

addressed at the final plan stage of review. Attorney Landry felt it would be important to have some of the other alternatives noted in the record for consideration later, such as wells and cisterns. It was noted that there would be six cisterns on this site for fire suppression.

Solicitor Hogan felt that the issues had been resolved other than the number of units to be built yearly throughout the course of the development. Mr. DiOrio asked if they could discuss a combination of scaling the number combined with some language that allows the applicant to take any unused permits. Attorney Landry felt it was all about having a number of units that can be used for financing the debt, the borrowing, the bank (what is your income, what are your projections). Attorney Landry noted that he could not go any lower than 44 homes per year. Mr. Allen believed this was all about absorption and it was extremely difficult with the upfront costs, and he would be chasing Five to Six Million Dollars the day that they put the shovel in the ground. Solicitor Hogan stated that 140 units divided by three years would equal 46 units per year. She asked the Board if that was acceptable. Ms. Light felt that the Planning Board would then be responsible for telling other property owners that they could not build anything for three years. Solicitor Hogan advised that the applicant had requested a waiver from the growth management ordinance so if the Board granted their waiver those 46 units, or whatever the Board agreed to, would be separate and apart from what other people are going to be allowed to obtain. Mr. Spellman suggested that there were 18 permits pulled in 2021. Ms. Light was upset because if they allowed this applicant 40 permits then they would have to allow the next big project 40 permits and then also the regular permits that were being issued; the town's infrastructure costs were going to skyrocket. Mr. DiOrio questioned whether the Board would be obligated to allow another applicant the same condition. Solicitor Hogan felt that the latitude was there, and she would anticipate that a similar argument may be made by that applicant that the Board did not limit them at master so they could not limit them now. She explained that if the Board wished to phase something it would have to be done at master. It does not talk about the rate by which those phases come on board, which is what they were talking about now, there is a difference. She noted that she and Attorney Landry did not necessarily agree on that. That applicant has indicated that they plan to build their project in seven phases of 20 units each. There has not been a consensus on what the rate will be for when those seven phases will occur. Mr. Lindelow felt that if they did not set a standard and the matter was appealed and the town lost, then there would be no standard. Solicitor Hogan noted that this was in the State's Housing Appeal's Board purview. Attorney Landry noted that he hoped to set a limit and have that in the record as part of the decision. Mr. DiOrio asked Attorney Landry if they could pull permits in the first two years and not use them. He did not believe so; he believed the permits were only good for six months and then they would have to be extended. Solicitor Hogan did not believe the Building & Zoning Department would issue a building permit if the applicant did not have sewer and water in place. Ms. Shumchenia felt that this would impact the availability of permits to other residents and also they would end up building an even larger number of units than what they were currently trying to allow. Mr. Lindelow and Mr. DiOrio both felt that they would accept Attorney Landry's suggested number. Mr. Lindelow felt they were not obligated to allow this to another applicant; Solicitor Hogan agreed but suggested that they could expect a similar level of discussion and arguments. Attorney Landry suggested that another applicant could not expect the same consideration because the

resources have already been impacted by another project. Solicitor Hogan wished the Board to agree on the number of units the applicant would be allowed to build in one year. Ms. Shumchenia asked where the five-year time limit to build this project was coming from and it was stated that this was in the Low- and Moderate-Income Housing Act and Solicitor Hogan advised that this could be agreed to be extended. Ms. Shumchenia stated that the applicant threw out a 30% threshold which was 42. Attorney Landry advised that he was not authorized to go below 45 units; Mr. DiOrio stated that he had heard 44 units. Thirty percent was agreed upon. Someone in the audience asked if the Board was voting on these things and Solicitor Hogan noted that the Board has not even begun the vote yet. The draft decision was 25 pages long. Ms. Light advised that they did wish the abutters to speak at some point in the meeting. It was noted that one-third equaled 46.6 units per year. Mr. Prellwitz asked the Board if 46 units per year were acceptable. Mr. Lindelow, Ms. Shumchenia and Mr. DiOrio accepted 46 units and Ms. Light noted that she wished to abstain. Mr. Lindelow wished to reiterate that if they did not agree to a number and this went to another level of decision makers, this could become an unlimited number.

Mr. Prellwitz asked for the abutters' input.

Conrad Cardano of 110 Dye Hill Road advised that the meeting was very enlightening regarding the time frame of the project. His concern was the condition of Dye Hill Road and Saw Mill Road. In reading the BETA report, he noticed that all of the photographs in that report were taken in March when there was no vegetation, and they look like big wide roads. He also noted that if they had performed done a traffic study in the summer it would have been much different due to the proximity of the campground. During the summer with the vegetation, the road is approximately eighteen feet wide. This is a disaster waiting to happen for the pedestrians for there is not enough room on the roads. He did not see anything in their proposal to improve those roads prior to starting the project. He felt the widening of those roads to twenty-two feet should be made first.

Mr. Prellwitz asked Solicitor Hogan about the off-site improvements and if they were required to be completed before construction begins. Ms. Light believed this was in the preliminary plan as one of the requirements. Ms. Shumchenia noted that the culverts were being widened before construction, page 15. Mr. DiOrio noted that it did not specifically state when the roadways would be addressed; it did not set a time frame. Ms. Light believed that BETA's memo regarding Saw Mill Road suggested that there should be short-, mid- and long-term monitoring. Reflected in Solicitor Hogan's decision, page 15, was short term, widen Saw Mill Road between Moscow Brook crossing and Dye Hill Road by extending culverts at three locations: Moscow Brook, Brushy Brook and Minor Spring Crossing. Mid-term for Saw Mill is crack seal and rubber chip seal; long term was mill and overlay one and a half inches to two inches with immediate rubber chip seal to further guard against reflective cracking from the base force, a chip seal layer may be added on top of the milled surface. Regarding Dye Hill Road, Ms. Light indicated that she would like to see the language that BETA used, but for short term at a minimum, a full depth reconstruction and widening at an appropriate length of one hundred twenty-five feet of Dye Hill Road immediately to the east of the new subdivision road, crack and seal. Mid-term was to evaluate trees located immediately adjacent the edge of the pavement for visibility obstructions; possible full removal of trees and root systems to

expand the roadway, graded shoulder to improve lateral clearance to obstruction with full depth reconstruction in those areas. Long term for Dye Hill Road included the paragraph that she had previously read and a mill and overlay of one and a half inches to two inches with intermediate rubber chip seal. Ms. Shumchenia noted that on page 21, condition of approval, no. 9, off-site improvements talked about and incorporated all of those and specifically states that the culverts will be widened to twenty-two feet prior to construction and that there will be annual meetings required by the applicant with the town to assess the condition of the road at the applicant's expense. At the very end on the next page it states that as part of final plan submission, the applicant shall endeavor to submit a memorandum signed by the applicant and the town's Public Works Director detailing all of the required improvements and a schedule for conducting the same. Ms. Light pointed out that in the section, seventh line down, it stated twenty-two feet and the memo from DPW on January 15, 2010, indicates thirty-four feet for both Saw Mill and Dye Hill Roads and she felt this needed to be corrected. Mr. DiOrio believed there was nothing to correct; they previously had agreed that thirty-four feet was not an expectation at any time. Ms. Bolek felt that would require them to take residents' land. Ms. Light suggested that they were told that the town could take ten feet on both sides of the road. Mr. DiOrio did not believe that to be accurate. Attorney Landry stated that changing that to twenty-two feet was part of the master plan decision. It was noted that this was on page 13 of the master plan decision, which Ms. Shumchenia read.

Joseph Capalbo of Woody Hill Road questioned how many permits the applicant would be allowed to have a year. It was noted that they would be given an allowance of forty-six permits a year. Mr. Capalbo asked why this applicant would receive forty-six permits a year and the rest of the town would receive forty-four permits. It was noted that the average number of permits pulled each year was approximately eighteen; however, this would allow ninety permits to be issued in those years. Mr. Capalbo stated that this would absolutely go against the whole idea of having a growth ordinance. The ordinance was enacted to restrict the growth in the town so that it was slow and orderly and so we could assimilate the school population and all of the other things that go with building. Also, the ordinance was imposed to keep the rural character of the town. If they make a special exception for this applicant, then they will open a pandora's box for every other applicant that comes through. He asked what has this applicant done that he deserves this special exception. Mr. Lindelow noted that this was not specified at master plan so they believed they had an unlimited number and if they did not agree to a number and the matter was appealed, they could award the applicant an unlimited number. Mr. Capalbo asked what the town would have lost then. He noted that the Town Manager, Brian Rosso, had indicated that when this project was completed there would be a \$1,300 impact of taxes per resident. Solicitor Hogan noted that this figure went to the number of units and that issue was not something that the Planning Board could adjust. The applicant was crying about how much this development was going to cost but he had no concern about what it was going to cost the town for the education and increased taxes. Mr. Capalbo noted that in the beginning of the application the developer indicated that he was going to build twenty units per phase and when asked how long a phase would be, he never received an answer. Mr. Capalbo then asked if the affordable housing plan fit with the town's plan. He had read that affordable housing was supposed to be put in places central to the town where the people had access to the post office, grocery store, bank or bakery. In urban rural areas where they have old buildings that they are not using. It was

not supposed to be put in the most rural area in this town. Lastly, he read: “There will be no significant negative impact on the health and safety of current or future residents of the community in areas including but not limited to safe circulation of pedestrians, vehicular traffic, provisions of emergency services, sewage disposal...” He asked if the sewage system had been approved by DEM and Solicitor Hogan noted that this is not required to be approved until the final stage of review because this is a comprehensive permit. There was also discussion about whether the wells were approved, and Solicitor Hogan noted these also were not required to be approved until the final stage of review. Mr. Capalbo noted that the abutters’ trepidation was because the original plan was to have a number of wells on thirty-five acres located way up in the back of the project and now all of a sudden, they have one or two wells drilled near the abutters. Solicitor Hogan explained that a master plan was a concept, a sketch, a possibility; it is not cast in stone. The whole process of having a staged process: master, preliminary and final, was so the development process proceeds in an orderly fashion and something that looked like it might be good at master has been proven scientifically to not work at preliminary and that is why the state law is set up the way it is; to have this done in a staged process. Mr. Capalbo asked how it was proven scientifically not to work when the applicant never went up there to drill the wells where they said that they were going to drill them. Solicitor Hogan explained that there was expert witness testimony on the record from the foremost expert in this area that said geologically that area was not going to work, and they established the volume of water that came out of the wells that they drilled. Mr. Capalbo argued that this well was right behind Mr. Orlandi’s house and the applicant had 350 acres where they could put in a well. Ms. Light noted that the last application for OWTs submitted to DEM was in April 2022 which came back in June as unacceptable; there was nothing currently submitted and that would come later.

Deborah O’Leary of 44 Pleasant View Drive noted that she was a former member of the Conservation Commission. She explained that she was hearing the same concerns which she heard thirteen years ago, regarding water and how the project would affect Saw Mill Road which was already a problem. The biggest issue seemed to be water and there did not seem to be enough water in the area to support this property; therefore, this development was not suitable and that should be the end of it. That property is nothing but a big ledge. She felt that another issue would be the quality of life for the current residents as well as any new people moving into that development. Dye Hill Road is lined with trees and now they will have to widen the road. She could not imagine that road without trees and felt this was a very dangerous road due to the twists and turns. Ms. O’Leary advised that she lives in Pleasant View and they do not water their lawns. Her concern was after thirteen years they still could not determine if there was enough water on this property. During the last comprehensive plan survey, the residents’ number one reason for living in Hopkinton was the rural character of the town and this was also their biggest concern.

Joseph Moreau of Old Depot Road noted that since 2018 he has attended all Planning Board and Town Council meetings, except for two, when he had hip surgery. He felt that things have really changed in the last few years and residents have been restricted in having discussions with Planning Board members and the former Town Planner. He stated that he is allowed as a resident to call people and bring them up to date on what is happening in the town. He took exception to the fact that an attorney was questioning

why a resident can call people. The only two people that were different at the meeting were the Town Manager and Deborah O’Leary. Mr. Prellwitz noted that it was getting late, and they needed to make a motion to extend the meeting.

Mr. DiOrio wished to have a strategy in place when extending the meeting. He did not feel they were going to accomplish their goal. If they were not going to get to that point, why were they extending the meeting. Ms. Shumchenia asked if they were going to read the decision tonight and Solicitor Hogan responded that if they were not, they would need to schedule another meeting with the applicant because they were on a time clock. Mr. DiOrio agreed and indicated that there was a larger issue than just another fifteen minutes. Attorney Landry was asked by Mr. DiOrio if they could receive an extra couple of days before they rendered a decision. Ms. Light felt that the Board should close the meeting so that they could have a discussion without any pushback, which was fine with Attorney Landry who felt that this might move things along.

Mr. Moreau continued that he had heard a comment that we do not have risk. Attorneys move on and developers move on; the town has the risk. He understood that the master plan was approved in 2010, but if mistakes were made then they should be fixed. That was not the fault of the current Planning Board. He felt they should vote on what they have seen, read and heard at these current meetings. Do what is right and not always easy. Town residents and employees will remember how they voted in 2023; they did not know what happened in 2010. Chief Palmer noted the issues with road safety and the Town Manager urged the Planning Board to consider the impact that this project would have on the community. Mr. Moreau indicated that at the prior Planning Board meeting of August 16, 2023, Mr. DiOrio spoke about the subdivision regulations, protecting our neighbors and that public opinion was that no one wants the Skunk Hill solar project. He also stated that clearing trees was still a significant environmental impact for Skunk Hill Road. He felt those same sentiments applied to this project. Regarding Section 6 of the conceptual plan presented at the master plan phase, they were originally discussing 270 houses which has changed to 140, it was indicated that these houses would sit on a half-acre lot at three times the overall density allowed by town zoning regulations and in affect the applicant seeks permission to take a dense suburban neighborhood from Warwick or Cranston and drop it into a small town’s rural area without the public infrastructure, like water and sewer. That suburban community with only narrow and winding country roads to carry this traffic. This proposal is so dense as to wholly be inconsistent with the rural character of the town. Someone told him that when discussing the 2010 master plan, former Town Planner Jim Lamphere noted that they wanted to drop Garden City in our town. This was not in the best interest of our town or its residents. He would rather have the Planning Board do what was right concerning this project and vote no. Mr. Lindelow asked Mr. Moreau what he wanted them to vote no to, the whole project or the conception of the project because he did not believe they could vote no to that. Mr. Moreau stated that they have the right to vote yes or no, and the Town Solicitor should just give them their options and not tell them how to vote. Mr. DiOrio noted for the record that there were no mistakes made in 2010.

A MOTION WAS MADE BY MS. SHUMCHENIA AND SECONDED BY MS. LIGHT TO EXTEND THE MEETING UNTIL 10:30 P.M.

IN FAVOR: Shumchenia, DiOrio, Light, Lindelow, Prellwitz

OPPOSED: None

SO VOTED

Sherri Aharonian of Dye Hill Road asked the Board if their plan was to have peer review continue into final review and the Board noted that this was their plan. She wished to address the Board members who were in favor of individual irrigation wells, and she wanted to refer to the master plan because that plan did not really account for that. People do not need to water their lawns and a lot of people don't. This was just a fact of life when you have well water. She felt that many people who might move out here might not understand well water. Mr. Ferrari had indicated that the development in Exeter had a singular irrigation well; not everybody on the property had their own irrigation well. She believed he also stated that people got a little zealous and that well has run dry, and a RI Department of Health drinking water well could not be an irrigation well. She found it a little disconcerting that the Board would even entertain the idea of singular irrigation wells. This could potentially be 140 wells with people watering their grass for three or four hours at a time. She asked that the Board give this some thought before they agree with this, and she felt that it should be a forbidden thing. Mr. DiOrio wished Ms. Aharonian to know that this topic would be discussed and decided at the final review stage. She noted that she was disappointed about that and had hoped to see a prohibition in place against this. She was also scared about the width of the road being eighteen feet for there would be a lot of construction vehicles coming and going.

There were no other residents or abutters wishing to speak.

Mr. Prellwitz attested to the fact that he has been to all meetings for the past four years while he has been on the Board.

Ms. Light attested to the fact that she has attended all meetings concerning this project that have been held during her tenure and that she has read all necessary documents and she was prepared to make a valid vote.

Mr. Lindelow attested that he has reviewed all materials from any meetings where he was absent.

Ms. Shumchenia attested that she has either attended all of the relevant meetings or reviewed the materials when she was absent.

Mr. DiOrio attested that he had attended all but two meetings and he did review the minutes and the videos from those meetings.

A MOTION WAS MADE BY MS. SHUMCHENIA AND SECONDED BY MR. DIORIO TO CLOSE THE PUBLIC HEARING.

IN FAVOR: Shumchenia, DiOrio, Light, Lindelow, Prellwitz

OPPOSED: None

SO VOTED

A MOTION WAS MADE BY MS. SHUMCHENIA AND SECONDED BY MR. DIORIO TO EXTEND THE MEETING UNTIL 11:00 P.M.

IN FAVOR: Shumchenia, DiOrio, Light, Lindelow, Prellwitz

OPPOSED: None

SO VOTED

Ms. Light indicated that the Planning Board alternates may wish to contribute. Ms. Shumchenia noted that she was going to read the motion, and someone may, or may not second it and they could thereafter have a discussion before the vote. Ms. Light wished to note her comments on the content as they were read. Mr. DiOrio noted that Ms. Shumchenia was going to read a motion and it was really open for comments. Ms. Light objected to the fact that the Planning Board has not had an opportunity to discuss this independent of attorneys. There was no opportunity for them to interject, they were just following the guidance of what their outstanding needs were and what Solicitor Hogan pointed out were outstanding needs. There has been no discussion amongst themselves. They could read the motion and she could make a decision without reading the motion, but she would prefer to have the effort and work that she has put into this acknowledged by the Board because she believed it could influence some of the decision. Mr. DiOrio asked if she wished to have a discussion before the motion and Solicitor Hogan advised that this was the time for Board discussion. If the Board was not comfortable with moving forward with the motion, then this was the time to have deliberations and to hash things out. Ms. Light advised that she wished to deliberate further for it felt like the motion was being shoved down their throats. Mr. DiOrio agreed to a discussion.

Ms. Light wished to address page 3, fifth sentence down she would like the word “reserve” struck from the decision. In the last sentence of the first paragraph she wished the date to be corrected to January 15th. She preferred any reference to low-income housing be changed to moderate income housing. Solicitor Hogan advised Ms. Light that items (a) through (f) were recitations of what was in the master plan approval. It is just part of history and travel. Ms. Shumchenia asked if to preserve the history they had to be read as is and Solicitor Hogan noted that she certainly could have made a typographical error on the January 15th date. The reference to the Reserve was in fact in the master plan approval. This was just a recitation of the master plan conditions. Ms. Light referenced page 14, item no. 64, under off-site improvements. She did not know if anyone took a look at Dye Hill Road, but she only saw some double striping, she did not see any warning signs or speed limit signs. She felt that this was just a statement taken from the applicant’s engineer that was thrown in and it was not accurate. She was unsure how this could be corrected. Solicitor Hogan advised that the paragraph talked about what the memo states. They could certainly add that the Board does not agree with the memo. Ms. Light wished that to be the case, noting that she disputed the utility pole relocations, the curve ahead warning signs and speed limit signs, if the Board agreed. Mr. Lindelow suggested that this was possibly something that had not yet been undertaken. Solicitor Hogan suggested that they add to the end of that sentence that the Board questions whether or not all of these improvements have in fact been undertaken.

This was agreed to by the Board. Ms. Light went on to page 15 and noted that at the top where they were talking about Saw Mill Road, the recommendations for short-term, mid-term and long-term are verbatim from the report and under no. 66, she wished the bullets to be laid out the same way as that paragraph is because that would be exactly the way the memo was written. Ms. Shumchenia asked if the bullets would stay the same and Ms. Light indicated no. The first bullet is short term; the second bullet applies to midterm and include an additional sentence for repairs which stated it should be crack seal and double rubber chip seal; and, long-term should include the same statement to evaluate trees and the bullet concerning mill and overlay was the last sentence in long-term. On page 18, Ms. Light noted that RIGL 45-53-4(2) stopped at inconsistencies. So any additional conditions that may be imposed at the final stage of review are additional. She did not know if this should be included, or maybe the language should read that there may be inconsistencies, including additional conditions, that may be imposed. She felt that this was not the way the law read, and she wished this to be reflective of the project from start to finish. Solicitor Hogan noted that the language was changed to contemplate that there may be additional conditions imposed at the final stage of review and this is to signal that the Board is not done with this because the ultimate findings would be the law as written but they were not there yet. That is why there is a reference stating that there may be additional conditions coming at the next stage. Ms. Light requested the words “if any” could be changed to “including additional conditions.” On page 19, paragraph seven, indicates with requiring conditions of approval and conditions which may be imposed at the final stage of review, there will be no significant negative impacts. She asked if the verbiage was regarding required conditions of approval and conditions which may be imposed at the final stage of review are not consistent with the law? The law stops at there will be no significant negative impacts. Ms. Light noted that after pondering this for a while she felt more comfortable with the way the law is read, rather than adding that statement. Solicitor Hogan asked Ms. Light what she was opposed to. Ms. Light noted that the first series of words in no. 7, that begin with “with” and end with “review” in the second line. She felt that this statement could be challenged. She liked how the law was specific in that there would be no significant negative impacts on the health and safety of the current or future residents of the community, etc. She believed that this statement was pointing to required conditions of approval and she felt that could be challenged. She felt that simply stating that there would be no significant negative impacts encompasses the objective that was intended by the law. Solicitor Hogan agreed but noted that it contemplates being at final plan of approval so for instance, right at the moment they have already discussed part of the safe circulation of pedestrian and vehicular traffic is going to be addressed at final stage. If the Board adopts the finding without the prefatory language at the beginning, then they were saying that they already have already determined that everything is safe, whereas this is written to indicate that they have not gotten there yet, it is going to be deferred at final stage and that was why it stated that conditions may be imposed at the final stage of review. This was more of a protection for the community and the abutters. Ms. Shumchenia felt that if they removed those words, it would suggest that they did not need any conditions. Ms. Light disagreed and left that if they removed that language, it would suggest that there would be absolutely no negative impacts regardless of conditions, whether the conditions were there or not. She felt the statement was misleading. Ms. Shumchenia was not prepared to make that finding and disagreed with Ms. Light’s statement. Mr. DiOrio injected that if they were at the final stage and they had all of the things that they would normally have

at final stage, they would be able to make that finding; however, in this particular case because of the mechanism of the application a lot of things are being hunted downstream. He felt that he would not be able to make this statement right now. Ms. Light did not think there was room to massage the language of the law. Ms. Shumchenia believed that this would give them a safety net and was only stating that they were not done and would like to make this better. Ms. Light wished to make it clear that during no time should the health and safety, regardless of whatever conditions are put in place; it should clearly state that the health and safety of residents is the bottom-line issue, and it does not need to be dressed up by conditions that are spelled out elsewhere in the decision. On page 21, no. 7, the fourth sentence from the bottom read: “In the event that after full build-out, the long-term withdrawal of water is found to negatively impact an abutting well...” She disagreed that they should sit by and wait for full build-out. She felt that any abutters whose well might be impacted during build-out should have the right to have that mitigated when it happens, not at full build-out. If it happens during the first phase, it should be addressed immediately. Solicitor Hogan noted that they could add that in the event that during construction and Ms. Light suggested during and after full build-out. This was agreed to by all. Ms. Light went on to page 21, paragraph 8, and explained that she did not care that they were just appointing the HOA to the responsibility of 140 septic pre-treatment units. She felt they should spell out what the rest of the obligation is going to be; i.e. the wells, the ponds, all of that. Ms. Shumchenia asked if the first sentence addressed that and Mr. DiOrio advised that it said, “including but not limited to stormwater drainage, septic system maintenance, water supply and quality.” Mr. Lindelow asked if she was questioning the last sentence and Ms. Light indicated yes and could they just include the 140 number into that. That they are responsible for all of this stuff. She asked what that was separated, and Solicitor Hogan advised that this was an added emphasis on that component of things, that the HOA is responsible for the maintenance of the pre-treatment units because that was a discussion about who was going to be responsible for that. Ms. Shumchenia recommended that they reword this to read that the HOA was formed to address elements, including but not limited to, etc., etc. for all 140 units. This was agreed to by all members. Ms. Light advised that these were all of her questions and changes. Mr. Lindelow asked the Board to review page 21, paragraph 7, about half way done stated detention pond B and wondered if that should read retention pond B. This was changed. There was no further discussion.

A MOTION WAS MADE BY MS. SHUMCHENIA AND SECONDED BY MR. DIORIO ON THE PRELIMINARY PLAN APPROVAL FOR BRUSHY BROOK - MAJOR SUBDIVISION:

FINDINGS OF FACT

A. Overview of Application

1. The subject property, 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, is owned by LR-6A LLC. Realty Financial Partners as the Applicant.

2. The application is being reviewed under the Rhode Island Low- and Moderate-Income Housing Act, R.I. Gen Law §45-53 et seq. as a comprehensive permit.
3. The subject property encompasses a total of 355 acres which is predominantly wooded. Approximately 256 acres of the site will be protected open space, with the balance being developed as a 140-lot single-family major cluster-style subdivision, constructed in seven (7) phases of twenty lots per phase. The application seeks approval for homes with three bedrooms. Twenty-five percent (25%) or thirty-five (35) units will be sold to qualified low and/or moderate-income purchasers and will be subject to a deed restriction that maintains the affordability. The number of years for the affordability period has not been identified as 99 years. There will be an authorized monitoring agent approved by Rhode Island Housing that will screen and approve qualified low- and moderate-income applicants.
4. In accordance with the master plan approval dated November 23, 2010, all low- and moderate-income housing units must be integrated throughout the development, compatible in scale and architectural style to the market rate units within the project; and, must be built and occupied prior to, or simultaneously with the construction and occupancy of any market rate units.
5. The homes will be serviced by a public well water system which shall be approved by the Rhode Island Department of Health (“RIDOH”) in coordination with the Rhode Island Department of Environmental Management (“RIDEM”). The public well water system will be overseen and monitored on a permanent basis by a qualified water system operator at the expense of the homeowners in the subdivision. In accordance with the provisions of a comprehensive permit, final approval for the wells will be presented at the final stage of subdivision approval.
6. The homes will also be serviced by a communal style de-nitrification septic system. Each home shall have its own individual septic tank and Advantex de-nitrification system components which shall then drain, via a force main, to a communal drain field. The septic system will be subject to an operations and maintenance (“O&M”) plan which will be recorded in the Hopkinton land evidence records. In accordance with the provisions of a comprehensive permit, final approval for the septic system will be presented at the final stage of subdivision approval.
7. In accordance with the Town’s cluster subdivision requirements, a mandatory Homeowner’s Association (“HOA”) for the development has been proposed. The HOA will bear full responsibility for:
 - (a) the operation and maintenance of the public water system, to include the hiring of a qualified water system operator;
 - (b) maintenance of the storm water system;
 - (c) operation and maintenance of the communal septic drain field, as well as inspection, maintenance and repairs of the 140 individual septic units.

8. The Town of Hopkinton engaged Steven Cabral, P.E. of Crossman Engineering to “peer review” this application and its various components. Mr. Cabral authored several detailed memoranda throughout the preliminary plan review process and provided numerous written recommendations which improved the plans significantly over time.

B. History and Travel of the Application & Overview of Hearings

9. On November 23, 2010, after multiple public hearings and a significant reduction in overall project density, the Hopkinton Planning Board very reluctantly granted Master Plan approval to “Brushy Brook” a major residential subdivision, pursuant to R.I. Gen. Laws Chapter 53 of Title 45, “The Rhode Island Low- and Moderate-Income Housing Act”, subject to the following mitigating conditions.
 - (a) The approved density will be in the range of 93-116 single family units, to be determined by a proper yield calculation at preliminary, plus a density bonus of 25% for affordable family housing to be awarded under Hopkinton Inclusionary Zoning Ordinance, for a total of 116 to 145 units of single-family houses.
 - (b) The Applicant shall reconfigure the development under our subdivision cluster regulation, using 20,000 more or less, square foot lots, so as to maximize the open space adjacent to Arcadia Management Area and so as to eliminate, to the maximum degree possible, house lots abutting the Management Area.
 - (c) In accordance with our cluster regulations, the Applicant shall provide public drinking water wells, unless proven infeasible and communal septic with denitrification, using open space for wells and septic in such a way as to achieve maximum feasible separation between wells and septic and minimum potential for pollution and nitrogen loading.
 - (d) The Applicant shall make all off-site road, bridge, and culvert improvements that were required in the previous PUD for the site, which is part of the record. These off-site improvements including widening a bridge and two culverts on Saw Mill Road to twenty-two feet, clearing two feet on each side of the road, and chip sealing Saw Mill Road and Dye Hill Road from Route 138 to the entrance of the Reserve at Brushy Brook. In addition, the Applicant shall make the improvements and provide for the monitoring recommended in the RAB revised traffic study dated July 2, 2010. Finally, the Applicant shall perform the improvements indicated in the Public Works Director’s memo of January 10, 2010, Exhibit 22, unless they are proven to be infeasible.
 - (e) All exterior lighting, both public and private, shall be dark sky compliant and there shall be plan notations and deed restrictions to that effect.
 - (f) All low- and moderate-income housing units must be integrated throughout the development, compatible in scale and architectural style to the market rate units within the project; and must be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units. (Master Plan approval attached as Appendix A)

10. On December 22, 2010, the Applicant appealed the decision to the State Housing Appeals Board (“SHAB”), challenging two conditions: (1) the number of units which had been reduced by the Board from 270, with 68 affordable, to a maximum of 145, to be determined at preliminary plan; and (2) reconfiguration of the lots to approximately 20,000 square feet.
11. On January 19, 2013, SHAB upheld the Planning Board’s conditions of approval. Thereafter, the Applicant appealed SHAB’s decision to the Rhode Island Superior Court.
12. On April 22, 2016, the Superior Court, (Justice Carnes) affirmed SHAB’s decision upholding the Planning Board’s decision. (Appendix B attached hereto)
13. At the time the Superior Court’s decision was issued in 2016, the “tolling statute”, R.I. Gen. Laws § 42-17.1-2.5 remained in full force and effect, keeping the Planning Board’s decision from expiring.
14. On December 2, 2020, the Applicant appeared before the Planning Board for a pre-application conference for the Preliminary Plan approval process.
15. On April 29, 2021, the Applicant submitted its Application for Preliminary Plan which was not certified complete until June 10, 2021.
16. The public hearings for the Preliminary Plan commenced on August 4, 2021. The application was continued to the following agendas:

September 1, 2021	Public Hearing proceeded and then continued to a special meeting on October 20, 2021.
October 20, 2021	Continuance requested and granted to December 1, 2021
December 1, 2021	Continuance requested and granted to January 5, 2022
January 5, 2022	Continuance requested and granted to March 2, 2022
March 2, 2022	Continuance requested and granted to April 6, 2022
April 6, 2022	Continuance requested and granted to June 1, 2022
June 1, 2022	Public Hearing proceeded and then continued to Sept. 7, 2022
September 7, 2022	Public Hearing proceeded and then continued to Nov. 2, 2022
November 2, 2022	Public Hearing proceeded and then continued to Jan. 4, 2023
January 4, 2023	Public Hearing proceeded and then continued to February 1, 2023
February 1, 2023	Continuance requested and granted to April 5, 2023
April 5, 2023	Public Hearing proceeded and then continued to June 7, 2023
June 7, 2023	Public Hearing proceeded and then continued to June 14, 2023
June 14, 2023	Public Hearing proceeded for purpose of scheduling decision
July 12, 2023	Public Hearing proceeded and was continued to July 24, 2023 for potential decision
July 24, 2023	Public Hearing proceeded and discussion ensued
July 31, 2023	Public Hearing was continued to August 24, 2023 due to a technology issue
August 24, 2023	Public Hearing proceeded, was closed and decision issued

17. At the August 4, 2021 hearing, the Applicant's attorney, Mr. William Landry, provided a historical travel of the case, highlighting the prior decisions and the changes between the master plan and preliminary plan. Mr. Landry then presented testimony from Eric Prive, P.E., DiPrete Engineering. The Board also heard public comments from William Bergan, Dye Hill Road; John Orlandi, Dye Hill Road; Sharon Davis, Cedarwood Lane; Carol Desrosiers, Pleasant View Drive; and Sherri Aharonian, Dye Hill Road.
- Mr. Bergan expressed his concerns with the varying road widths of Dye Hill Road and the effects on his front yard if the road is widened, which is needed for this subdivision. He maintained that the existing town roads should be fixed before construction on any subdivision begins. He noted that Woody Hill Bridge no longer exists and that has changed the traffic patterns in the area. He expressed concerns with extensive runoff during rain events and was concerned with additional impacts construction would cause. He also stated that properties along the roads have had difficulty finding adequate water for a well and doubted that sufficient water could be found to service this subdivision.
 - Mr. Orlandi stated that he was concerned with potential impacts to his well, which is a 28-foot well that produces 14 gallons per minute. He described the flooding conditions that occurred in 2010 and wanted to know how the developer would be able to contain water on its site.
 - Ms. Davis wanted to ensure that the low and moderate units were sold equitably across all phases of development and to clarify the number of those units. She inquired about wetlands permits. Ms. Davis was concerned about whether the lots would be built by one builder or sold off to other developers. She expressed her desire to have all the Beta Group's recommendations followed.
 - Ms. Desrosiers stated she lived within a mile of the development and that her well ran dry in 2020 and she was therefore concerned. She expressed concerns about the communal septs and the electrical costs to maintain the required denitrification components. She indicated that she wanted to see a construction manager for the project. She was concerned about the HOA and whether it would be created because the one required in her plat was never formed.
 - Ms. Aharonian concurred with other abutters' concerns about the existing conditions of Dye Hill Road and the need to upgrade it prior to construction. She validated that there was extensive flooding in 2010 and was therefore concerned with the proximity of a retention pond, about 400 feet away from her house. She inquired as to whether a bond or some other mechanism could be required to protect abutters from damage that might occur. She expressed concerns about an HOA assuming responsibilities for the stormwater management. She also expressed her desire to see all the conditions of master plan upheld and the use of a construction manager. She also wanted to make sure that there was no clear cutting.
18. After the August 4, 2021 meeting, the Town retained Crossman Engineering to conduct a peer review of the application and supporting materials to date. Over the course of the application, Mr. Cabral issued a series of reports addressing concerns, resolutions,

outstanding items and recommendations. These reports are dated August 19, 2021, February 22, 2022, May 24, 2022, August 30, 2022, January 5, 2023 and June 7, 2023.

19. The substantive public hearing continued on September 1, 2021, where Mr. Landry provided responses to concerns raised at the August meeting. The Board inquired of Mr. Prive as to septic issues. The Board also accepted public comment and inquiries from John Orlandi, Dye Hill Road; Eric Bibler, Woodville Road; Sherri Aharonian, Dye Hill Road; Sharon Davis, Cedarwood Lane; and, Barbara Capalbo, Lynn Lane.

- Mr. Orlandi again expressed concerns for his well. He also expressed some concerns about the location of two retention ponds and potential impacts. He also sought vegetative screening between his property and the new subdivision road. He also inquired about power outage impacts on the operation of the septic pumps/fields.
- Ms. Aharonian referred the Board to Section 8.6.4 of the Land Development & Subdivision Regulations, entitled “Public Improvement Guarantee.” She referred to a letter she had submitted on August 22, 2021 which addressed the following concerns: (1) Location of infiltration pond (G) 400 feet away from her house; (2) the need for a performance bond; (3) requirement of a construction manager; and, (4) require adherence to all conditions of master plan approval.
- Ms. Davis explained that she was expressing her own thoughts as well as those of Carol Desrosiers, who could not attend the meeting. She indicated that Dye Hill Road and Saw Mill Road should be widened to 22 feet, after preliminary plan, but prior to final plan. She also requested a construction manager.

20. After five continuances, the substantive public hearing re-commenced on June 2, 2022. Mr. Landry updated the Board on the applicant’s activities since the last hearing on September 1, 2021. Mr. Landry presented the following expert witnesses: Mr. Eric Prive, P.E.; Mr. Timothy Thies, P.E., (both from DiPrete Engineering); and Mr. Robert Ferrari, P.E. (Northeast Water Solutions). The Board also accepted public comment and inquiries from John Orlandi, Dye Hill Road; Joseph Capalbo, Woody Hill Road; Conrad Cardano, Dye Hill Road; Carol Desrosiers, Pleasant View Drive; and, Sharon Davis, Cedarwood Lane.

- Mr. Orlandi reiterated his prior concerns regarding his well and the 2010 flooding. He expressed concerns about the financial impact to the town and traffic concerns. He stated that he believed the best solution would be for the Town of Hopkinton to purchase the property.
- Mr. Capalbo expressed concerns regarding the project’s size and its phasing on Hopkinton’s finances.
- Mr. Cardano expressed concerns as to the width of Dye Hill Road and traffic impacts.
- Ms. Desrosiers expressed her concern about the type of septic systems and the roads.

- Ms. Davis expressed her concerns that not all items in the Crossman Engineering Memo #3 had been addressed.
21. The public hearing continued on September 7, 2022, with testimony from Mr. Ferrari (Northeast Water Solutions) regarding exploratory wells and pumping tests. Mr. Ferrari testified that he had offered private well testing to seventeen (17) abutting property owners. The Board also accepted an inquiry from Mr. Joseph Capalbo of Woody Hill Road.
22. The public hearing continued on November 2, 2022, with extensive testimony from Mr. Ferrari, Northeast Water Solutions, concerning the exploratory wells and pumping tests. The Board's expert witness, Steven Cabral, was in attendance and responded to various inquiries. The Board also accepted public comment and inquiries from: Sherri Aharonian, Dye Hill Road; John Orlandi, Dye Hill Road; Conrad Cardano, Dye Hill Road; Kyle Lupinski, Dye Hill Road; Sharon Davis, Cedarwood Lane; Joe Moreau, Old Depot Road, and Joseph Capalbo, Woody Hill Road.
- Mr. Orlandi indicated that he participated in the well pump testing and that the transducer showed a three-foot loss of water from his well after the pumping was completed. He stated that Mr. Ferrari's assistant, Mr. Michael Stewart, a certified Water System Operator, assisted with the testing.
 - Mr. Kyle Lupinski, a recent resident to Dye Hill Road was concerned about losing the tranquility of the neighborhood.
 - Ms. Sharon Davis of Cedarwood Lane felt there was a difference of opinion on off-site improvements. She questioned whether communal septic was the right approach.
23. The public hearing continued on January 4, 2023, with continued review and discussion of the status of the exploratory wells, as well as other issues such as septic systems, roads, and the Growth Management Ordinance. Mr. Cabral provided some guidance on these issues, and he urged neighbors to have a transducer placed in their wells for monitoring during pump testing – at the applicant's expense. The Board also accepted public comment and inquiries from Town Councilor Stephen Moffit and Sherri Aharonian, Dye Hill Road.
- Councilor Moffit referenced a 2021 letter from the Chariho Schools Superintendent. He stated that a Planning Board could deny an application outright for failing to adequately address environmental concerns. He further inquired as to whether there was any plan for an emergency egress from the development.
 - Chairman Prellwitz expressed concerns about the impact of pending legislation on Accessory Dwelling Units, wear and tear on town roads, lawn chemicals, increased need for police & fire, and EMS access.

24. The Town Planner sought input on the application from other Town Department Heads. She received the following responses:

- On January 17, 2023, Sherri Desjardin, Building & Zoning Department expressed concerns about the department's ability to handle the required number of inspections given the part-time status of its inspectors and Building Official.
- On January 24, 2023, Police Chief Davis S. Palmer expressed his concerns over the adequacy of the roads in that area and the inevitable increased traffic. He was also concerned over the increase in population and suggested that the Town might need to increase its number of officers.
- On January 24, 2023, Fire Captain Patrick Hawkins opined that the Fire Department was requesting four 10,000-gallon cisterns throughout the development. He stated that while the Master Plan suggested an alternate emergency egress, the same was no longer mandated by the Fire Code and was no longer necessary. He expressed some optimism that the development's population might include some additional volunteer firefighter recruits.
- On February 8, 2023, Town Manager Brian Rosso wrote of multiple concerns, including: the financial impact to the Town and the resulting increase in the mill rate that would likely be needed for schools; the narrow, winding roads in the area; the need for increased police; the Building Department's small size; and the impact to the recreation department and other departments.

25. The public hearing was continued on April 5, 2023, with a summary of the project's evolution presented by Attorney Landry. (It should be noted that prior to this meeting, the Applicant provided two large binders with the "key documents", pulled together in one place, as suggested by the Board at the previous meeting). Mr. Ferrari of Northeast Water Solutions provided an update on the proposed wells and the results of the testing. Tim Thies, P.E., also presented additional testimony concerning the required application process for the new wells. The Applicant also presented testimony from Paul Bannon, P.E. of Beta Group, Inc. concerning the necessary road improvements. Mr. Cabral was present for the Town and indicated that he would need more time to review the recent submission. Town Planner Jalette read a list of questions and requested that the Applicant reply to these prior to the next meeting. The Board also accepted public comments and inquiries from: Conrad Cardano, Dye Hill Road; Joseph Capalbo, Woody Hill Road; and Cynthia Johnson, Hopkinton Land Trust.

- Mr. Cardano's testimony at this meeting addressed the financial implications of educating 140-200 additional school children.
- Mr. Capalbo also expressed concerns over the size of the development and the resulting financial impact to the town.
- Ms. Johnson's comments also focused on the size of the development and financial impact to the town.

26. The public hearing was continued on June 7, 2023. *****The public hearing was further continued to June 14, 2023, where the Board established July 12, 2023, for further discussion and deliberation.
27. The public hearing was continued to July 24, 2023, where the board heard final comments from members of the public, deliberated a draft decision, and clarified a number of items with the applicant's expert. Members of the public providing comment were: Joe Moreau, Old Depot Road and Sherri Aharonian, Dye Hill Road and perhaps others. The matter was continued to July 31, 2023, for final deliberations. On July 26, 2023, Ms. Aharonian submitted additional written correspondence.

C. Elements of Application

Public Wells

28. On December 2, 2020, PARE corporation submitted the original Brushy Brook New (Public well) Source application to RIDOH which proposed a thirty-five (35) acre well-field located in the eastern part of the proposed development. On April 9, 2021, RIDOH issued its approval for the proposed well field location. According to PARE, at the time this application was submitted, PARE had estimated that the average well capacity of the new onsite wells could be in the range of 5-10 gallons per minute. At that capacity, it would require between 5 and 15 wells to supply the required yield. To maintain a 200-foot protective radius around all those wells would require a significant amount of protected land for the water supply. Therefore, the eastern area of the site, with wetlands and state park land bordering seemed to be the ideal location for a well-field. (See Application for Amended New Source Approval).
29. On October 8, 2021, the RIDEM issued its Insignificant Alteration (Wetlands) permit, but with a condition that no water withdrawals would be permitted within 200 feet of any jurisdictional wetlands. Since the plans had assumed a 50-foot setback from jurisdictional wetlands, new areas of the site needed to be examined for a well field location. (See Application for Amended New Source Approval).
30. In May 2022, PARE engaged Northeast Water Solutions, Inc. ("NWSI") to undertake a hydrogeologic investigation and exploratory program to help pinpoint potential well locations. This examination resulted in a determination that the southwest corner of the site, to the left of the proposed entrance road, might prove to be a better location for the well field.
31. At the June 1, 2022, hearing, Mr. Timothy Thies, P.E. of PARE Engineering testified at length concerning the public well approval process at RIDOH. He stated that RIDOH requires the aquifer capacity for the proposed development to exceed approximately twice the anticipated demand of the proposed development. RIDOH will require rigorous testing of both water quantity and quality, prior to approving a public well.
32. Also testifying at the June 1, 2022, hearing was Robert Ferrari, P.E. of NWSI, a nationally known hydrology expert and a registered water system operator. He testified at length about the complex nature and details of water testing.

33. The development is expected to have an average daily demand of approximately 32,200 gallons per day and a maximum daily demand of approximately 48,300 gallons per day at full build out, excluding fire protection or irrigation. The use of onsite wastewater disposal systems (“OWTS”) results in approximately 85% of the water extracted from the ground to be returned via the OWTS leach field resulting in an average daily extraction volume of 48,300 gallons per day or 1.763 million gallons per year. (See Pump Test Report at 4).
34. NWSI installed an exploratory well (#1) on August 18, 2022, located in the southwest area of the project site. To assess potential impacts on the aquifer and watershed, NWSI utilized water level monitoring of Brushy Brook and four of seventeen neighboring private wells. The remaining thirteen abutting property owners either did not respond to the invitation to participate in the pumping test or declined. (See Pump Test Report at 4). Also see minutes of the September 1, 2022, hearing where Mr. Ferrari described this testing process to the Board.
35. NWSI reported that the pre-test monitoring determined that Exploratory Well #1 did not demonstrate any connectivity impact from the operation of nearby private wells on Dye Hill Road and Kenney Hill Road. (See Pump Test Report at 33) NWSI further reported that the pumping test program demonstrated that exploratory well #1 has no apparent connectivity to Brushy Brook or the associated wetlands along the southwest boundary of the project site. Further, no hydraulic connectivity was identified between the well and private wells at #122, #110 & #108 Dye Hill Road or the private dug well located at 10 Kenney Hill Road. (See Pump Test Report at 48).
36. NWSI further reported that the well testing began on October 14, 2022, at 8:23 AM and concluded on October 18, 2022 at 12:40 PM after a period of 100 hours and 17 minutes total pumping time (exceeding RIDOH’s minimum pumping period of 72 hours). The water level recovered 90% within 61 minutes; 98% within 17:21 hours and 99% within 23:51 hours. (See Pump Test Report at 38-39). As such, NWSI concluded that the underlying bedrock aquifer has sufficient recharge to sustain the effective yield to support the proposed residential development. (See Pump Test Report at 48).
37. NWSI concluded that based upon the results of the pumping test program, the pumping rate and extremely rapid recovery, that Exploratory well #1 can sustain a minimum pumping rate of 41 gallons per minute for an indefinite period of time. (See Pump Test Report at 40).
38. NWSI further reported that the groundwater produced is of generally acceptable quality, meeting the USEPA and RIDOH Primary and Secondary Drinking Water Limits. Water treatment for: (a) pH adjustment for alkalinity addition and corrosion control and (b) Removal of iron and manganese is recommended. (See Pump Test Report at 49).
39. On December 20, 2022, a second 500-foot bedrock well (Exploratory Well #2) was installed approximately 200 feet away from Exploratory Well #1. The water in this well was clearer and had less solid matter than Exploratory Well #1. Pump testing of Exploratory Well #2 began on January 4, 2023, at 8:16 AM and concluded on January 10, 2023 at 8:31 AM after 144.25 hours of pumping. NWSI estimates that approximately

360,000 gallons were pumped, equating to an average of 41.6 gallons per minute. Upon conclusion of the pumping, the water level recovered to 94.8% within 66 minutes; 98% within 4.6 hours and 99.8% within 23.75 hours. NWSI concluded that the rapid recovery demonstrates the underlying bedrock aquifer has sufficient recharge to support the proposed community. (See Addendum to Exploratory Water Supply Well Pumping Test Report at 15-16.)

40. NWSI also made the following recommendations: (1) Exploratory Well #2 should be controlled to a discharge flowrate of a maximum 42 gallons per minute. (2) A water storage tank and distribution pumping system is recommended to provide sufficient storage/equalization capacity to meet peaking water demands. (3) A water treatment system including pH adjustment to assure compliance with RIDOH/USEPA Primary and Secondary water quality requirements.
41. On January 24, 2023, PARE submitted an application to RIDOH for a new well field location based upon the results of the well testing. In that application, PARE indicated that a third well, Exploratory Well #3 was anticipated to be installed in an area with appropriate setbacks from any roads, stormwater and septic systems. (Exploratory Well #1 fell within protective setbacks.) Upon completion of Exploratory Well #2 and Exploratory Well #3, Exploratory Well 1 will be decommissioned. (See Amended New Source Approval Request dated January 24, 2023, at 3.)
42. On April 23, 2023, the RI Dept. of Health (“RIDOH”) approved an application for the location of Well #2 and Well #3 (source approval) which represents the first step in a three step process, according to RIDOH. The eventual construction of wells and the water quality testing will be subject to RIDOH regulations. In order to receive approval to connect the new wells the owner will be required to submit a separate application for approval to connect which has its own set of requirements and regulations. (See Well field location approval)
43. The HOA, as the eventual owner of the public water system, will be required to maintain a protective radius of two hundred feet from the wells and will be required to prohibit activities such as grazing of animals, applications of pesticides or fertilizers (including organic fertilizers) construction of any physical improvements, such as pavement, buildings or parking areas and storage of compost. (See Well field location approval at 2)
44. The water system will be owned, operated and maintained by the private HOA at its sole cost and expense. The details of such operation and maintenance shall be presented at the final stage of subdivision review process.

Wetlands

45. On October 8, 2021, the RIDEM issued its Insignificant Alterations Permit for Wetlands Application No. 20-0307, RIPDES File No. RIR 102148, specifically limited to the site plan dated August 11, 2021.

46. Among other requirements, the wetlands permit mandates: (1) the employment of an environmental consultant, preferably a Certified Professional in Erosion & Sediment Control to monitor the project and ensure compliance with the permit; (2) installation of buffer zone markers along the limit of disturbance prior to the commencement of any site alterations, and an inspection of the same prior to construction; (3) deflection of all artificial lighting away from all vegetated wetland areas; (4) written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including any and all basins, piping systems, catch basins, culverts, swales, and any other Stormwater management control features have been constructed/installed in accordance with the site plans approved by the permit.
47. The wetlands permit specifically prohibits any single well, or any combination of wells within 200 feet of each other from having a yield greater than 10,000 gallons per day. Based upon the proposed wells as of March 2023, the Applicant will need to seek relief from RIDEM of this condition.
48. In accordance with the provisions of a comprehensive permit, any required changes under the Insignificant Alterations Permit for Wetlands Application No. 20-0307 or RIPDES File No. RIR 102148, will be presented at the final stage of subdivision approval.

Stormwater Management

49. Under pre-development conditions, none of the stormwater onsite is treated or detained before being discharged to Brushy Brook. (See Stormwater Management Report, May 12, 2023, at 4)
50. On December 17, 2020, Brian C. Giroux, P.E. of DiPrete Engineering prepared a 397-page Stormwater Management Report (“SMR”), with maps, as required by the RIDEM. During development of this preliminary plan for the subdivision, the SMR was modified several times: January 14, 2022, April 12, 2022, March 23, 2023, and May 12, 2023.
51. The proposed stormwater system was designed to meet the RIDEM Stormwater Design and Installations Standards Manual (“RIDISM”). The SMR describes the site as having varying topography with many knolls, hills, and exposed rock. The site slopes generally up to the northeast and reaches its highest point just beyond the northern property line. Wetlands and unnamed streams exist onsite in the northwestern corner and through the center of the site. The unnamed streams lead to Brushy Brook, which runs through the southwestern corner of the site and is surrounded by wetlands. The site is bounded to the north and east by Arcadia Management Area. (See Stormwater Management Report, May 12, 2023, at 2)
52. The SMR provides that the following Best Management Practices (“BMP”) shall be incorporated onsite: swales, sediment forebays, infiltration ponds, drywells, and a proprietary device identified as a Jellyfish filter JF24-2-1 or next largest size.
53. The SMR states: “the primary goal of increasing water quality treatment is accomplished by providing water quality BMPs. Stormwater runoff mitigation is provided through the use of infiltration ponds. By reducing post development stormwater flow rate to a level

no greater than pre-development rate, the second goal of the proposed drainage system is achieved. Any potential impacts from the proposed development on the abutting properties, wetlands and streams has been mitigated.” (See Stormwater Management Report, May 12, 2023, at 3)

54. A separate component of the SMR is the Soil Erosion and Sediment Control Plan (“SESC Plan”), prepared in accordance with RIDEM’s RIPDES Construction General Permit. The original plan, prepared by DiPrete Engineering, was dated December 2020. The plan was further revised in May 2023. The purpose of the SESC plan is to provide erosion, runoff, and sediment control measures to prevent pollutants from leaving a construction site and entering waterways or environmentally sensitive areas during and after construction. (See Soil Erosion & Sediment Control Plan at 7)
55. According to the SESC plan, as a result of construction there will be no disturbances to any Natural Heritage Area or discharges directed to any Natural Heritage Area. (See Soil Erosion & Sediment Control Plan at 10)
56. According to the SESC plan, there are no historic properties, historic cemeteries, or cultural resources on or near the construction site. (See Soil Erosion & Sediment Control Plan at 10)
57. The site constraints include: wetlands, perimeter wetland, and riverbank wetlands. The proposed limit of disturbance has been located outside of all these areas. Additional site constraints are: streams and rivers; impaired water bodies; community/non-community wellhead protection areas and steep slopes and exposed ledge. (See Soil Erosion & Sediment Control Plan at 10)
58. The SESC plan states that topsoil will be stockpiled and then re-distributed over the disturbed area to a depth of 4 inches, at project completion. However, in a communication addressed to the Town Planner, the applicant has agreed to re-distribute the stockpiled topsoil upon completion of each phase, not at the end of the entire project.
59. The SESC plan contains restrictions to:
 - provide soil stabilization
 - protect storm drain outlets from scour or erosion
 - establish temporary controls during construction
 - divert or manage run-on from up-gradient areas
 - retain sediment onsite
 - management stormwater conveyances during construction
 - provide for proper waste disposal of building materials and other construction site waste
 - provide spill prevention and control
 - control dewatering practices
 - establish proper staging areas for building materials
 - minimize dust
 - designate washout areas

- establish proper vehicle fueling and maintenance practices
 - monitor weather conditions
 - require record keeping
60. Both the SMR and the SESC will be monitored by RIDEM and the required Environmental Consultant required by Wetlands Permit Application No. 20-0307, RIPDES File No. RIR 102148.
61. Also accompanying the SMR is the Stormwater System Operation and Maintenance (“O&M”) Plan. The plan is designed to proactively address operations and maintenance to minimize potential problems and maximize potential stormwater runoff treatment and management. (See O&M plan at 1)
62. According to the O&M Plan, stormwater BMPs are maintained during the entirety of construction by the site contractor and a copy of the SESC must be kept on site during construction. The SESC requires maintenance and inspection of the BMPs during construction and requires a log to be kept of these activities. Once construction is complete and the contractor’s warranty period is elapsed, the contractor must obtain the signature of the stormwater system’s owner, releasing the contractor from its maintenance and inspection responsibilities.
63. The O&M Plan provides for both scheduled and corrective maintenance, and provides for lawn, garden, and landscape management techniques, as well as road management, including street sweeping and snow removal restrictions. (See O&M plan at 7)
64. The O&M plan provides an estimate of \$154,495 per year to maintain the various infiltration structures. With 140 homes, this equates to an estimated yearly expense to each home of \$1,103.00 or \$91.96 per month. This fee would be just one component of the overall homeowner association fees for each homeowner.

Off-Site Improvements

65. On March 22, 2021, Beta Group, Inc. submitted a Technical Memorandum to DiPrete Engineering, Inc. concerning the roadway conditions, evaluation and recommendations for Saw Mill Road and Dye Hill Road. The memo notes that when the 2010 master plan approval was issued, the project area roadways were of minimal width (16-18 feet) and in a highly deteriorated state. The memo further states that the Town has undertaken roadway improvements including resurfacing and widening, utility pole relocations, road striping (double yellow centerline), curve ahead warning signs, and speed limit signs. The Board questioned whether all of these improvements have been undertaken.
66. The memo opines that Saw Mill Road is in good to satisfactory condition but has cracking that will become more serious if not treated as part of a basic roadway maintenance program. The road varies in width and is at its narrowest at two points at brook crossings which are 16 feet wide. The memo recommends:

- Short term: Widen Saw Mill Road between the Moscow Brook Crossing and Dye Hill Road by extending culverts at three locations: Moscow Brook, Brushy Brook and minor stream crossing.
- Mid-term: Crack seal and Rubber chip seal
- Long-Term: Mill and overlay (1.5 -2.0 inches) with Intermediate Rubber Chip Seal- to further guard against reflective cracking from the base course, a chip seal layer may be added on top of the milled surface.

67. The memo characterized Dye Hill Road as in fair condition, with risk of becoming exponentially worse if preventative treatment/minor rehabilitation is not performed. The area just east of the intersection of Brushy Brook Drive and area where trees are located directly next to pavement were described as in especially poor condition. Extensive roadway cracking was observed and documented in photos. The report notes that the road width is wider in the eastern end of Dye Hill Road at 26 feet and narrows to approximately 20 feet on the western end in the vicinity of the proposed subdivision road. Tree root systems are accelerating the deterioration on the pavement. The memo recommends:

- Short-Term: At a minimum, perform a full-depth reconstruction and widening an approximate length of 125 feet of Dye Hill Road immediately to the east of the new subdivision road. Crack seal.
- Mid-Term: Evaluate trees located immediately adjacent to the edge of pavement for visibility obstructions. Possible full removal of trees and root system to expand the roadway/graded shoulder to improve lateral clearance to obstruction, with full-depth reconstruction in those areas. Crack seal and double rubber chip seal.
- Long-Term: Evaluate trees located immediately adjacent to the edge of the pavement for visibility obstructions. Possible full removal of trees and root systems to expand the roadway. Graded shoulder to improve lateral clearance to obstruction, full width with full reconstruction in those areas. Mill & overlay (1.5 to 2 inches) with Intermediate Rubber Chip Seal.

68. At the Master Plan, DiPrete Engineering filed an extensive memorandum dated July 2010 in response to written review comments made by Bryant Associates, the Town's Traffic Consultant. At page 7 of the document, comment number 2 under "Traffic Capacity Analysis", DiPrete responded that Dye Hill Road and Saw Mill Road will be widened to a uniform width. On pages 16-17, the DiPrete report made the following recommendations:

- Widen the two narrowed sections of Saw Mill Road by replacing the stream crossings.
- Widen the varying roadway sections of Dye Hill Road and Saw Mill Road to a minimum pavement width of 22 feet. Repair of substantially deteriorated

pavement conditions along sections of Dye Hill Road in the immediate site vicinity between Saw Mill Road and Woody Hill Road to ensure safe and comfortable riding conditions are provided to the subdivision.

- Dye Hill Road and Saw Mill Road be reviewed for signing and striping with the Town to install proper warning signs and pavement markings to enhance safety of motorists.
- Long term monitoring of the Spring Street (Route 138) intersection with Route 3 to determine when traffic operations are such that a traffic signal installation can be permitted through the Department of Transportation.

Community Septic Systems

69. The Applicant is proposing that each home be equipped with a septic tank and denitrification technology owned by the individual homeowner. Each septic tank would then discharge to one of the seven communal septic system drain fields, specific to that homeowner's lot's inclusion in a specific phase of the development.
70. The septic systems have not yet been designed but the Applicant has submitted a System Suitability determination to RIDEM which is still pending.
71. The septic permits, under a comprehensive permit application, may be deferred until the final phase of review.
72. The septic systems, as denitrification systems, will be subject to a written Operations & Maintenance Agreement which the Applicant projects will be overseen by the HOA.

Homeowners' Association

73. The Applicant has indicated that the HOA will have responsibility for:
 - Inspection, maintenance, and repairs of the stormwater management systems, at an initial projected cost of just under \$100.00 per month.
 - Inspection, maintenance, and repairs of the Public Wells. No estimated costs have been provided by the Applicant.
 - Inspection, maintenance, and repairs of the septic systems. No estimated costs have been provided by the Applicant.

Sidewalks

74. No recreational amenities are offered by the proposed development. The Board finds that with the absence of sidewalks or suitable alternative pedestrian opportunities it is overwhelmingly likely that the residents will be utilizing the long roadway for walking, pushing strollers, bike riding and the like. At the meeting on July 24, 2023, the Applicant

opposed inclusion of sidewalks at the preliminary stage of approval because they were not a condition of master plan approval. The Applicant submits that should the Planning Board order sidewalks at this stage of review, it would require a complete re-design of the drainage and roadways, and as such, constitutes a “poison pill.” The Applicant also argued to the Board that the subdivision regulations require that drainage be open, with swales, and that such a design is antithetical to sidewalks. Finally, the Applicant suggested that the Town’s consulting engineer, Mr. Cabral, agreed that sidewalks had been omitted at the master plans stage. The Board finds, however, that Mr. Cabral raised the issue of the lack of sidewalks as an issue of concern in his first written review in August of 2021. He further referenced the sidewalks in subsequent memoranda to the Board. In his last memo to the Board, Mr. Cabral repeated a conclusion that had been relayed to him that sidewalks were decided at the master plan stage of review. This is inaccurate. Additionally, Board member DiOrio also voiced his concern about the lack of sidewalks at the commencement of the public hearings.

In order to provide safer passage for all pedestrians, in the absence of sidewalks, some other significant traffic calming and public safety measures *and* alternative walking locations are necessary and critical for the safe passage of residents within the subdivision.

Growth Management Ordinance & Impact Fees

75. The Master Plan decision of approval did not specifically reference disposition of requested waivers including the requested waiver from the requirements of the Growth Management Ordinance or Impact Fee Ordinance. The Applicant has suggested that all requested waivers were granted at the Master Plan level. This Board does not agree with that assertion, because the master plan decision is silent on these issues.

A.) Growth Management

The purpose of the Town’s growth management ordinance is “to equitably allocate a limited number of building permits over time, so as to minimize the burden on existing facilities and resources, whose adequacy is essential to the public health, safety and welfare, and in a manner which is consistent with the Hopkinton Comprehensive Community Plan.” Additionally, the ordinance’s intent is to allow controlled growth in relation to the existing and future capacity of town facilities and the Chariho Regional School District.

Despite all of this, the Board accepts a waiver from the growth management ordinance and limits the number of permits sought by the applicant to 46 per year.

B.) Impact Fees

The Town Council has determined, in accordance with R.I.G.L. Title 45, Chapter 45-22.4 that an equitable program was needed for the planning and financing of public facilities to serve new growth and development in the Town of Hopkinton in order to protect the public health, safety and general welfare of the citizens of this Town. The Town adopted an ordinance for impact fees in 2001. In the ordinance, the Council found that the

imposition of impact fees is one (1) of the preferred methods of ensuring that development bears a proportionate share of the cost of capital facilities necessary to accommodate such development. This must be done in order to promote and protect the public health, safety, and welfare.

The Board finds that it would be appropriate to waive the impact fees as to the LMI units only, as a means of assisting in keeping the affordability of the units. However, no such waiver is appropriate for market rate units.

Open Space

76. Open space access corridors are required by the subdivision regulations. These must be provided on the final plan.

CONCLUSIONS OF LAW

1. The proposed development became vested on November 23, 2010, when the Hopkinton Planning Board approved the Master Plan, with conditions.
2. The proposed development is consistent with local needs as identified in the local comprehensive community plan with particular emphasis on the community's affordable housing plan and/or has satisfactorily addressed the issues where there may be inconsistencies, with any additional conditions that may be imposed at final stage of review.
3. The proposed plan is consistent with the Comprehensive Community Plan and/or has satisfactorily addressed the issues where there may be inconsistencies, with the conditions of approval herein, and with any addition conditions that may be imposed at the final stage of review.
4. The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations, and/or where expressly varied or waived local concern's that have been affected by the relief granted do not outweigh the state and local need for low- and moderate-income housing.
5. All low- and moderate-income housing units proposed are integrated throughout the development; will be required to be compatible in scale and architectural style to the market rate units within the project; and will be built and occupied prior to, or simultaneous with the construction and occupancy of any market rate units.
6. There will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval.
7. With required conditions of approval, and conditions which may be imposed at the final stage of review, there will be no significant negative impacts on the health and safety of current or future residents of the community, in areas including, but not limited to, safe circulation of pedestrian and vehicular traffic, provision of emergency services, sewerage disposal, availability of potable water, adequate surface water run-off, and the

preservation of natural, historical, or cultural features that contribute to the attractiveness of the community.

8. All proposed land developments and all subdivision lots will have adequate and permanent physical access to a public street in accordance with the requirements of § 45-23-60(5).
9. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable, unless created only as permanent open space or permanently reserved for a public purpose on the approved, recorded plans.
10. The design and location of streets, building lots, utilities, drainage improvements and other improvements in the proposed development minimizes flooding and soil erosion, as described by expert witness testimony and RIDEM approvals.

ORDER & CONDITIONS OF APPROVAL

1. LR-6A LLC & Realty Financial Partners' Comprehensive Permit application for Preliminary Plan approval for its Major Subdivision entitled "Brushy Brook" is hereby approved, subject however to the following conditions of approval:
2. While the applicant has reminded the Board that the proposed density of lots and houses in this application is far lower than originally proposed and lower than the capacity of the total property size, the proposed development nonetheless represents a far higher density of houses than currently exists in this general location in Hopkinton (and perhaps all of Hopkinton), the purpose of conditions is to ensure:
 - Well-being, safety, and attractiveness of the residential neighborhoods in the Town of Hopkinton, consistent with the Comprehensive Plan goals H1 Hopkinton will be characterized by safe, secure, and attractive residential neighborhoods; LU1 to protect the quality of life and rural character of Hopkinton; LU5 Minimize future impacts of natural hazards through mitigation and preparedness
 - The abutters' permanent well-being, safety, and enjoyment of their properties
 - The Brushy Brook future residents' well-being, safety, and enjoyment of their properties
3. All conditions of the Master Plan approval dated November 23, 2010, are incorporated herein.
4. All recommendations made by Crossman Engineering in its memorandum dated June 7, 2023, are incorporated herein as conditions, with the caveats that (1) roadway coring be undertaken prior to any construction or repairs and (2) Item number 6 represents an incorrect understanding and is stricken (This memo will be attached as an Appendix and be numbered accordingly).

5. All conditions of RIDEM's Insignificant Alterations Permit for Wetlands Application No. 20-0307, RIPDES File No. RIR 102148, as approved and as may be amended are incorporated herein additionally as local conditions of approval, including but not limited to:
 - The employment of an environmental consultant, preferably a Certified Professional in Erosion & Sediment Control to monitor the project and ensure compliance with the permit;
 - Installation of buffer zone markers along the limit of disturbance prior to the commencement of any site alterations, and an inspection of the same prior to construction;
 - Deflection of all artificial lighting away from all vegetated wetland areas; and
 - Written certification from a registered land surveyor or registered professional engineer that the stormwater drainage system including all basins, piping systems, catch basins, culverts, swales, and any other Stormwater management control features have been constructed/installed in accordance with the site plans approved by the permit.
6. "Clerk of the Works" (COW): The applicant shall hire a COW prior to any site disturbance. This COW shall be selected by the Town at fair and reasonable market rates, and in consultation with the Applicant. The COW, which may be a firm that utilizes more than one individual, shall be onsite to ensure that all site disturbance and construction is in accordance with the final approved mapping and/or any approved design changes. Approved design changes shall be reviewed and accepted by the Town prior to implementation. The COW shall issue weekly reports to the Town on the status of construction. No construction shall be allowed on the project without the COW being present onsite.
7. Abutter protections: The applicant shall not disturb the vegetation between the Aharonian property and the detention pond. For the final stage of review, the Applicant shall relocate the pump house as far away from the abutters' properties as possible without impacting the public well radius. The Applicant shall provide a heavy evergreen vegetated buffer for the Orlandi property and shall provide such plan at the final stage of approval for review. The final plans shall show the land behind the Orlandi and Aharonian properties as being in a "no-cut" buffer zone. At final plan, the Applicant will revise the plans to direct detention pond spillway away from the Orlandi property. Pond B behind the Orlandi property shall be increased in height by two feet and shall be screened by evergreen buffer. Two monitoring wells shall be placed between the ponds and the abutter lot lines. If an increase in groundwater levels results, pond relocation may be necessary. If requested by abutters, the Applicant shall be required to offer the opportunity to participate in any future well pumping tests scheduled by the Applicant. In the event that during construction and after full build out, the long-term withdrawal of water is found to negatively impact an abutting well, the Applicant and/or the HOA shall

be required to mitigate the impact. The Town reserves the right to review/impose a bond requirement for this issue at the final stage of review.

8. Homeowner's Association (HOA). An HOA shall be formed to address elements including and not limited to stormwater drainage, septic system maintenance, water supply and quality, and proper use of water within the project (lawn/pools/gardens/etc.) for all 140 units. Current Director or Manager of the HOA contact information must be kept on file with the Town. The Town Planning Department must be notified within 7 days of a change in HOA management. The HOA covenants shall contain this requirement. Prior to HOA formation, the enabling documents must be reviewed by the Planning Solicitor. At final plan review, the Applicant's HOA documents shall contain a requirement that the HOA is responsible for the maintenance of all 140 individual septic pretreatment units.
9. Off Site Improvements. The culverts shall be widened to 22-feet prior to construction, and if needed, shall be brought up to current standards. During construction, the Applicant will be required to meet annually with the Town's designee to both assess and physically address road conditions, at the Applicant's expense, in accordance with Town directives. Cores must be taken prior to determination of mitigation measures for deteriorated road conditions. The Applicant shall be required to widen all roads referenced in the January 15, 2010, DPW Director's letter referred to in the Master Plan approval, to a pavement width of 22 feet. Off Site Improvements shall be the subject of annual review by a Consultant hired by the Applicant and in concert with the Town's Department of Public Works and the Town's Engineering Consultant. These improvements shall be consistent with the Master Plan Conditions and the public health, safety, and welfare of the surrounding roadway network and neighborhoods, and shall incorporate all the recommendations set forth in the Beta Memorandum dated March 22, 2021. As part of the final plan submission, the Applicant shall endeavor to submit a memorandum signed by the Applicant and the Town's Public Works Director detailing all of the required improvements and a schedule for conducting the same.
10. Limits of Disturbance ("LOD"). Preserving the LOD is important because the stormwater management plan is based upon preservation of the LOD. Therefore, individual lots shall maintain the LOD as depicted on the approved final mapping. No infringement beyond the approved LOD shall be allowed by any individual property owner or entity. The LOD shall be marked on the ground with metal fence post bearing signage stating, "*Limits of Disturbance – No Alteration Beyond This Point.*" These markers will appear at several locations on each lot so as to make it clear to each property owner where this LOD is located. A deed restriction shall appear on each deed setting forth a description of the LOD on each lot and such restriction shall also appear on the approved final mapping. Each deed shall also contain a plan exhibit showing the lot being conveyed and the LOD. The exception to the prohibition on alterations within the LOD shall be for the removal of dead trees that pose a danger to property or safety. The HOA bylaws shall contain provisions for owners to request permission to remove any vegetation within the LOD. The HOA bylaws shall also include a substantial fine for violations of this requirement, to discourage non-compliance.

11. Pedestrian Safety & Sidewalks. No recreational amenities are offered by the proposed development. The Planning Board finds that with the absence of sidewalks or suitable alternative pedestrian opportunities, it is overwhelmingly likely that the residents will be utilizing the long roadway for walking, pushing strollers, bike riding and the like.

At the meeting on July 24, 2023, the Applicant opposed inclusion of sidewalks at the preliminary stage of approval because they were not a condition of master plan approval. The Applicant submits that should the Planning Board order sidewalks at this stage of review, it would require a complete re-design of the drainage and roadways, and as such, constitutes a “poison pill”.

The Applicant has also argued to the Planning Board that the subdivision regulations require that drainage be open, with swales, and that such a design is antithetical to sidewalks.

Finally, the Applicant suggests that the Town’s consulting engineer, Mr. Cabral, agreed that sidewalks had been omitted at the master plan stage.

The Planning Board finds, however, that Mr. Cabral raised the issue of the lack of sidewalks as an issue of concern in his first written review in August 2021. He further referenced the sidewalks in subsequent memoranda to the Planning Board. In his last memo to the Board, Mr. Cabral repeated a conclusion that had been relayed to him that sidewalks were decided at the master plan stage of review. This is inaccurate. Additionally, Board member DiOrio also voiced his concern about the lack of sidewalks at the commencement of the public hearings.

It should be noted that it was not until the decision stage of preliminary review that the Applicant suggested that there might be a way to incorporate alternative accessible pathways, rather than sidewalks. Safe pedestrian travel within the subdivision was not discussed or presented as a topic by the Applicant during the preliminary review process. Moreover, these pathways have not been depicted on any version of the mapping for review and discussion.

During the July 24, 2023, meeting, the Applicant’s traffic expert indicated that partial sidewalks and/or other traffic calming devices could provide an adequate level of protection for pedestrians, but no details were provided. The Board indicated its desire for more information on this topic.

Prior to the Final Submission stage of review, the Applicant shall consult with the Town’s Department of Public Works, the Town’s Police Chief, and the Town’s Engineering Consultant to analyze and design measures that will calm and slow traffic within the subdivision, which is necessary and critical for the safe passage of residents within the subdivision. The final mapping will depict significant, generally accepted, and proven traffic calming measures. The final mapping will also identify mechanisms to move pedestrian traffic from the project roadways to easily accessible pathways which will facilitate pedestrian travel throughout the project.

The final mapping will also depict sidewalks at critical and significant roadway locations including along the main entrance roadway, at each roadway intersection within the project, and as suggested by the Applicant's traffic expert during the decision-making process.

The Applicant shall work closely with the Planning Department and the Planning Board on this issue and shall return to the Planning Board to discuss and reach consensus on this issue prior to filing for a final plan review.

12. Open Space Access. The final mapping will depict open space access corridors in accordance with the Hopkinton Land and Subdivision Regulations in effect at master plan approval.
13. Cisterns. The final mapping will depict six (6) cisterns of 10,000 gallons each, at intervals of not more than 1,400 feet, as measured along the roadway or as directed by the Fire District. Cistern specifications to be approved by the Fire District prior to installation.
14. Topographic Data. As the approved final mapping states that topographic data has been taken from the RIGIS 2011 LiDar and since this data has not been field verified by the Surveyor of Record, the elevations at all important and significant project improvement areas shall be field verified by the Surveyor of Record prior to any construction. The results of those observations shall be shared with the Town's Engineering Consultant and with the Town's "Clerk of the Works."
15. Roof Leaders. All roof leaders shall be directed toward stormwater management control areas located on each lot. No roof leaders shall be directed into connecting drainage swales.
16. Protection of Abutting Properties and Water Supplies. The Applicant shall post and maintain a bond which shall be set aside for the protection of abutting properties and their associated water supplies. This bond shall be in place prior to any site disturbance and shall remain in place for a period of five (5) years after the full buildout of the project. The term and amount of the bond will be determined at the final plan stage of review.
17. Protection of Public Improvements. The Applicant shall post and maintain a bond which shall be set aside for a period of two years beyond the completion of the entire subdivision for public road repairs. The Applicant's estimated amount of the bond will be updated and determined at the final plan stage of review.
18. Pumping Limitations. At final plan, the Applicant shall provide evidence that RIDEM has issued relief from the previous requirement that no more than 10,000 gallons per day be pumped from wells.
19. HOA Funding. Upon recording of each phase of development, each lot within becomes eligible for a building permit. Therefore, the Applicant shall begin funding the HOA for each lot in accordance with the schedule set forth in the HOA agreement and schedules, to ensure that the HOA is adequately and fairly funded by each lot in a timely manner.

Since the Applicant will be a majority member on the HOA during development, evidence of HOA funding shall be provided by the Applicant to the Town no less than quarterly during the construction of the project. Thereafter, the reporting responsibility shall fall to the HOA. This requirement for quarterly reporting of funding shall also be incorporated in the HOA declaration/covenants, as the case may be.

20. Topsoil. The Applicant's plans indicate that topsoil will be stockpiled on site and then redistributed onsite and not removed offsite. The Applicant is directed to redistribute the topsoil as close to evenly as possible within each phase as it is developed.
21. Rock Crushing. Any rock crushing will be strictly limited to production of materials used onsite. There will be no sale of materials for use off-site.
22. RI Housing Information. As part of the final plan submission, the Applicant shall provide updated RI Housing information including the estimated sale price ranges for the income restricted units. The Applicant shall also provide evidence of the required monitoring agent.
23. Water System Management. The Applicant, and eventually the HOA shall be required to submit copies of all the well water reports with the Town's Planning Department. This requirement shall be incorporated into the HOA declaration/covenants. To minimize groundwater impacts, and in compliance with RIDOH's rules, there shall be no irrigation systems of any type connected to the public water system. This requirement shall be incorporated into the HOA declaration/covenants. The Applicant shall be required to disclose this restriction in its marketing. Homeowners who may wish to install a private well or shared well for irrigation must secure advance permission from the HOA. This requirement shall be included within the HOA bylaws. Violation of this restriction shall carry a significant fine. No pools may be filled with water from either the public well or any private well; all pool filling must be through commercial water sources. This requirement shall be included within the HOA bylaws. Violation of this restriction shall carry a significant fine.
24. Power Outage Management/Septic System. For submission at final plan of review, the Applicant shall create a procedure to be included in the HOA declaration/covenants that details notification and response procedures for homeowners in the event of power outages, to prevent sewage backup in homes.
25. Subdivision Road repair. Prior to submitting final plan, the Applicant shall consult with the Town's DPW Director and come to a strict agreement on subdivision road repair, in the event they are disturbed by the HOA's septic or water lines.
26. Street Trees. Amend all references on the plans to be consistent with the subdivision regulations.
27. Blasting. The Applicant shall be responsible for notifying the HOA and all abutters on the updated abutters' list 48 hours in advance of any blasting.

28. Hunting Warning. The Applicant shall be required to provide signage delineating the boundary edge of the subject property and the Arcadia Management land. The signs should be double sided. A sample of the sign language and proposed spacing to be provided at final plan.
29. Final Plan Phases. The overall final plan review will occur at the same time, but each of the phases shall provide updated information to the Board and will be recorded at different times. Performance bonds may be updated.
30. Public Improvements Guarantees. The subdivision regulations which normally require the construction of public improvements after preliminary and before final plan, do not contemplate the construction of public improvements in a comprehensive permit application where state permits are not required until final plan. As such, the overall plan may change between preliminary and final and the public improvements cannot reasonably be installed without state approvals for septic and water completed. Therefore, the Board will defer this item to final plan review.
31. The homes shall be limited to three bedrooms each. The period of affordability for the affordable units shall be 99 years.
32. The request for a waiver from the Growth Management Ordinance is granted as to the LMI units and to 46 units per year.
33. The request for a waiver from the Impact Fee Ordinance is granted, as to the LMI units only.
34. The conditions set forth in Paragraph 11 above pertaining to pedestrian safety and sidewalks are incorporated herein as conditions of preliminary plan approval.

Discussion on the Motion.

Mr. Wayles had one question regarding no. 32 and the number of units that were being allowed to be built in one year. It was decided that they would amend No. 32 to read: “The request for a waiver from the Growth Management Ordinance is granted at 46 units per year.” There were no other comments. The vote proceeded:

IN FAVOR: Shumchenia, DiOrio, Lindelow

OPPOSED: Light, Prellwitz

MOTION CARRIES

NEW BUSINESS:

None.

SOLICITOR’S REPORT:

None.

PLANNER’S REPORT:

None.

CORRESPONDENCE AND UPDATES

None

PUBLIC COMMENT

Joseph Moreau of Old Depot Road was amazed how this was already predetermined that there would be waivers granted before discussion. He stated that the three members who voted for the approval do not have the best of the town in mind. He cared less about the master plan approval; they compounded those mistakes. He disagreed with Mr. DiOrio that there were no mistakes made and he stated that they should be ashamed of themselves.

DATE OF NEXT MEETING: September 6, 2023, at 7:00 p.m. in the Town Council Chambers.

ADJOURNMENT:

A MOTION WAS MADE BY EMILY SHUMCHENIA AND SECONDED BY AL DIORIO TO ADJOURN.

SO VOTED

Marita D. Murray, CMC
Town Clerk