



RECEIVED
NORTON TOWN CLERK
2023 FEB 16 PM 6:52

NORTON PLANNING BOARD MEETING
MINUTES OF June 28, 2022

The Planning Board Meeting of June 28, 2022 was called to order at the Norton Public Library via Hybrid means over ZOOM at 7:15 p.m. by Mr. Timothy Griffin, Chairman. Members present were Mr. Allen Bouley, Mr. Bill Marr, Mr. Eric Norris, Mr. Wayne Graf, Mrs. Laura Parker, and Mr. Jim Artz. Also, in attendance was Administrative Assistant Bryan Carmichael.

Mr. Griffin explains how hybrid meetings work and they will affect this meeting.

General Business

Bills & Warrants – Bills provided is a W.B. Mason bill, a Verizon bill, and a peer review bill from Horsley Witten.

Minutes – The minutes provided are April 26th and May 10th. Mr. Marr asks what the procedure would be on that set of minutes as he wasn't a member of the Planning Board at that time. Mr. Griffin states that the members who weren't there at that meeting should abstain.

Mr. Graf motions to approve the minutes from April 26, 2022 and is seconded by Mr. Bouley. Roll Call; Mr. Artz Abstain, Mr. Marr Abstain, Mr. Norris Abstain, Mr. Graf Yes, Mrs. Parker Abstain, Mr. Bouley Yes, and Mr. Griffin Yes. (3-0-4) The motion passes.

Mr. Graf motions to approve the minutes from May 10, 2022 and is seconded by Mr. Bouley. Roll Call; Mr. Artz Yes, Mr. Marr Yes, Mr. Norris Abstain, Mr. Graf Yes, Mrs. Parker Yes, Mr. Bouley Yes, and Mr. Griffin Yes.

Training

Mr. Griffin states that Ms. Amy Kwesell, Town Counsel is here to give training to the new members and to refresh the memories of the rest of the members of the Planning Board including showing how the Planning Board should be operating, drafting dependable decisions, and open meeting laws.

Ms. Kwesell introduces herself as the Land Court Counsel for Norton. The Planning Board must know about the Zoning Act which is 40a in the state bylaw plus subdivision control which is chapter 41. The Zoning Act goals are health, safety, and public convenience. To achieve them zoning districts are created with boundaries, the use of land and structures in each district will be regulated. There will also be dimensional requirements and conditions under which uses may be

permitted which is generally special permits which is under Planning Board purview. To administrate the administration of the Zoning Act is the adoption of municipal zoning bylaws, various permits and then identify the permit or special permit granting authority in the zoning bylaw which is almost always the Zoning Board or Planning Board. The Zoning Board of Appeals does variances and findings under chapter 48 section 6 when someone has a pre-existing non-conforming lot and they want to do something with it, they deal with building inspector appeals, and the ZBA issues comprehensive permits which are under 40b which subsume all other permits under one permit. The Planning Board looks over Approval Not Required Plans, Subdivision Control, Preliminary Subdivision Plans, Definitive Subdivision Plans, Zoning Amendments that go to Town Meeting are under Planning Board purview, and Special Permits. Zoning Districts are made to set boundaries to where things can be based in Norton. The districts in Norton include Residential 40, 60, & 80, Industrial, Commercial, Village Commercial, Village Center Core, and the Marijuana Overlay District. The zoning bylaws will identify what uses are allowed in each district which can be allowed by right, prohibited, exempt, allowed by special permit, and can be subject to site plan review. As of right uses can be subject to site plan reviews. Exempt uses are covered under the Dover Amendment, Chapter 40A Section three which are generally commercial, agricultural, religious, and educational uses. They also exempt child care facilities but they do allow site plan review for them. Site Plan Reviews are not in the Zoning Act and is found purely in the local bylaw which is allowed by the Massachusetts Constitution of the Home Rule Amendments and most municipalities have the site plan review. It is a tool to determine if a project is appropriate for the location, scale of the project, and identify impacts. The Site Plan is under the purview of the Planning Board. It is under Article 15 of the local zoning bylaw. The Jurisdictional requirements for Site Plan Reviews are three or more attached residential units, detached single-family subdivision, and one duplex unit are exempt. Non-residential uses with 2500 or more square feet of floor space, in the Village Center Core district it's all newly proposed or expanded housing or multi-family residential use using 5,000 or more square feet of floor space, 20 or more parking spaces, more than one driveway, and any use that requires a special permit. Special Permits also applies to drive-through facilities and construction activity which is going to result in a land disturbance greater than or equal to 1 acre. Also subject to Site Plan Reviews are large scale ground mounted solar projects and all marijuana establishments. The four Site Plan Review objectives are the preservation of natural environment, traffic, parking, and circulation, design, and landscaping. Each category is talked about in the local bylaw and gives a detailed roadmap to ensure projects are meeting the objectives. Under the bylaw the Planning Board have to review the site plan and file a decision with the Town Clerk within 60 days of the date from filing with the Town Clerk and can be extended with a written extension signed by the applicant. Site Plans that require a Special Permit are governed in accordance with the requirements of 40A so they do not have to have a decision filed within 60 days. A Site Plan review cannot be denied and can only be conditioned but not conditioned in a way that it would constitute a denial. It would have to be a real serious health and safety risk to deny a site plan. Special Permits are governed by 40A Section 9. The application is filed with the Town Clerk, the application can be withdrawn without prejudice prior to the advertisement of the hearing. Otherwise, the Planning Board have to approve the applicant's request to withdraw without prejudice. There has to be advertising in the newspaper, abutters notices in the mail, and it has to be posted on the website. If a Special Permit is not withdrawn without prejudice, then it is subject to a two-year rule where it cannot go back to the Planning Board or Zoning Board of Appeals during those two years without going through a

legal process. The Public Hearing for the Special Permit needs to be open within 65 days of the date that the application was filed with Norton. Final Action means that there is a vote and the decision is filed with the Town Clerk which has to happen 90 days following the closing of the Public Hearing and is rare that the immediate uses taken. If a special permit is granted under the Zoning Act that the Town can determine if a special permit lapses within one year, two years, or the maximum of three years under Norton's bylaw it is two years. A lapse occurs if there is substantial use or construction that has not been made except for good cause. Generally, it is the Building Commissioner's determination as to what is good cause. The lapse does not include time if there is an appeal that time is on hold. Discretionary permits are not entitled to special permits, it allows for special uses or dimensional requirements upon satisfaction of criteria. If the use is in harmony with the purpose and intent of the ordinance or bylaw, a discretionary permit can be granted. Discretionary permits allow more flexibility for a town. When there is a decision done on a special permit the Planning Board will include findings and the bylaw will list applicable criteria and you will want to have a finding on each step of the criteria as to why the project needs that meet the criteria. A decision for a SPGA can be conditioned and the usual conditions are hours of operation, when signs have to be turned off, trash collection, deliveries, screening, location of dumpsters, and snow removal. Voting Requirements for special permits require two thirds vote with more than five members. The Housing Choice Act is Chapter 358 of Section 350 as part of the Acts of 2020 which the legislature decided to lower some voting requirements for certain projects and that would be multi-family housing, mixed-use development, reduced parking, ADUs, and OSRDs. Decisions of the special permit granting authority have to be voted and filed within 90 days unless there is a mutual written extension filed with the Town Clerk and they have to be once there is a vote with a written decision has to be filed within fourteen days and that is still within the 90 days if voted on the 20th day you have 14 days to file the application with the Town Clerk and that will be recorded at the registry of deeds by the applicant. Appeals of any special permit has to be filed at the Superior Court or the Land Court within twenty days of the decision being found. To overturn the Planning Board decision the court has to find the Planning Board acted arbitrarily and the decision was not legally tenable. If the decision is reasonable under the bylaw, the court is obligated to uphold it but might not necessarily depending on the judge. A court may remand a Special Permit back to the Planning Board which is done in situations where the court feels the Planning Board was acting reasonable but needs to state their findings more clearly or something similar. Repetitive Petitions are when an applicant is denied which has it so they cannot reapply for two more years. There is a provision under Chapter 48 Section 16 that allows for the permit granting authority finds by a vote of four or five out of five members that specific and material changes in the conditions exist and all but one Planning Board member can and the notice has to be given of the time and place when the determination will be considered. If the applicant knows that the project will be denied they should ask for the application to be withdrawn without prejudice, they also have the option to wait, or redesign their project. If they come back with a redesign then they are fine because the project has material changes from the other plan. The Subdivision Control Laws Chapter 41 Sections 81K – 81GG regulates the division of land and the purpose of the subdivision control law is to protect the safety, convenience, and welfare of the inhabitants of cities and towns by regulating the laying out construction of ways and subdivisions providing access to several lots therein but which have not yet become public ways, ensuring sanitary conditions, subdivisions, and parks and open areas. A subdivision is the division of a tract of land into two or more lots. This will not constitute a subdivision if every lot has required frontage on

an adequate way which is an ANR. Under the subdivision control law, the Planning board adopts subdivision rules and regulations determines whether a subdivision plan requires approval reviews and approves or disapproves preliminary and definitive subdivision plans. A public hearing must be held for definitive plans you will obtain performance guarantees, the release of lots, and advise the ZBA on comprehensive permits that are essentially subdivisions. Preliminary subdivision plans are normally applied if the applicant is looking for some kind of freeze in the zoning. Preliminary subdivisions open negotiations between the Planning Board and the applicant and it is required for all non-residential subdivisions. Preliminary subdivisions are not recorded at the registry of deeds and there is no right to appeal the decision for a preliminary plan and there is no public hearing required. The Planning Board has 45 days to approve with modifications or disapprove and then a definitive plan can be submitted at a regular meeting of the Planning Board or sent by registered mail by the Planning Board. If the plan is mailed the date of receipt by the Planning Board is the date of submission and that is important for timelines. With a definitive subdivision plan there is a Board of Health report is required and the Board of Health has 45 days after the plan has come in to report to the Planning Board with approval or disapproval with regard to Board of Health-related issues. If the Board of Health disapprove, they have to show where on the plan they disapprove of and the reason for it. If the Board of Health do not make a report within 45 days it is considered approval of the plan under Chapter 41 for the Board of Health but doesn't include individual septic systems or anything that falls outside Planning Board purview. The Planning Board weren't able to waive any provisions of the subdivision control of Norton's rules and regulations. A waiver can be made if it is in the public's interest and not inconsistent with the intent and purpose of the subdivision control law. When there is a definitive subdivision in front of the Planning Board it can be approved, denied, or modified. Before endorsement the Planning Board needs to require for a performance guarantee for the infrastructure the voting requirement is a majority of the seven members. Definitive plans are recorded at the Registry of Deeds or in Land Court and must be reported within six months of the date of endorsement. Chapter 41 Section 81U lays out performance guarantees. The four performance guarantees are being a proper bond, it can be a deposit of money or negotiable securities, a covenant which restricts the sale or construction prior to completion of the infrastructure and utilities, or tri-party agreement where the lender retains funds under the first mortgage. The applicant gets to choose what type of guarantee either a single guarantee or a combination. Usually seen are bonds or tri-partite agreements. The deadline for non-residential subdivisions has to be done 90 days from the date of submittal and the same deadline is for a residential subdivision with a preliminary plan. A residential subdivision without a preliminary plan has to be done within 135 days from the submittal. ANR plans are plans that divide lands into two or more lots but doesn't require Planning Board approval and all the lots on the plan meet the frontage requirement as well as providing adequate access to all lots by a public way or a way used, maintained as a public way, a way shown on an approved definitive plan, or a way in existence when subdivision control law took effect in Norton which is suitable for the proposed use of lots. A public way and a road shown on an approved definitive plan. For a road to be prepared to be adequate there has to be viable access it's called the vital access standard. The adequacy on which the proposed lot is front and the adequacy of access from the way to the buildable portions of the lot. Then it has to be a constructed public way on the ground, it cannot be a paper street or just shown on a plan. The inadequacy of the way publicly similar to other ways satisfies the purposes of the subdivision control law and then in the *Sturdy vs. Planning Board of Hingham*, deficiencies in public way are insufficient grounds

for denying ANR endorsement. For the purposes of ANR endorsement, to be considered a way that has been previously approved under the Subdivision Control Law requires either that an approved way is built, or that there exists the assurance required by M.G.L. Chapter 41, Section 81U that it will be built. For the adequacy of a way there cannot be physical impediments to access so a severe slope and guard rails and the entire frontage doesn't have to be obstructed as long as they are able to get in to the buildable portion of the lot and that is not obstructed. The ANR process is that the filing is with the Planning Board, there is a written notice with the Town Clerk. There is no public hearing requirement and it will just get put on a public meeting. The endorsement has to be filed with the Town Clerk in 21 days.

Mr. Griffin asks if the ANR is a constructive approval if it is not acted upon. Ms. Kwesell states that is correct, if it is acted upon in 21 days it is constructively endorsed. Using outside consultants, the Planning Board has rules for peer reviewers and under the statute the only appeal so if you select a peer reviewer an applicant can only appeal the choice of the peer reviewer if that reviewer has a conflict of interest or doesn't possess the minimum required qualifications that appeal goes directly to the Select Board. Once the reviewer is funded the peer reviewer will give you a proposal, once the developer puts the money into the fund the peer reviewer can start their work and the peer reviewer will get paid out of that fund any money left over goes back to the developer and if the fund has to be replenished the developer will replenish it. The public hearing process is two things, the open meeting law plus 40A Section 11 which has you advertise once in each of two successive weeks with the first ad fourteen days prior to the hearing date. The public notice has to be posted prior to the hearing at the Town Hall or on the website. Notices have to be mailed out to parties of interest also from the certified abutters list from the accessor's office. Under the open meeting law an open meeting has to be posted with the Town Clerk 48 hours prior to the meeting excluding Saturdays, Sundays, and legal holidays. The agenda has to be sufficiently detailed including the address of the site. At a public hearing the Chairman reads the legal ad, explains procedures to the public, motions to open the public hearing, then there is the applicant's presentation followed by questions from the Board and public. The Chairman determines who is commenting and when and what order things are going in. Once the public meeting has been opened a motion to continue can be made if needed for more information which sometimes require written extensions. Once the Board has closed the public hearing then no comments are allowed beside the Planning Board's and no further documentation can be provided. Motions can be voted by the Planning Board to either approve, approve with conditions, or deny and to include any required findings and any conditions that the Planning Board are going to require. Under the public hearing process the Planning Board may need to do a site visit. A site visit is not a public meeting unless the Planning Board deliberates. If deliberation is possible or expected an agenda should be posted for the event. Deliberation at a site visit is difficult to do as the Planning Board cannot invite the public onto private property. To avoid this if the Planning Board is going to bring all their members for a visit, the best way to avoid having a delineation is to have the Planning Board attend but not interact with one another and only speak to the applicant which would not be violating the open meeting law. If the site visit is posted, the Planning Board would have to remind the public that they cannot go onto the property without the express permission of the property owner. Site visits have to be made prior to the close of the hearing because it is considered evidence coming in. Once the hearing is closed the deliberates an open session but the public cannot make comments. Prior to deliberation the Planning Board should identify the Board members who are eligible to act such

as people who may have a conflict of interest and someone who missed more than one meeting. Voting cannot be taken as a secret ballot; every vote has to be out for the public. When the Planning board is voting they have to make sure they have a defensible decision explaining why the project will or will not be detrimental to the neighborhood. Before the Planning Board makes a decision, the Planning Board should check to see if the applicant is current on their taxes which the Treasurer will send around periodically. Under General Bylaws Chapter 84 and under General Laws chapter 40 Section 57 the Planning Board does not have to grant a permit to an applicant who is a delinquent on their taxes. The Mullen rule allows for a member to miss one meeting and review that meeting before being allowed to sit in on the application further.

Mr. Griffin states that there were golden rules in the previous session that talked about open meeting law and asks to confirm that the Planning Board should only be communicating outside of the meetings about only scheduling. Ms. Kwesell states that her advice for everyone is just to never hit reply all to Mr. Carmichael's emails and only reply to him. Scheduling is the only topic that is alright to click reply all to alternatively Mr. Carmichael could collect everyone's schedule and get a meeting time that way. Text messages are also public documents and contacting that way would be in violation of the community model. Mr. Griffin states that Mr. Carmichael usually sends BCCs and even if reply all is hit it is still only sent to Mr. Carmichael in the replies. Ms. Kwesell states that is good also.

Mr. Marr asks if Ms. Kwesell can give the PowerPoint Presentation to the Planning Board. Ms. Kwesell states that she will.

Public Hearing

DEF 13932 & SP 14704: 0, 126, 128 & 154 Pine Street and 0 Wood Road.

Owner/Applicant: Norton Land Company, LLC. Application for the creation of 44 lots into a residential cluster subdivision. Continued from May 10, 2022, May 24, 2022, and June 21, 2022.

Mr. Bob Forbes, from Zenith Consulting Engineers is there to speak on the project. With MR. Forbes there is Mr. Alan Endriunas, the applicant and Claire Hooeboom, the Wetlands and Environmental Expert. Mr. Forbes states that the project is located on the northeast side of Pine Street. The property is 109.48 acres based on a survey that was done on the property. What is being proposed is the rail trail which is up to the north of the parcel. When the project was brought in to the former Planning Director Mr. Paul DiGiuseppe was for the rail trail to connect to open space. The applicant and the Environmental Expert both have been on the project since Spring 2021 where surveying, topography, and mapping of the entire site was done. Ms. Hooeboom had gone through the process of delineating all the wetlands on the site and going to the Conservation Commission and getting the wetland lines approved by the Commission. The basis for the design with the perimeter of the lot established and the topography of the lot by the survey and the wetlands.

Ms. Hooageboom with LEC Environmental Consultants states they were retained to delineate all the wetland resource areas on site and was done in the Fall of 2020 and Spring of 2021. They went before the Conservation Commission with an Abbreviated Notice of Resource Area Delineation or ANRAD. That is the process that an applicant would go to the Conservation Commission to request approval of the wetland resource area boundaries and confirmation of their jurisdictional status. Through that an expansive bordering vegetated wetland approved through the center of the site, some segments of the bordering vegetated wetland came through the northwestern portions of the site where there was a series of isolated vegetated wetlands that was also approved through that process. During the review with the agent at the time Ms. Jennifer Carlino, she and Ms. Hooageboom had evaluated 15 vernal pools during the spring hydro period which is the best time evaluate for vernal pools and to test for vernal pool species. The 15 vernal pools were confirmed certifiable with the State. The pools are all depicted on the plans and the hatched line work, there is a number of them in the bordering vegetated wetlands and a few of the isolated vegetated wetlands also contain the certified vernal pools. A notice of intent was filed with the Conservation Commission so they are an agenda item for the Conservation Commission for July 11th to discuss the notice of intent application.

Mr. Forbes states that they wanted to go in front of the Conservation Commission in case they had any major concerns before getting too far into the project. They are going to wait for the wait for the Board to be finished with their review of the project before giving out a permit. The project being proposed is a cluster subdivision and Mr. Forbes states that they received an enormous number of comments and letters from abutters stating that people were objecting to the Planning Board changing zoning for the project. Mr. Forbes states that this project is within the existing zoning which allows for cluster development. The cluster subdivision bylaw requires a conventional layout plan for the Planning Board that establishes the maximum number of possible lots that could be asked for on the property. The advantage to the cluster is the piece of open space that will be either donated to the Town or stays in the Homeowner's Association ownership and gets a Conservation restriction onto it but Mr. Forbes states it is up to the Town what to do with it. The conventional layout was made after all the wetlands were delineated and all the survey and topography done. Soils were taken into account and detention basins were shown in the low spots. The difference between the conventional plan and the plan being submitted is the lot size requirement which the zoning requirement is 80,000 square feet and under the cluster in exchange for the open space it can be reduced to 40,000 square feet. The frontage requirement does not get reduced. Mr. Forbes states he was in front of the Planning Board informally in October of 2021 to talk about the cluster development overview. The initial layout that was proposed in October is also not the site plan that will be used. On the right side of the initial plan there was 14 units and the left side had 30 units. The vernal pools on the plan were labeled and were recognized by the then Conservation Agent. The Conservation Commission was concerned with at the time of the initial plans was the roads intercepting migratory pathways to wildlife living in and around the vernal pool areas. The Conservation Commission Agent had asked if they would consider extending the roadway of the lots on the right side into the wetland area and pull the left side back away from the vernal pools. This would also have it so the open space area was more non-segmented.

The plan that was went with was split into two groups of twenty-two lots on both sides. The original plan didn't have any wetland impacts but the plans currently do at the request of the

Conservation Commission. Open space has been left that extends right down to the roadway so there is access to the rail trail from the road. All the trails in the area will be maintained, the access points were chosen that go right into the trail system so it'll be a short segment of trail added to the existing trail. On July 8, 2021 an initial meeting with the Town Planner, Mr. Paul DiGiuseppe and Mr. Nicholas Iafrate, the Building Commissioner was held. On October 5, 2021 was when the informal meeting with the Planning Board was held. On April 6, 2022 an interdepartmental meeting that was set up by Mr. DiGiuseppe which had members from Planning Department, Conservation Department, Building Department, DPW, Water and Sewer Department, Fire Department, and the Select Board sitting in on the meeting. Saturday June 11, 2022 was an informal meeting with the public to discuss what the project entails and a presentation was had. The grading and drainage plan is divided into four or five parts in the plan set that was submitted. On the right there is a cul-de-sac, which will be Lloyd's Circle which will be about 2093 feet long and the road system on the left side is 2484 feet long. There will be no waivers asked for the width of road as it is the required 25 feet paved road that is required in a 50-foot wide right of way. A 4-foot-wide sidewalk is being proposed separated from the roadway by a five-foot grass strip and currently there are no sidewalks on Pine Street. There is a sidewalk system on both roads that connect to nothing but felt that it would be good for neighbors to do the loop on the sidewalk around the development. The cul-de-sac on the right has in the subdivision rules and regulations in Norton there is a written requirement for the size of the cul-de-sac that it has to be a 94-foot diameter with a right of way at a 74-foot diameter paved then there is a detail in the back of the regulations that requires a 114 foot right of way and a 94-foot paved radius. This was discussed with the Fire Chief and the cul-de-sacs will be larger than the requirements for ease of getting fire equipment in and out of the site. The site is proposed to be serviced by Town Water and there are discussions being had with the Water and Sewer Department to see if the project could connect to the sewer or if all the lots could get perked and each one getting an individual septic system for each lot if sewer isn't an option. Mr. Forbes states that they are in the process of answering all of the comments made by Horsley Witten, the Town Planner, and the Conservation Commissioner and will make it into the revised set of plans. There was input by the Deputy Fire Chief and there will be further discussions with him to determine if anything else on the plan needs to be modified. On the left there is concern that there is a steep section of road was a concern for the Deputy Fire Chief. One of the Planner's concerns was that a traffic study be done on the project and one was submitted to the Planning Board. The traffic study was intended to be reviewed by Horsley Witten and hope to get the review before the next scheduled meeting.

Mr. Marr states that on the Conventional Layout there are 10 lots that do not meet the R-80 guidelines of uplands. Mr. Forbes states that the concern was spotted after the submittal and is an easy fix. The revised set of plans are already in the works to fix that mistake. Mr. Marr states that the plan set is not currently accurate and due to them not meeting the requirement shouldn't have the 44 lots. Mr. Forbes explains that some of the wetland areas that Ms. Hoogeboom designated are non-jurisdictional wetland areas which don't meet the requirements of an isolated land subject to flooding. When the initial lot layout was done the 44 lots the non-jurisdictions are not wetlands. When the plan was done it was decided it would make more sense to say that if they are vegetated it makes more sense to consider them as wetlands as a safer more conservative route to go. The revised set of plans will correct the error and have all the lots to at least have 80,000 square feet.

Mr. Griffin asks about the stop work order issued to the site from the Town prior to the Planning Board meeting. Ms. Hooageboom states that there was a stop work order issued on behalf of the Stormwater Committee and was issued by the Conservation Agent who represents the Committee and as a result of the process they worked with the Conservation Commissioner and the other members of the Stormwater Committee to submit an After the Fact Stormwater Permit discussed it at a Conservation Meeting and accepted the After the Fact permit for stockpiling that is occurring around the existing dwelling. The contents of the After the Fact permit is that no further work will be done on the site including the movement of materials. Erosion controls were installed on the site around all the stockpiling to comply with the local stormwater bylaw. The stormwater permit is being requested through the Notice of Intent process for the Conservation Commission. This is to incorporate the area into the Stormwater Pollution Prevention Plan and the Operations and Management Plan for materials for the whole project. Mr. Griffin asks what happened to spark the stop work order. Ms. Hooageboom states that from her understanding stockpiling was occurring around the existing dwelling on 154 Pine Street and some concerned neighbors brought it up to the Conservation Commissioner. There was correspondence between the Conservation Commissioner and the Landowner to note the Stormwater bylaw requires a permit application for work like that which includes land alteration and clearing of vegetation in a certain square footage. The amount of stockpiling appeared to exceed the square footage which is what prompted the After the Fact permit.

Mrs. Parker asks if the trees were removed as well. Ms. Hooageboom states that she doesn't believe trees were removed but small vegetation like shrubs may have but not to the root system. Mrs. Parker states that a letter from an Abutter on Briggs Street that there were five tree trucks on the property removing trees and blocking neighboring driveways. When asked what they were doing they responded with "I'm here to do a job." They were there for several days removing trees from the northern section of the plan that is abutting wetlands. Mr. Forbes states that an abutter to the left of the plan who has an easement to travel over the property to get there. Mrs. Parker clarifies she is referring to Briggs Street which is at the top of the plan. Mr. Forbes states that there were some test holes. Mr. Endriunas states that some of the underbrush was removed so they could get to the test holes.

An abutter states that he and his wife walked the property and saw that there were small roads cleared and there was a land clearing machine parked at the end of Briggs Street. Mr. Griffin states that comments from abutters will be heard at the end of the Planning Board's discussion with the applicant.

Mr. Marr asks in regards to the storing of material, Mr. Marr recalls a barn structure or a stable that was in the area where the material is stored. Mr. Endriunas states that there was a group of buildings behind where stock piling was, there was a fire started there and some rubbish being dumped there. Mr. Endriunas got a permit from the Building Department and when he took over the property that was one of the requests to get everything out of there. All the buildings were removed and moved to a licensed site. Two stockpiles of sand were put up for the future construction of the property in their place but there was no deconstruction. Some of the scrub brushes were taken down and stripped the topsoil so the sand wasn't on the topsoil. This was done on upland areas where the proposed house lots were. Off of Briggs Street there was testing

for the drainage system. In order to get the equipment out on the property an excavator with a mower was brought in and mowed the underbrush of existing trails in order to get the equipment to the test grounds. Which was all done under the supervision of the wetland specialist and engineers to make sure there are not any environmental harm to the property or breaking any rules to accomplish the tasks but there were test holes to help design the drainage system.

Mr. Marr states that Lloyds Circle is 2093 feet long and the Norton bylaw asks for a dead-end street should be 1000 feet or less and should have 13 units or less. The length of the road is more than double the length allowable and almost double the number of units. Mr. Marr asks the road couldn't be shorter and avoid having to fill in wetlands to be compliant. Mr. Forbes states the original layout terminated Lloyds Circle but was asked by the Conservation Commission to put it in to pull that side of the project back. That reason was one of the main reasons the project came in formally in front of the Planning Board and mentioned that the road will exceed what is allowed. Mr. Artz asks if that was done to protect the vernal pools. Mr. Forbes states it is and points in the vernal pools at the top left side of the site plan above the cul-de-sac. The original plan had no wetland impacts and now there is a wetlands impact. Mr. Griffin states that it is a waiver being requested from the subdivision regulations.

Mr. Marr asks about Germain Way and states that the approach into Pine Street should not exceed a 1% change of grade of 50 feet and the current plan is an 8% upgrade slope right at the intersection of a Pine Street that will have ice issues in the winter. During construction there may be school kids standing at that corner where cars could slide into them. There are zoning requirements on the cul-de-sac of Germain Way the require length of curves that pertain to gradient changes which is also not being met. Mr. Forbes states the intersection is not going to be coming right into the road there will be a 50-foot T Engine Section that goes into a vertical curve to 8%. Mr. Marr gives a situation of a trash truck traveling down on ice. Mr. Forbes states that 8% is allowed in Norton as the maximum grade for roadways. When Mr. Forbes got the concerns of the Fire Department and will design the section of road and try to keep that as close to the existing grade so there wouldn't be a large cut next to a neighboring lot. Based on the comments there will be a cut at the corner and the Fire Chief had asked why a 9% road was needed on a flat site and it is because they are trying to cut into a 10% slope in to meet the town requirements. Mr. Forbes states they intend to meet all sight distance requirements. One of the curves Horsley Witten asked them to look at has a 100-foot-long vertical curve and to meet the site distance requirement it has to be 103 feet. Mr. Forbes states they will exceed that requirement for the road.

Mr. Griffin asks to confirm that Mr. Forbes is looking for a waiver for the fifty-foot-long area and the approaching intersection to not exceed 1%. Mr. Forbes states they will ask for that once they've met highway design standards that ends up becoming more dangerous with the speed that people would be driving at. The reviewer had asked for justification and will provide that at a future date but will still be asking for that waiver.

Mrs. Parker asks in regards to the traffic study and know that the applicant has purchased additional properties around the site and would like to know the full extent of the development for the purposes of the traffic study. Mr. Griffin states if the applicant has additional plans, they wish to share they can otherwise the Board will have to act with what is in front of them. Mr.

Griffin adds it might be something to ask the peer reviewer. Mrs. Parker asks if there would be a material difference. Mr. Griffin states that the Planning Board can review the areas covered in the traffic study which were three intersections one on Pine Street at Plain Street and Pine Street at the two newly added streets on the flat on the plan. Mrs. Parker states her other question is about the traffic assessment was May 26 and felt that most of the Wheaton students were gone at that point. Mr. Forbes states that he was made aware of that by the neighbors and also states that the Traffic Consultant would've also addressed that if they were present. Mrs. Parker states that she would think there would be a small impact of Wheaton commuters. Mr. Griffin states he checked to make sure L.G. Nourse was still in session and that this is something that the Planning Board could discuss. Mrs. Parker states that she had discussed with Mr. DiGiuseppe that this abuts the Rail Trail and there being potential open space and asks should the Alternative Transportation Committee be involved in the meetings as well and discuss putting in parking for the rail trail. Mr. Forbes states that at the department meeting they requested to have gravel parking spaces near Briggs Street there are six spaces put onto the plan. Mr. Griffin asks if they are the circles under the corners of the plan. Mrs. Parker asks if the Alternate Transportation Committee was a part of the department meeting. Mr. Forbes states he doesn't remember seeing the Alternate Transportation Committee at the meeting. MR. Griffin states that it is something they should be aware of and if they are already plans to add parking for the rail trail. Mr. Forbes states that he would like to have their contact information. Mr. Griffin asks Mr. Carmichael and Mrs. Parker to find the person to connect Mr. Forbes to.

Mr. Artz asks if there would be any impact from the common area on the environment there such as a playground that the lots could use. Mr. Forbes states it is a possibility and if it is something the Planning Board will make suggestions about it, they could look into it as Mr. Forbes believes the Planning Board has the ability to direct them. Mr. Forbes states Mr. DiGiuseppe had stated there is a trail system people use and connect that in to have that passive recreation. Mr. Artz asks if that will go towards the Rail Trail. Mr. Forbes states that it is up to the Planning Board the direction it goes but originally was intended to be passive recreation. Mr. Artz asks if it would be maintained by Norton or the Homeowner Association. Mr. Forbes states it is up to the Planning Board.

Mr. Forbes states he wanted to have the initial meeting with the Planning Board before going to the Fire Department and start changing the entry road and then get everything back from Horsley Witten.

Ms. Janet Bernardo, civil engineer from the Horsley Witten group to conduct the peer review for this project states as part of the peer review of the project there was a letter submitted June 1, 2022. The letter looked at the wetland zones since then the notice of intent was received and will do a more involved wetlands review. Vanessa Associates have been brought on to do the traffic study and that has been submitted to them a week ago. In the June letter there is the zoning bylaws and going through the dimensional requirements for the project that the applicant has to meet for a cluster development. Number Five on the letter the applicant has suggested a 30-foot front yard setback, a 20-foot side yard setback, and a 20-foot rear setback. Ms. Bernardo states that the setbacks being used are reasonable however it is still in the Planning Board's jurisdiction to set the setbacks. The Planning Board will need to approve the ownership of the open space area and resume the maintenance of the area. The applicant is to provide an operational

maintenance plan for the various stormwater practices to the Planning Board. If there any signs that will be put up, they will need to conform to Article Eight of the Zoning Bylaws. The Water Resource Protection District regulations in the bylaw because of the size of the property and the amount of impervious area proposed it does not appear from the Horsley Witten review that a special permit would be required to construct the development as proposed. The subdivision rules and regulations and the various waivers being requested. Section 5.3 & 5.6 the applicant has requested a waiver for one sidewalk rather than two and there is no objection to it by Horsley Witten as it would be reducing impervious area which is necessary for the session traffic and will defer approval to the Planning Board. Section 5.3 waiver is to have wild Cape Cod berms then a sloped berm. The concern with the Cape Cod berms is that they can be damaged by snow plows so if Norton takes over the roads it is recommend that the Planning Board get the opinion of the Department of Public Works because if they are going to be plowed would they want to repair the berms. Section 5.4e waiver is for the 50-foot approach being greater than 1% and there is the concern of icing when it comes down that close and heard the applicant was probably going to make some adjustment. Section 5.4c is for a right of way associated with a wetland crossing. Ms. Bernardo states there is no objection to the waiver and wouldn't refer to the Conservation Commission as it is a fill in a wetland and the crossing is talked about in more detail later in the letter. Section 5.4c also requested a fifty foot of vertical curve length for the vertical granite curves to make sure they have the right sight distance. Making sure that a car could see a pedestrian crossing into the road from a certain distance. Section 5.4d is in regards to the dead-end length can go up to a thousand feet and it will be going 2093 feet and it is recommended that the Fire Department weigh in on the dead-end road length as Fire Departments might have trouble getting their equipment all the way down the street if there is a road obstacle. Also, added that the end of Lloyd Circle is about 850 from the wetland crossing which the Fire Department could be concerned about crossing in a wetland because they can't just drive over the ground on a grassy area and would leave that up to the fire department. Section 5.9 is to allow open drainage basins and the applicant is proposing a number of large infiltration basins in Horsley Witten's opinion both the visible basins are visible so you can see if it needs to be maintained if they are failing because they may be in water longer then they are supposed to. So, seeing it would be a preferable design but Horsley Witten has no objection to the use of open basins. Section 5.17 is to waive the requirements which all street lights at every intersection. The applicant is requesting to install them at each lot which are all 150 feet in length which Horsley Witten has no immediate objection to however there aren't many lots so the Planning Board may want to have some more lights near the crossing which would make a longer distance because of where the houses fit. Section 5.18 is to allow two trees planted in each lot rather than one tree every forty feet. The applicant has shown 88 trees which Horsley Witten has no objection to and would refer to the Planning Board for a decision. Ms. Bernardo notes that there is a section along 132 Pine Street which may want to have some additional trees added to it if the if the waiver is approved. Section 6.6e is allow ACP type with less affinity of cove, ATP is a commonly used Stormwater pipe and Horsley Witten know that their engineers use it and have no objection to the change in pipes. Section 59.1 is roadways to be accepted as Town roads at the constitutional DPW and would defer this to the Planning Board. Section 9.7b is to waive the requirement of an environmental impact study and Horsley Witten thinks that the applicant should justify the waiver to the satisfaction of the Planning Board as there are many environmental issues on the property with the various vernal pools.

Mr. Griffin asks about point 12 about the environmental impact statement and if it is an unusual waiver. Ms. Bernardo states it is requested frequently as it is more work on the applicant but it is up to the Planning Board if this is an area that the Board feels like because they are proposing as much open space as they are and they are protecting a good amount of the wildlife and vernal pools that are out there. Ms. Bernardo states that the Planning Board may feel that they did their due diligence and have an understanding of the wildlife. It is a residential subdivision not a powerplant so they won't have air quality issues, gas emissions, they are going to impact a number of trees, and potential wildlife as well. Mr. Forbes states that the waiver is being withdrawn and is being put together by Ms. Hooeboom.

Ms. Bernardo states that the Stormwater review is very clean. There are multiple design points going up to the various basins they are proposing have a number of large infiltration basins. Their basins should end up draining within 72 hours if visible it should be obvious if the basins are failing. If the design wasn't right or if they get full of sediment over time because you will see water in them for longer than 72 hours and that's the time somebody is supposed to go and clean it out or clean up the floor basin which are proposed in front of all of the infiltration basins, which is needed and sized adequately. So, they are proposing a closed drainage system and all the pipes or manholes are going into the floor basins and catch basins. They are not having a discharge to a well and that could cause erosion in the well. Standard One under the Massachusetts Stormwater handbook is not causing erosion as well and so the belief is that they've complied with standard one. Standard Two says they are not allowed to increase their runoff over existing conditions. The applicant has not shown the attachment areas going to the various wetland areas as they were separated off from other sections and there are a few technical comments regarding infiltration basin one and the center depression in the area. The applicant seems to have a number of test pits they have done throughout the property and everything seems consistent but Horsley Witten recommends that they conduct additional tests in the two test pits that are not close to the other test pits. The Planning Board may consider to condition that as something they do prior to construction which could be a condition granted by either the Planning Board or the Conservation Commission. They would need to file a notice of intent and their distance to the wetlands. Spot Grades are being asked for as there was something in there that wasn't very clear. They also wanted to make sure that they're filling the outfits the outfits showing all the trees that should be protected along the wood making sure that where that is. There is an isolated vegetated wetland that is a part of the design that is a vegetated wetland and not a vernal pool, frequently they become vernal pools. The wetland being impacted is not a vernal pool and they are sending more water towards the wetland. It will have more water in it and will rise up higher and then infiltrate similar to the basin but it is an isolated wetland it can act for flooding purposes a depression that water ends up going to. This is okay as it is not a vernal pool and is okay for more water to go to them. The applicant has met Standard Three which is requiring recharge depending on the amount of impervious area that they have. So, all the basins they have has great soil which made it easier for them. A site visit was made and saw some of the conditions of the property and some of the trails. The soil looks good and they'll be able to infiltrate and meet standard three. Standard Four has to do with suspended solid removal and gluten removal. The catch basins and the four bays provide the TSS sediments that are in the stormwater flowing down into the catch basin and it turns itself around and then you have fine sediment and sand. They'll land in the floor bay and they sit in the forebay and then it moves on but the goal is that they remove as much as that as possible, 80% is required by the

Massachusetts stormwater handbook but 90% is required by the town of Norton which they have to work a little more to reach and they have to get 60% of the phosphorus removed which basins may have to but they need the infiltration basins to help with phosphorus removal but the applicant does need to provide those calculations and prove they met the requirement. Standard Five has to do with the land use of higher potential gluten loads which a residential development does not qualify for so standard five is unapplicable. Standard Six is when you are working within a critical area and the water resource protection overlay district is listed as a zone two which is a critical area with an insurance wetland protection area so that means that the output is required to meet standard 2 that means they have to a little bit more on their water quality before it infiltrates. They have to hold back an inch of runoff instead of half inch but they are thinking to matters. They need to document that they are complying with standard six but it appears that they most likely are but they are holding back a lot of water into those basins and they're providing retreatment for them. Standard Seven has to do with redevelopment projects because this does not qualify redevelopment so assumptions don't apply. Standard Eight has to do with erosion control and making sure that during construction they are putting up appropriate eversion controls particularly with the number of wetlands in the area. There are a number of comments showing a little bit of work items that are expected that the applicant won't have a problem with. First thing is they will need to apply through the environmental protection agency they need to get a nifty's construction permit because they're disturbing more than one acre of land. With that they prepare a stormwater pollution prevention plan which they would need to have that prepared within 14 days of construction according to the EPA regulations. Horsley Witten suggests they provide that pollution plan to the Town so the Planning Board can review it. Standard Nine has to do with the long-term operation and maintenance. If these roads are taken over by the town and DPW may be in charge of them. Horsley Witten would recommend that the DPW review that operational maintenance plan depending on who was going to be taking care of the infiltration basins and the four bays. If it is the Homeowner's Association the Planning Board should get a copy of the Homeowner's agreement to make sure they understand when they all come into play, this is something that needs to happen maintaining the stormwater practices is a critical piece to making sure that they operate really long term and they should be able to operate 30-50 years without a problem if maintained properly. In Standard Ten is basically an illicit discharge compliant statement that is typically signed by the property owner to let them know that they cannot dump in the wetlands. The next report or letter is the preliminary wetlands comment that was written up which Ms. Amy Ball will be reviewing. Number 1 on the letter states that the project is located in the Three Mile River watershed area of critical environmental concern and under the wetlands protection act in is Horsley Witten's understanding that filling or altering vegetated wetlands within ACEC is prohibited. At the moment the applicant is filling a wetland with their crossing and according to the Wetlands Protection Act that is a prohibited alteration. There is an equalizer cover underneath the wetland, understanding the size of it is important but understanding the fill and how it impacted the wetlands as found by the Conservation Commission. The water line that the applicant is proposing frequently would loop their waterlines as would normally requested by the Water Department would loop between the two roads is going underneath the wetland in the east rear. They are reporting directional drilling underneath that wetland and to put in that water line which is also relatively common practice as long as they don't hit any big boulders and would recommend someone from Conservation on site during that.

Mr. Griffin states several of the residents had cited a review by the Army Corps of Engineers which has been talked about outside of the meeting. Mr. Griffin asks when the standard could be met and when would it not be met from Horsley Witten's perspective. Ms. Bernardo states that it depends on the navigable waterways and they can take jurisdiction over impacts to their wetlands. Mr. Griffin asks to have the Army Corp of Engineers papers reviewed and added to the Balfour Farms review.

Mr. Griffin asks if there was anything specifically that Ms. Hooageboom in terms of Horsley Witten's review. Ms. Hooageboom states that for the general wetland comments the crossing in the ACEC is and Ms. Hooageboom agrees with Ms. Bernardo that the Wetlands Protection Act does read as if a wetland crossing is prohibited when it is located in an ACEC. However, the applicant is applying that the Conservation Commission review the project as a limited project which is a provision provided in the Wetland Protection Act. With past projects that have proposed fill, ACEC allows the Conservation Commission the discretion to approve a project as a limited project to determine if they would approve or deny a project under that provision. That is how the applicant is applying for the wetland crossing with the Conservation Commission.

Mr. Artz asks if that crossing was part of the Conservation Commission's recommendation to push back to avoid the vernal pools. Ms. Hooageboom states that it is and states that when it comes to the protection provided by the Wetland Protection Act there are not strict regulations for protection of upland areas to vernal pools but from the recommendation of the then present Conservation Commissioner and the Conservation Commission. The Conservation Commission thought it was a unique ecosystem there on the site and they felt the preservation of that area was important to consider in the applicant's design.

Mr. Marr asks Ms. Bernardo about Standard Nine on the Stormwater and asks who is responsible for maintaining the stormwater after the estimated timeframe. Ms. Bernardo states it is whoever has taken responsibility for it and if the basins fail because they have not been maintained properly or the sediment builds up on the top and water gets held up on the bottom of the basin. It would be a matter of going in and scrapping out all sediment then usually the system goes back to functioning normally and the rotation should grow back. Whoever is the owner they are responsible for the maintenance of the stormwater basins. Mr. Griffin asks if this is related to the basins close to residential areas and not the open space. Ms. Bernardo confirms that they are around the residential area and some are more into the open space and are on the outer ends of the residential development. Mr. Griffin states that it may be a good idea for when they decide who will maintain it that it is written down so they know who has to maintain the basins.

Mr. Griffin asks when Mr. Forbes thinks would be an anticipated time to look over all of Horsley Witten's review and write a response. Mr. Forbes states that they can be there for the second meeting in July to give some more time. Mr. Griffin asks Ms. Bernardo if July 26 would be a good time. Ms. Bernardo states that they can hold it on July 26th.

Mr. Fran Turner of 145 Pine Street, has a letter that was contributed by other residents. This letter has been given to the Planning Board, the Conservation Commission, Select Board, Water/Sewer Department, and Zoning. The letter states several factors that they feel aren't addressed by the plans. The impacts include the potential impact to large number of wetlands,

wildlife, water infrastructure, runoff to Three Mile River watershed, impact to local well water, history of the area, and the safety of Pine Street and surrounding streets. The proposed plans also request numerous waivers that the neighbors agree need to be better understood before any approvals to develop should be granted. The first concern is what will happen if the zoning change of the cluster development gets approved. They are requesting the Zoning Board not approve the change to the current zoning. Mr. Griffin notes that it is not a zoning change being put in place and it is something that exists currently under the bylaw. Mr. Griffin states that there are several clusters already existing in Norton and is something that can be reviewed and is a special permit which means it is at the discretion of the Planning Board to approve.

Mr. Turner continues that the second concern is that there should be a perk test done on the site and the results should be provided to make sure the 44 house lots can be built. Mr. Griffin states that the topic was talked about a little bit in terms of lot lines and in terms of making sure that all 44 lots meet the requirements.

Mr. Turner states that concern three is that work on 154 Pine Street has been done without approval and what the Planning Board will be able to do to make sure that the rules and regulations are being followed. Mr. Griffin states that this was discussed a little and that a number of the standard conditions for any special permit or site plan governing the construction of the in terms of erosion control, hours of operation, and the building commissioner has the authority to step in if any of the conditions are not being followed.

Mr. Turner states that concern four is for the safety of pedestrians and bicyclists and have a study to see how impacted they would be by the added development. Mr. Griffin states that the applicant is preparing a traffic study which will be peer reviewed by a traffic engineer from Horsley Witten. Mr. Griffin states that the Board is looking to go into detail on the Traffic Study at the next meeting.

Mr. Turner states the next concern has to do with a traffic impact study and safety to pedestrians and bicyclists. Mr. Turner asks if that also would be covered in the traffic impact study. Mr. Griffin states that both topics would be discussed with the traffic engineer in terms of both the volume from the site and the nature of the road. Mr. Turner continues that concern five is the traffic impact study should also include the increase of vehicles that are being proposed on the traffic study, potential accident sites such as the intersection of Pine Street and Plain Street, having the study done while school is still in session, and having traffic come from Camp Miles Standish including Waste Management and Wind Waste. Mr. Griffin asks if the intersection of Pine and Plain Street has the heaviest traffic. Mr. Turner states personally the heaviest traffic is at Route 123.

Mr. Turner states that concern six is that the land along Pine Street was required to be sold as one property due to the percentage of wetlands on the total property prior to the purchase made by the Norton Land Company and believe that a review by the Army Corp of Engineers may be required. Mr. Griffin states that the concern is something to consider and the peer review Engineer for Horsley Witten said they would provide more information on that review and when it is required.

Mr. Turner states that concern seven has to do with the plaque by the Water Department gate on Pine Street which has historical importance and asks that the Planning Board conduct a historic site study. Mr. Griffin doesn't believe this is within Planning Board purview. Mr. Turner asks if there could be a follow-up to see who might be in charge of having a historic study done. Mr. Griffin states that they can ask Town Staff about who they might go to as in Norton there are multiple historic groups.

Mr. Turner states the next concern has to do with the water problem on Pine Street and has been brown and black periodically for years. In spite of changing water mains on Pine Street recently in an installation of a water treatment facility discolored water is still a common problem for many residents. It has also been reported that water treatment facilities built to address the problem already nearing the end of its life. Risk of discolored water is a health concern for many Pine Street residents. The water department has identified the rate of water pulled from the Pine Street well as one root cause of the discolored water, there is a high likelihood that adding more houses on the existing water line will increase incidences of discolored potentially unsafe water. The Pine Street residents request that a study of the adequacy of the water infrastructure being performed to ensure that adding houses will not create more incidents of potentially unsafe discolored water for current residents. Also requested is the creation of a plan to define the responsibility of the developer and/or the Town of Norton to make corrections for water issues that may result from this proposed development. Mr. Griffin states that he would definitely be looking for written comments from the water department with regards to that. Mr. Turner states that many of the concerns are that there have been discussions with the Water Department by many of the residents and in Mr. Turner's opinion the Water Department measures water safety differently as they measure by average and not by extremes. Mr. Turner states while the Water and Sewer reports would be accurate residents experience a difference. Mr. Griffin states that there is additional potential well development happening in Town with additional federal investment in terms of how that goes together. Mr. Turner explains that the concern was just to understand if something happens what recourse is there for current residents and if there is some thing that could be put in place in advance of any approvals.

Mr. Turner states that concern number nine is about the noise and disturbance of truck traffic during a build phase should this development get approved to proceed as a concern to residents. Trucks have already left a lot of dirt on some sections of Pine Street and while bringing in dirt and have been a source of traffic and noise. A request to have the Planning Board to put place a requirement to moderate construction traffic on Pine Street and surrounding streets during the building phase and to limit the hours of noise. Mr. Griffin confirms that this is within Planning Board purview. Mr. Turner asks if that could be discussed prior to the writing of the decision in cooperation of residents. Mr. Griffin states that could be discussed with the Planning Board, the hours of operation for building construction are one of the standard conditions that we've reviewed and have a baseline for developments which are specific concerns relating to hours of operation or construction. Mr. Turner states there is no noise regulation in Norton and would like to have something in place for this site prior to approval. Mr. Griffin states that the Planning Board would be able to moderate the hours of operation for construction in terms of specific noise levels putting a noise ordinance into Norton is probably something outside the purview of the Planning Board and should be something Norton looks at as a whole. Mr. Turner asks how they could go about putting in a noise ordinance for this project. Mr. Griffin states that the

challenge would be measurement for what would be the standard in terms what is the standard, who is measuring, where are you measuring from, what is the distance, by the time you get the people on site and turn the machine off, and will be challenging to enforce. Mr. Griffin states that during construction hours there will be significant noise as opposed to when there isn't any work being done. Mr. Turner agrees with Mr. Griffin that it is a challenge and states that if there is a key concept that could be discussed in association with powers of operation. Mr. Griffin states that the Planning Board could go and find a way to potentially reduce the most disturbing access of construction and try to set additional hours on those or something like that.

Mr. Turner states that concern Ten is about obtaining an adequate tree barrier between any new proposed construction and existing properties is important to Pine Street residents and request that the Planning Board put in place a requirement to leave adequate forested area between existing and the newly proposed cluster development to address the following issues; a loss of privacy and view to new construction, a desire to maintain the character of Pine Street and Crane Street where there are the most houses to maintain a wood buffer, and a safety hazard caused by inadvertent tree barriers that can remove the windbreak protection to eastern white pines causing them to be more easily blown over. Mr. Turner states that he spoke with an arborist who stated that when there is new construction without an adequate barrier it can weaken the wind resistance. A request to leave an adequate buffer between the proposed site and the abutters. Mr. Griffin states that landscaping and screening is something that the Planning Board would go through as part of the review of this project. Mr. Turner recalls that there was a discussion on this earlier in the meeting.

Mr. Turner states that concern Eleven is that the wetlands study reveals a large percentage of wetlands and vernal pools on the property. Forty-Four homes are too large for the site due to the large percentage of identified wetlands and requests that the Conservation Commission to inform residents what stage of wetlands are at this stage and that a more detailed study should be done to determine the actual number of allowable homes on this property. That work including tree cutting be prohibited until the number of houses on the site and final layout if any agreed to. Mr. Turner continues that while this is addressed to the Conservation Commission but hopefully it is relevant to the Planning Board and asks Mr. Griffin if they know the relationship between decisions made by the Conservation Commission and the Planning Board. Mr. Griffin states that there is usually a dialogue between the two Boards. Mr. Turner asks if one Board proceeds the other. Mr. Griffin states that it depends on the project and that is always a source of conversation because each one wants the other one to be done before they act.

Mr. Turner states concern Twelve is that at least one stream and one pond are adjacent to the Balfour Farm property feeds into the Three Mile River which is a part of the Three Mile River watershed ACEC the proposed Balfour Farms development is also close to a Norton well and an area being studied for the installation of additional wells. A request to have the Conservation Commission confirm that a study will be done to determine the impact on Three Mile River ACEC and Norton wells from this proposed development and to know which agency would perform that study. Mr. Turner believes that was just what was just talked about which Mr. Griffin agrees with. Mr. Turner asks where they can find more information. Mr. Griffin states that it is part of the review process with the Conservation Commission and Horsley Witten. Mr. Turner asks if it comes before Conservation Commission as well. Mr. Griffin states it does and the

Planning Board will probably see that information as well since Horsley Witten is doing both evaluations.

Mr. Turner states that Balfour Farms has been vacant and untouched for over fifteen years, the land with this acreage and this condition is rare in Southeastern Massachusetts as such it may be an important resource for the local flora and wildlife not only on this property but also in connected land. There is a request to have the Conservation Commission conduct an environmental study which includes assessment of special factors that inform the use of the property for this housing development. The review for the environmental studies is still going forward as that waiver has been withdrawn. Mr. Turner states that the area has a diverse group of wildlife and fauna and asks that the Conservation Commission have a further habitat study on the Cluster's properties and the overall surrounding area.

Mr. Turner states concern Fourteen is wildlife including turtles, frogs, snakes, squirrels, chipmunks, bunnies, and other animals are occasionally killed by cars on Pine Street. Due to the property being wooded and there being streams animals crossing the road are higher. Adding to the number of cars and construction vehicles to Pine Street would add to the wildlife strikes. A request to the Planning Board to put in place adequate measures to prevent an increase of wildlife vehicle strikes on Pine Street and Crane Street to additional vehicle volume. Mr. Griffin states he is not sure if that is within Planning Board purview other than tell people to follow traffic laws.

Mr. Turner states the Fifteen and final concern is that changes to the property proposed for development may conceivably affect water around existing homes such as basement flooding. A request for the Planning Board to explain to residents what will be done to prevent unintended changes to the water table and runoff around existing homes and what recourse do residents have if this occurs that has negative impacts on properties. Mr. Griffin states that this is covered under the stormwater portion of the review that Horsley Witten is undertaking. Norton stormwater bylaw states that any disturbance on the site with runoff cannot be worse than it is now. The applicant would have to retain and hold as much of the stormwater as it currently does now or better within their site. Mr. Turner asks if groundwater is also included when looking at stormwater. Mr. Griffin states that all of the hydrologic connections are looked at by the engineers of Horsley Witten.

Mr. Turner summarizes that he would like to have the concerns addressed prior to a decision for the proposed development. Mr. Turner states there is a lot of information and asks how it can be monitored. Mr. Griffin states for ongoing monitoring of any documents or information that comes through there is a public facing Dropbox available. Mr. Carmichael shows how to get to the public facing Dropbox. Mr. Turner asks if abutters can post documents. Mr. Griffin states that it is view only and that the documents could be given to Town staff to upload. Mr. Griffin adds that the contact for Mr. Carmichael is on the Town website. Mr. Griffin states that he has recorded all fifteen concerns from the letter and will save it for the end when the Planning Board is organizing a decision and review all the comments made and how they were addressed. Mr. Griffin continues stating that he will try to make sure that all the comments are made by the time of the decision. If something is going to be put as a condition or discussed there will be back and forth about it.

Mr. Francis Riley of 174 Pine Street states that Norton has changed since he was younger in regards to zoning lot sizes. Mr. Riley states that the applicant should be going by lot sizes of 80,000 square feet as it is the minimum square footage for R-80 lots. Due to the size of the lot, they would have to have sewer basins come in and that abuts the proposed houses on Pine Street. Where will the water go with all the houses plus the sewage that they would have. Mr. Riley states that there doesn't seem to be any studies for that aspect of the project. Mr. Griffin asks if Mr. Riley is asking about stormwater runoff. Mr. Riley states it isn't, it is about sewer basins and the amount of water that will be discharged from it. Mr. Riley explains that if they go with septic systems rather than tie in to sewer it might cause a problem and that the project should hook into sewer while they are being constructed. Mr. Riley asks if the area is a floodplain area. Mr. Riley restates that the cluster development should follow the 80,000 square foot lot area minimum.

Mr. John Donovan of 79 Pine Street, states he has two concerns about this project. Mr. Donovan asks about the right side of the development and asks if the Conservation Commission had asked them to fill more wetlands or if it was just more steering away from the vernal pools. Mr. Donovan also asks what the total disturbance of the wetlands are. Mr. Griffin states that the original plan was to go up to the borders of the vernal pools and go in-between them but the concern of the Conservation Commission was even though the vernal pools aren't being touched there will be a roadblock put in place for them which is an indirect disturbance. Mr. Griffin explains that the Conservation Commission had felt that the plan now is better than the plan previously given and would reduce impacts on the wildlife in the area. Mr. Donovan states that there is a wetland crossing being proposed and the cul-de-sac is longer than what the zoning bylaw would normally allow. Mr. Forbes states that Mr. Griffin is correct in that recall. Mr. Forbes states the original plan had been reviewed by the Conservation Agent at the time and they were concerned that there are no wetland impacts here but was concerned about how close the project was to the vernal pool areas. The Conservation Agent at the time was concerned about migratory patterns between the vernal pools and came to the Applicant to suggest doing a wetland crossing on the right side which would fill in wetlands and utilizing another area instead of the area by the vernal pool. Mr. Forbes explains that at the meeting with the Conservation Commission, the Commission had agreed with the Conservation Agent's suggestion of crossing and filling a wetland. Mr. Forbes states that about 4600 square feet of fill in this wetland area to be able to pull back. Mr. Donovan asks to confirm how much disturbance there is total. Mr. Forbes states about 4600 square feet. Mr. Griffin states that Horsley Witten will address the other concern of the wetland crossing in the peer review and the Applicant has to address it. Mr. Forbes states the applicant will address it with the insight of Ms. Hoogeboom that will fall within the bylaws and be legally done. As far as the Army Corp of Engineers goes, they get involved if an applicant goes over five thousand square feet which this project is just under with four thousand six hundred. Mr. Forbes states that if they were not able to make it under 5000 square feet, they wouldn't go through with it as they wouldn't want to go to that level of permitting with the Army Corp and DEP.

Mr. Donovan states that there were three pre-construction related activities seemingly without the Planning Board's approval including the removal of structures, trees, clearing and roadways created, and stockpiling with no erosion or sediment. Mr. Donovan asks if the project will be approved what reassurances would the Planning Board be able to give the residents of Pine Street for enforceable conditions. Mr. Griffin states that speaking for himself the Planning Board

reviews every application that comes in and the applicant's history comes in with it. In terms of conditions that are set, the Building Commissioner is the enforcing authority and if they don't like how something is being done, they can shut down the construction. Mr. Donovan asks if there will be inspectors throughout the process. Mr. Griffin states there are specific points that are inspected and are brought in at various points.

Mr. Donovan asks if the traffic and noise study going to be for construction traffic as well as when complete as well as noise. Mr. Griffin states that he believes the traffic study only looks at what the traffic would be if the proposed project were to go through. Mr. Donovan asks why construction traffic wouldn't be included. Mr. Griffin states that construction traffic would be part of the construction review rather than the traffic flow with volume. Mr. Donovan requests that a construction traffic study be performed.

Mr. Christy Lorenzo of 140 Pine Street, states that he agrees with Mr. Riley that the properties should be 80,000 square feet. Mr. Lorenzo asks if all of the lots will perk and will get 44 lots. Mr. Griffin states that it was covered a little in terms of lot lines themselves and what constitutes for a buildable lot. This is also reviewed by the peer reviewer as the Planning Board are not engineers. Mr. Lorenzo shows on the cluster map his house which shows a basin that is close to their property and goes onto an unused parcel. Mr. Lorenzo asks who will be using the unused parcel. Mr. Lorenzo states that at the meeting at the library prior to this meeting was that he had asked Mr. Forbes if they could have a buffer on the basin and have it pushed back which Mr. Forbes stated he could push it back fifty feet and asks if there will be another plan set. Mr. Griffin states that there will be another plan set. Mr. Lorenzo states traffic was talked about and a guard rail further up the road toward the center of town is deuterating and that section of land is not safe for walking. Mr. Lorenzo states that with pre-construction work there isn't enough space with the trucks and people on the road. Mr. Lorenzo about tying into sewer and if residents would have to pay for it. Mr. Griffin states that the guard rails should be taken to DPW in terms of construction traffic and a specific point in the road. Something that has been done with other projects is the decisions have tried to specify where traffic comes from when it goes to a site for construction which could be evaluated for this project's decision. Mr. Forbes explains that Parcel A and Parcel B are a response to something that was asked of them at the interdepartmental meeting making it a stormwater parcel. The departments didn't want any of the basin on the open space parcel. Mr. Forbes adds that there is a requirement that the roads and infrastructure will remain private based on the cluster provisions of Norton. During the interdepartmental meeting the DPW was looking at how the waiver was worded whether or not the road was private. They wanted to have the ability to take the roads over in the future if they chose to. Mr. Forbes is feen with either option leaving it to the Town's discretion. Mr. Griffin asks that Mr. Forbes look back at the reason for Parcel A and Parcel B.

Mr. Bradley Jones of 150 Pine Street states he has concerns on the east side of Pine Street. Most of the concerns are environmental which would be covered by the Conservation Commission but Town impact, traffic related, water quality, and subdivision regulation issues are within Planning Board purview. Mr. Jones states that during the meeting at the library the applicant explained their intention of making the project a cluster subdivision and to give the remaining open space to the Planning Board's choice. Mr. Jones likes the idea of open space for trails and is more willing to go with the cluster over two acre lots if it is better for the environment. Mr. Jones asks

if there could be a wildlife study done on the property as this property is an area of critical environmental concern. Mr. Jones states the area doesn't seem that different to another part of the Three Mile River watershed that is an environmental protected area for endangered species and wonders why this isn't also a potential home for endangered species and why a study perhaps isn't necessary to determine that. Mr. Griffin states that it was initially a waiver but it has been changed where they will have the study done and the Conservation Commission will be reviewing all of the ECDC and all the environmentally impacted areas as part of the notice of intent. Mr. Jones states that on the Town impact the proposed addition of 44 houses isn't the most significant development for Norton but still uses town resources such as fire, police, and school districts and could be a strain in some areas since the development is not the only proposed development on Pine Street. The town services should be considered due to the potential burden of cause the town such as an increase EMS response time on long dead-end streets such as the ones proposed and safety conditions of the two streets which are windy and if someone were flying down the street it could cause a safety hazard. Traffic is a Police Department issue but Mr. Jones states that it is still important for the Planning Board to be reviewing the traffic study for lack of variables such as college attendance during the summer and using the proper methodology for ensuring a fair account of traffic on a usual day also taking in account the intersection of Crane Street and Pine Street. Water Quality is a Water and Sewer issue but given the depths of the problems financially presence out of water and the potential addition of more than 44 homes to the street given the other properties. The water quality should be considered important by the entire town given the continued growth of the town the potential for additional development on the other side of Pine Street. The water from Well One will be needed for the foreseeable future. While Well One puts out ground water which some residents have needed to install whole house filters to avoid the water being brown which will be addressed to the Water Department as well. For the subdivision code it can be hands on with the project and accommodating to residents which includes the hours of operation and the buffer which has already been talked about in this meeting.

Ms. Karen Duhamel of 82 Pine Street, states she will read two letters. The first letter is from Mr. & Mrs. Tim and Diane Winiarz of 118 Pine Street. The letter states that there are three projects currently on Pine Street looking to put in over 80 homes on Pine Street which will impact traffic, the environment, water quality, and noise levels. The Winiarz family ask that the Boards that are reviewing these projects are reviewed extensively and to have representation from the Water and Sewer department before a decision is made. Ms. Duhamel reads her letter in response to the Pine Street project. Ms. Duhamel states that the main reason she had moved to Norton was the wooded areas which has seen an increase of traffic and change in water from known contaminants and Well One. There are 51 houses currently on Pine Street and adding these 44 units would almost double the amount of people. The developer has property on Pine Street which is on the other side of the street and a second developer owns land elsewhere on Pine Street. These concerns should be taken into consideration when deciding if this application should be approved. Other additional concerns are increase in traffic, there being no sidewalk on Pine Street and the two neighboring streets Plain and Crane when there are pedestrians, noise, air pollution, and contribute to climate change. The water quality of Norton is already compromised, the Water and Sewer Department have told residents that they are trying to use the Pine Street well on a limited basis. Other concerns include wetlands, school capacity, demand on police and fire, historical, and traffic disruption.

Ms. Amanda Paioni of 42 Crane Street states that Crane Street does have dirty water. If they increase the area with 44 houses, how can they get clean water if there is no clean water on Pine and Crane Streets.

Ms. Brenda Carroll of 157 Pine Street states she had written a letter and reads it. These concerns are for Balfour Farms and any future projects going on the street. The concerns include an apparent lack of integrity in the permitting process and witnessed the developer for the Pine Street project. Bringing in large amounts of fill without proper controls of sediments and close to potential vernal pools which resulted in a violation by the Conservation Commission. The initial property purchased was later divided potentially to avoid obstacles of impact studies on their part and the developers have attempted to circumvent established protocols by dividing the initial property and beginning land clearing without permission. Ms. Carroll states that the Town should not provide any waivers. The developers plans and actions should be intently scrutinized and the town should take comprehensive and measured steps to make sure all impact studies are addressed to preserve the environment, wildlife, and flora as well as the health and safety of Norton residents. These impact studies should be done in a reasonable and comprehensive way. There may not be 44 buildable lots in the conventional plan and the plans should be revised to reflect that. Some of the studies should be done in a reasonable order so the plan can be properly looked at. Ms. Carroll asks who will be doing the wildlife habitat evaluation and when it would be done. For the traffic study when the review does occur Ms. Carroll would like to know when was it done and what it includes. Ms. Carroll shows the Planning Board pictures of her home filter. Mr. Griffin states he is not unfamiliar with bad water quality. Ms. Carroll states that Well One is not on Norton's filtration plant and had to install a home house filter which was replaced 9 days after being put in and was in as bad as shape as the one that was replaced. Ms. Carroll states that she had contacted the Water Department and it is under the Department of Public Works but want the Water Department to be responsive to the concerns about the water quality and that they mitigate the concerns prior to the 44 proposed houses. Ms. Carroll asks if there will be adequate water pressure for firefighting for the area. Another concern is would the school system be able to handle this number of potential children.

Mr. Arthur Jones of 150 Pine Street reads a letter from Mr. Paul Binegar from 148 Pine Street. The letter states that the plans for two housing cluster developments off of Pine Street raised environmental impact concerns that they would like to have the Planning Board consider. First is the maintenance of feasibly consistent water levels in the existing ponds in the vicinity of 148 Pine Street on both sides of the street. Water feeding into these ponds are then flowing into the Three Mile River disturbed by the proposed changes to the watershed area in the construction zone. They received a letter from the environmental firm tasked with providing assessment of the potential impacts and they interpret the letter as the developer seeks to self-indemnify themselves from such diverse attack. Damage to these ponds as a result of the altered water flow would substantially impact the abutting properties and they exceed significant amount of wildlife regularly, frequenting, and or living in the ponds. Mr. Binegar asks for a more in-depth analysis of the potential impact of the development is warranted. Second, the area both on and surrounding the unused Balfour Farm house is home to a variety of bat species and is unsure what this development's impact would be on this habitat. This development may pose some species of bats indigenous to the area may be endangered. An environmental study is requested by Mr. Binegar.

Mr. Griffin states that if it is the preference of the applicant and the peer reviewer to continue to the July 26, 2022 meeting and asks if the Planning Board have any questions or comments before continuing. Mr. Marr states that there is also a Parcel C along with Parcels A & B. Mrs. Parker asks when can they expect the Water and Sewer Department to speak on this matter. Mr. Griffin states he will contact them first thing tomorrow morning and hope to have written comments from them regarding the project and other questions such as Well One.

Mr. Bouley motions to continue the public hearing to July 26, 2022 and is seconded by Mr. Artz. The Planning Board votes all in favor of continuing the public hearing.

Renewal of SPECIAL PERMIT #490 AND SITE PLAN approved in 2020 for 37 residential units, 4 of which will be affordable.

Mr. Brian Dunn the principal of the engineering firm MBL Land Development Affirmative is here as a representative for this renewal. The owners will be selling the property to a local developer and will start construction once the septic system is approved by the Board of Health. Mr. Dunn asks the Planning Board to allow for an extension of two years so the new developer can construct the project in accordance with the approved plans that were previously approved. Mr. Griffin asks the Board if this was a hearing only, he was involved in. Mr. Bouley confirms that it was just Mr. Griffin who was on the Board at the time. Mr. Griffin explains what the project looks like to give the Planning Board an idea of what it would look like and where it is. Mr. Griffin states that there was a utility exit as well. Mr. Dunn state that they had worked with the Department of Public Works to loop the water through the development as well.

Mr. Griffin asks Mr. Carmichael if he has the plans. Mr. Carmichael wasn't sure if the plans were needed and only gave the Board the decision prior to the meeting. Mr. Dunn offers to show the Planning Board a virtual copy of the plans. Mr. Griffin asks the Planning Board if they are comfortable voting on this. Mr. Artz states he is comfortable with the continuation as it was already approved. Mrs. Parker asks if this is a common occurrence. Mr. Griffin states it has not happened since he has been on the Planning Board. Mr. Dunn states applicants are allowed to ask for extensions of time and the project does have a common order of conditions that were vetted extensively through the Conservation Commission. Mr. Dunn continues that this is a reduction from 60 homes to the 37 that were approved. Mr. Artz repeats that he would be comfortable with the continuation.

Mr. Marr states he doesn't know anything on this project and asks why nothing has happened in two years in terms of construction. Mr. Dunn states it has been up for sale and many developers have looked at the plans in regards to the costs associated with developing the project. Mr. Dunn states that there is now a developer who is willing to purchase the property and the price that was negotiated and the price when they were trying to sell but they were asking for too much which is what took two years to do. Mr. Bouley asks to confirm if the Decision was for July 20, 2020 which was during the height of the Covid outbreak. Mr. Bouley recalls watching the meetings when it was happening and is comfortable with the extension. Mr. Artz asks how many members would need to vote to approve. Mr. Griffin states that it would need five for a special permit. Mr. Griffin asks the Planning Board would they want to do for their next action. Mr. Marr states that there is a buyer and the Board doesn't know who that is and that his understanding is that the

Planning Board vet the plan and the developer. Mr. Graf states that is not always the case. Mr. Dunn states that the developer is going to follow the plans, the order of conditions, and the special permit and if they don't there is a problem with the developer. Mr. Artz asks if the plans will just carry over. Mr. Dunn states they will.

Mr. Graf motions to close the public hearing and is seconded by Mr. Artz. The Planning Board vote in favor of closing the public hearing. Mr. Marr abstains. (6-0-1) The motion passes.

Mr. Artz motions to approve the renewal of the site plan and special permit for a two-year term and seconded by Mr. Norris. The Planning Board vote in favor of renewing the site plan and special permit. Mr. Marr abstains. (6-0-1) The motion passes.

General Business

Adjournment

The motion to adjourn the June 28, 2022 meeting was done by Mr. Bouley and seconded by Mrs. Parker. The Planning Board Votes All in Favor of ending the June 28, 2022 meeting and was adjourned at 11:00 pm.

Minutes prepared and submitted by Bryan Carmichael, Department of Planning and Economic Development Administrative Assistant.

Minutes Approved on: December 20, 2022

Signature

A handwritten signature in black ink, appearing to be 'J. J. J.', is written over a horizontal line.

