



City Of Attleboro, Massachusetts

PLANNING BOARD

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MINUTES

JULY 12, 2021

In accordance with the provisions of the Massachusetts General Laws Ch. 40A and Ch. 41, as amended, the Planning Board held public hearings on Monday, July 12, 2021 at 6:30 p.m. in the Council Chambers on the first floor of City Hall, 77 Park Street, Attleboro, MA , relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Shannon Bénay, Jim Lewis, Sean McNamara, and Thom Morin

Planning Board Members Absent: Fred Uriot

The Board heard the application of One Thirty One Pleasant St, LLC for the proposed twenty (20) lot definitive subdivision plan entitled "STONE FIELD ESTATES III," located at 553 Oak Hill Avenue, more specifically Assessor's plat #170, lot #1A, located in the Single Residence-D zoning district, engineered by John C. Spink, R.P.E. of Spink Design, 59 Clay Street, Middleborough, MA 02346.

Speaking in favor of the application was Bob Catenacci of One Thirty One Pleasant St, LLC who stated that new plans had been submitted at the end of last week, primarily to address recommendations made by Public Works. He stated that they have added two wheelchair ramps on Windsor Drive and York Drive, as well as adding a street sign and stop sign on York Drive. He stated that they are proposing three street lights on York Drive and two on Windsor Drive. He stated that at staff's request, his engineer has submitted a letter certifying that the stormwater basin from Phase II that is located in Phase III was constructed properly and is functioning appropriately.

Director of Planning and Development Gary Ayrassian asked about the future of Lot 20 on the plans, as it is not labeled as open space.

Mr. Catenacci stated his intent to offer the land to the Conservation Commission as open space.

Mr. Ayrassian questioned the adjacent unlabeled chunk of land.

Mr. Catenacci replied that it is not part of the subdivision.

Mr. Ayrassian pointed out that the thick line around it makes it appear to be part of Phase III, in which case it should be identified with a parcel ID.

Mr. Catenacci stated that he will update the plan so that the line is lighter to eliminate confusion.

Mr. Ayrassian asked how the public will access the proposed open space.

Mr. Catenacci replied that the proposed open space for this phase is contiguous with the access provided to the open space for Phase I.

Jim Lewis pointed out that the land labeled Lot 20 needs to be distinguished as a parcel versus a lot, as it is not currently buildable. He suggested that the unlabeled lot be removed from the plan entirely if it's not part of the subdivision.

Mr. Catenacci suggested he could add the label "not a buildable lot." He noted that the only outstanding matter from the Public Works letter is their request that the Phase II ponds be cleaned out again when Phase III is prepared for acceptance to address the contamination with any construction debris, which he agrees is a reasonable action. He noted that they did clean out the Phase II ponds in preparation for acceptance already.

Jason Gittle asked what was done to the Phase II ponds.

Mr. Catenacci replied that they scraped the silt out of both the pond and forebay, as with the Phase I ponds. He asserted that the ponds would not function properly unless they were cleaned out. He requested an extension of time to August 31, 2021.

Jim Lewis made a motion to grant an extension of time to August 31, 2021. Jason Gittle seconded the motion and all voted in favor.

Speaking neither for nor against the application was attorney Jack Jacobi of Coogan Smith, LLP, on behalf of the Rocha family, who sold Mr. Catenacci the land for development and is a mortgage holder. He requested that the lot numbers in Phase III be a consecutive continuation of the prior phases, so there are not lots with the same number in various phases.

Mr. Catenacci agreed to do so.

There being no one else to speak, the public hearing was continued.

The Board heard the application of Pike Avenue Acquisitions, LLC, Robert Heroux, and Erin Pilling for the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES," located at 419 & 439 Pike Avenue, more specifically Assessor's plat #130, lot #81, and plat #123, lot #23, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762.

Speaking in favor of the application was attorney Edward Casey of Coogan Smith, LLP who stated his hope to close the hearing this evening and for the Board to render a vote.

Jim Lewis noted that in the draft deeds relative to the two parcels of open space a particular plan sheet is referenced, however, not all of the land is shown on that sheet. He suggested that a match line needs to be added to advise the reader to move between the pages. He stated that all of the dimensions and overlapping notes on the plan still need to be corrected. He pointed out that a fire alarm box is shown on C-2.5 when the Board no longer requires them, so it should be removed. He noted that on C-3.0, a drainage area is shown containing rip rap that doesn't appear to be completely contained in the easement area. He pointed out that all of it should be within the easement to facilitate maintenance.

Mr. Casey confirmed that this was relative to lots 45 and 46.

Jim Lewis replied in the affirmative. He explained that at the subdivision committee meeting on June 7th, the Board discussed a legal agreement between the proposed homeowner's association and the City that needs to be drafted. He stated that a general agreement had been reached that language should include that if the homeowner's association fails to perform the maintenance work as detailed in the agreement, a penalty would be assessed and the City would perform the work.

Mr. Ayrassian noted that special condition #32 of the draft decision addresses this issue and asked that the Board review it closely to ensure that they are satisfied.

There being no one else to speak, the public hearing was closed.

The Board heard the application of Forty-One/9, LLC for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, for the construction of a new 140'x60' two-story building, a new 100'x60' single-story building, and two rigid shelters measuring 40'x40' and 40'x120'; 35 off-street parking stalls; and associated landscaping, utilities, grading and stormwater management systems to accommodate office, warehouse and light manufacturing uses; the subject premises being located at 41 Summer Street, more specifically Assessor's plat #33, lot #222B, located in the Industrial zoning district.

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who explained that this is a former jewelry manufacturing site, where heavy metal waste was dumped in previously existing lagoons at the rear of the site. He noted that the portion of the site containing the former lagoons was claimed by the City for tax title, so is no longer part of the property in question. He stated that his client is a commercial painter previously housed at 228 O'Neil Boulevard with 66 total employees, of which 44 are working the field all the time, leaving 21 in the building. He stated that the on-site employees work 7 a.m. to 5 p.m., Monday through Friday. He stated that very few visitors are expected to the site, outside of the shipments for materials that need to be painted. He explained that they have demolished the existing building on-site and intend to use the same footprint to construct a new building under redevelopment standards, along with several outbuildings. He noted that they are also before the Conservation Commission for a stormwater management permit, as well as a permit for work within 200-foot riparian zone of the Ten Mile River. He noted that the site is fairly degraded and they are proposing to do restoration work to remediate the area, including plantings on the slope leading to the river.

Chairman Danesi sought to confirm whether there are concerns with the adjacent contamination impacting this site.

Mr. Jacobi answered no, as the former lagoons have been capped and remediated. He stated that staff noted that the parking spaces were not designed to the 10'x20' standard, so they will likely be reducing the number of spaces provided to accommodate the correctly sized spaces. He stated that they will be proposing a free-standing sign for the site, but they don't have the details yet.

Speaking in favor of the application was Bill Buckley of Bay Colony Group who described the site as a corner lot containing 12.2 acres adjacent the Ten Mile River, wrapping around the terminus of Summer Street. He stated that the previous building on site has been demolished. He stated that the majority of the site is paved and that they are adding additional paving to one corner to accommodate their parking needs. He stated that proposed building "A" is 12,600 square feet, consisting of 5,400 square feet of office, 3,600 square feet of warehouse, and 3,600 square feet of light manufacturing. He explained this building will be where material is brought in from construction sites, painted, and shipped back out to clients. He stated that proposed building "B" is 6,000 square feet, comprised of 3,000 square feet of warehouse and 3,000 square feet of light manufacturing. He stated that one 40'x40' semi-rigid structure that is not fully enclosed is proposed adjacent to building "A", and three others are proposed to be erected contiguously at the rear of the site.

Jason Gittle questioned the purpose of the rigid structures.

Mr. Buckley replied that they will be used to store materials from jobs, primarily metal. He went over the vehicle circulation and emphasized that his client selected the site as it provides ample space for trucks to navigate and turn around.

Mr. Ayrassian sought to confirm that the entire site will be repaved and requested the location of the dumpsters.

Mr. Buckley answered yes and pointed them out on the plan. He went on to describe the roof recharge system for stormwater which will be piped to Stormceptors for treatment before tying into the existing catch basins on Summer Street for discharge to the River. He noted that a rip rap feature is proposed at the discharge point to prevent erosion. He noted that the site will be fully curbed and that they are proposing a second underground infiltration system with treatment for the remaining stormwater runoff, with a second discharge point to the river.

Mr. Ayrassian sought to confirm that the roof infiltration is independent of the rest of the stormwater management system.

Mr. Buckley confirmed.

Jim Lewis questioned the directly abutting use and asked Mr. Buckley to clarify the terminus of the right of way for Summer Street versus the pavement.

Mr. Buckley answered a duplex and agreed to revise the plan.

Jason Gittle questioned the proposed lighting for the site.

Mr. Buckley directed the Board to their photometric plan and stated that no light poles are proposed and that the lighting will consist of wall packs on the buildings themselves.

Chairman Danesi requested elevations for the buildings.

Mr. Buckley noted that preliminary drafts were included with the plans, but they intend to submit more detailed renderings.

Mr. Ayrassian asked that the proposed security gate and loading zone be included on the plan.

Shannon Bénay asked whether the entire site will be fenced.

Mr. Buckley replied no.

Mr. Ayrassian asked whether the paint is applied using a spray booth.

Speaking in favor of the application was Ross Forbes of RJ Forbes Painting Contractors, Inc. who stated that they apply paint using a combination of spray booths and hand painting.

Mr. Ayrassian questioned if there is an exhaust system that employs scrubbers to remove fumes.

Mr. Forbes stated that they have exhaust systems in the buildings that are extensive and treat the air for fumes and dust before expelling it. He stated that they are proposing the same system employed at their current site.

Mr. Ayrassian asked who designs that system.

Mr. Forbes replied that they use standardized systems created by Underwriters Laboratory.

Mr. Buckley went on to describe 35 parking spaces provided on site with 21 employees working a 7 a.m. to 5 p.m. shift, Monday through Friday. He stated that they are proposing extensive landscaping around the front of the building, the boundaries of Summer Street, as well as in the right-of-way at the request of the Conservation Commission. He stated that their existing free-standing sign, which is approximately 5'x7' will be transferred to this site, but that further details will be provided.

Mr. Ayrassian questioned why the sign wouldn't be positioned along Summer Street so patrons can see it on the way to the entrance.

Mr. Forbes replied that the elevations of the site along Summer Street prevent that.

Mr. Ayrassian questioned whether landscaping is proposed in the green space abutting John William Street.

Mr. Buckley replied that it consists of grass and an existing tree line, which creates a natural buffer for the abutting duplex.

Shannon Bénay asked whether the 45 off-site workers meet at this site to carpool to other jobs, or if they meet directly at the work sites.

Mr. Buckley replied that they meet at the work sites.

Mr. Jacobi requested a continuance to September 30, 2021. Jim Lewis made a motion to grant a continuance to September 30, 2021. Thom Morin seconded the motion and all voted in favor.

Mr. Jacobi noted that Public Works had requested that we reconstruct the degraded city sidewalk abutting the property, but he was unsure whether the Board's jurisdiction extends that far.

Mr. Ayrassian stated that he felt it did, and noted that for Shops on Washington, they obligated the developer to construct a portion of sidewalk off site.

Jim Lewis clarified that Mr. Jacobi is stating that he feels the Board may be overstepping their legal bounds by requiring a sidewalk in a location where one already exists.

Mr. Jacobi stated that his client is not inclined to reconstruct those sidewalks.

The Board agreed to discuss further.

There being no one else to speak, the public hearing was continued.

The Board heard the application of Route 9 Realty, LLC for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to raze the existing commercial building and residential building, to construct a new 1,967 square foot restaurant with drive-through, and 16 off-street parking stalls, as well as associated landscaping, utilities, grading and stormwater management system; the subject premises being located at 211 Pleasant Street, more specifically Assessor's plat #52, lots #102A, 103A, 103, 104, and 105, located in the General Business zoning district.

Speaking in favor of the application was attorney Jack Jacobi of Coogan Smith, LLP who explained the site in question contains the existing Pariseau Realty office and a residential home that they are proposing to demolish in order to construct a Taco Bell restaurant with a drive-through. He stated that the drive-through will have two lanes, one for ordering and paying at the window, another just for picking up orders made and

paid for using their mobile app. He stated that they can stack a maximum of 13 cars in the drive-through lane, which is sufficient based on national and local data from Taco Bell. He stated that they are also before the Conservation Commission for stormwater and before the Zoning Board for the drive-through and the proposed driveway width. He noted that the Zoning Board has expressed concern regarding the proposed entrance on Perry Avenue and that they have devised some alternative sketches they are meeting with the staff to discuss. He pointed out the locations of the employee and dine-in client parking, the dumpster, and the loading zone. He stated that the hours of operation will be from 7 a.m. to 3 a.m., and that they are closed for four hours to clean the restaurant and restock. He stated that deliveries would be scheduled off peak hours, likely around 10 a.m. He stated that a maximum of 8 to 10 employees would ever be at the site at one time.

Speaking in favor of the application was Huseyin Sevincgil of GPI, Inc. who stated that they are proposing one full access driveway off of Pleasant Street and two driveways off of Perry Avenue, one that's an entrance only and the other that is an exit only.

Mr. Jacobi distributed a sketch of the proposed changes and stated he was unsure whether the Zoning Board will be in favor of the new design. He noted that they've softened the typical Taco Bell signature colors to improve aesthetics.

Jim Lewis questioned the proposed landscaping and whether it will all be new greenery.

Mr. Sevincgil answered yes. He stated that a total impervious increase of about 1,000 square feet is proposed for the site. He stated that their proposed infiltration basin and sediment forebay are currently being reviewed by the Conservation Commission. He noted that they are requesting a variance for the driveway width from the Zoning Board to accommodate delivery trucks to the site.

Thom Morin expressed concern with the on-site traffic flow and potential for conflicts between the two drive-through lanes.

Mr. Sevincgil stated that the staff manage the traffic flow and time departures from each lane so they don't conflict.

Jim Lewis asked what the stormwater basin looks like.

Mr. Sevincgil replied that it is currently proposed to be grass, but that the Conservation Commission has requested that a wetland or pollinator mix be used.

Jim Lewis requested that some pictures be submitted of what that will look like. He asked how the frontage along Pleasant Street will be developed.

Mr. Sevincgil replied that sod is proposed along the entire frontage and that several shrubs are proposed around the free-standing sign. He stated that fescue grasses are proposed along the Pleasant Street entrance with daylilies around the front of the store and along the drive-through. He stated that several trees are proposed along Perry Avenue, interspersed with sod. He stated that the remainder of the site not used for parking will be loamed and hydroseeded. He noted that due to the grades on site, he doesn't believe the roof drains will discharge to the basin, but they will be reviewing that feature.

Shannon Bénay asked whether a patron can take a left when exiting on Perry Avenue.

Mr. Jacobi answered yes.

Mr. Sevincgil reviewed the lighting plan, which includes three new downward facing LED lights with 27.5-foot high poles. He noted that there is slight spillover at the property lines, but that is in areas that are highly vegetated, so will not have direct impacts on abutters.

Jim Lewis expressed his displeasure with the elevations. He stated that the Board's goal to create a more uniform, attractive look for the City and that this design doesn't fit the bill. He gave as an example the Cumberland Farms on Pleasant Street, which employed gables and other features to improve aesthetics.

Mr. Sevincgil noted that as this is not a historical district, the Taco Bell corporate office prefers a more standard look for their stores.

Jim Lewis stated that he appreciates the representative's candidness, but asked that the message be relayed to corporate to see what can be done.

Mr. Jacobi pointed out that this store is significantly toned down compared to the franchise owned by the same applicant in South Attleboro.

Jim Lewis insisted on his preference for a clapboard, New England look.

Mr. Sevincgil went on to describe the portion of existing sidewalk that meets ADA standards would remain and that they are proposing new sidewalk along the remainders of the frontage.

Sean McNamara questioned whether the sit-down dining area is also open until 3 a.m.

Speaking in favor of the application was David Lockwood of Route 9 Realty, LLC who stated that the sit-down dining area is open until 10 or 11 p.m.

Speaking in favor of the application was traffic engineer Herman Peralta of Beta Group, Inc. who explained that they did an inventory of Pleasant Street and Perry Avenue, performed manual counts, and collected data from MassDOT. He stated that concern was expressed about the existing traffic volumes on the street, so they performed manual counts in March 2021 of the turning movements from Pleasant Street on to Perry Avenue to define the traffic patterns. He noted that they compared this with the latest data available from MassDOT from 2017, recognizing that the COVID-19 pandemic had the potential to skew their manual counts and used that data for their analysis since it was higher. He stated that they used an annual growth rate of 1% to evaluate 2024 future build conditions. He noted that there was a decrease in traffic from 2014 to 2017 on Pleasant Street of about 13% in both directions.

Jim Lewis asked what could be attributed to that decline.

Mr. Peralta replied it could be indicative of businesses leaving the area or residential properties in decline.

Senior Land Use Planner Stephanie Davies noted the data used was from before the new Cumberland Farms facility went in, which drives a lot of traffic.

Mr. Peralta went on to describe the on-site traffic circulation and noted that they are providing twice the average stacking expected at the restaurant drive-through.

Jason Gittle sought to confirm that this was designed to be consistent with the traffic seen at the South Attleboro location.

Mr. Lockwood answered yes, and stated that the South Attleboro facility has a stacking rate that is slightly higher than the national average, at 7 to 8 cars.

Mr. Ayrassian pointed out that the site in South Attleboro gets that much traffic despite there being a variety of other fast food options in the area. He noted that at this site, there will not be much competition, which could drive more traffic.

Mr. Peralta countered that there is no double drive-through at the South Attleboro facility, so this site will see reduced transaction lengths.

Jim Lewis asked how this development will impact the existing traffic that backs up from Starkey Avenue to the McDonald's daily from 3 to 5 p.m. daily. He asked whether Taco Bell is considered a destination or a drive-by use.

Mr. Peralta replied that between 40 to 60% of the anticipated traffic is from pass-by trips, much like a gas station. He stated that queuing is anticipated along the Pleasant Street frontage past the proposed site entrance, but that it clears quickly with each green signal at Perry Avenue, leaving opportunities for unimpeded left hand turns into the site.

Jim Lewis sought to confirm the preferred entrance the applicant is hoping to drive traffic towards to enter the site.

Mr. Peralta stated that for patrons traveling westbound, traffic will be split between those taking a left on Perry Avenue followed by a right into the site versus continuing on Pleasant Street and taking a left. He noted that there is a left-hand turning arrow at the Perry Avenue intersection, so patrons are likely to prefer that route.

Mr. Ayrassian stated that he didn't support the original design for the site which had a 90-degree angle to enter from Perry Avenue, as he felt it could create a bottleneck, so they revised the plans to make the entrance angled to accommodate quicker turns into the site. He noted that the entrance is only 38-feet south of the intersection of Pleasant Street and Perry Avenue, where the minimum setback for a curb cut to an intersection is 30-feet. He explained that the Zoning Board had concerns with the angled drive complicating the route for patrons taking a left on to Perry Avenue and a right into the site and that their preference is for traffic to be driven that way for safety versus entering from Pleasant Street.

Mr. Jacobi explained that they are trying to accommodate traffic turning from either Perry Avenue or Pleasant Street, but they will explore the matter further in their meeting with staff.

Mr. Ayrassian noted that independent of the Planning staff and Zoning Board, the Police Chief also voiced concern with that curb cut, so he will also attend that meeting. He questioned the peak traffic.

Mr. Peralta replied 130 trips. He stated that the intersection of Pleasant Street and Perry Avenue operates at a level of service "B" and that it will continue to operate at the level post-construction.

Ms. Davies expressed concern with the driveway that goes around the drive-through being only 15-feet wide, as it seems rather narrow. She stated her understanding that the Fire Department typically wants to see minimum drive widths of 18-feet. She noted that especially since even the customers who park out front to dine-in will need to exit that way, it could become congested with both the drive-through lane and exiting sit-down patrons.

Mr. Sevincgil replied that they do not anticipate any blocking of the drive and that they are providing in excess of the minimum width. He noted that the trucks they use for deliveries are actually wider than a fire truck and that the turning radiuses he submitting show that they can navigate the site. He stated it's a one-

way drive aisle and they don't anticipate a great amount of traffic there as most patrons are anticipated to utilize the drive-through.

Mr. Ayrassian suggested that lines could be employed in lieu of curbing to provide flexibility for the width. He questioned whether fencing is proposed on the western property line and that there is nothing to impede sight distances.

Mr. Sevincgil answered no.

Mr. Jacobi suggested that they could reduce green space in lieu of expanding drive aisle widths, if that is the Board's preference. He requested a continuance to September 30, 2021. Jason Gittle made a motion to grant a continuance to September 30, 2021. Sean McNamara seconded the motion and all voted in favor.

There being no one else to speak, the public hearing was continued.

The Board held a business meeting.

The Board discussed the application of John J. & Mary F. Donovan to extend Rambler Road 2-5 feet, as shown on the street extension plan entitled "RAMBLER ROAD EXTENSION," engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated March 1, 2018, revised through October 28, 2019. The subject premises are located on Assessor's plat #123, Lot #8 in the Single Residence-D zoning district.

Mr. Ayrassian asked whether the application was going to be withdrawn.

Speaking was attorney Edward Casey of Coogan Smith, LLP who stated his intent to withdraw the application once the Pike Estates subdivision decision has been rendered. He requested an extension of time to September 30, 2021. Jason Gittle made a motion to approve the extension of time to September 30, 2021. Sean McNamara seconded the motion and all voted in favor.

The Board tabled the matter.

The Board heard the appointment to speak of Public Works Superintendent Michael Tyler regarding subdivision inspections and releases.

Ms. Davies reminded the Board that several requests for final releases had been submitted by developers who had not actually completed all of the remaining work. She stated that it appeared the developers' intent was to stop the clock on the deadline for completion to buy themselves time. She explained that the Board has to articulate the specific reasons for denial and that it is creating a burden for Public Works to perform inspections on work that hasn't actually been completed.

Public Work Superintendent Michael Tyler stated that Public Works serves as the inspection agent for subdivisions on behalf of the Planning Board. He asserted that it isn't an efficient use of Department resources to be prompted to inspect subdivisions before work has actually been completed, as only two individuals are qualified to perform inspections. He stated that the former Superintendent Lance Hill had developed a system to better structure releases of funds, which he understands the Planning Board tweaked and accepted those standards for releases, phasing them into percentages to better protect the City. He stated that the part that wasn't included in that approval, was the draft form for developers to complete requesting a release of funds. He stated that requiring developers to complete such a form is important, as it puts the onus on the developer to explicitly indicate what work has been completed and needs to be inspected, so Public Works isn't wasting time trying to inspect the entire subdivision. He

stated that recent delays in the submission of recommendations to the Board have typically been hold-ups requested by the developer and he asked whether a deadline should be instituted on how long to keep a release request pending before inspection and at what point the request should be returned to the Planning Board due to insufficient work completed by the developer. He agreed that the submission of releases by some developers has been utilized as a tool to halt the deadline process.

Chairman Danesi agreed that the Board has recently put a lot of pressure on these developers to complete their subdivisions by their deadlines, so they are grasping for work-arounds.

Mr. Tyler stated that the onus needs to be put back on the developer to present to Public Works what specific work needs to be inspected. He stated that they've recently tried holding meetings with the developers and providing them with general punch lists of items on which to focus, but in general they're not seeing a lot of progress. He stated that he wants to develop a standard process for releases and inspections for all developers to follow.

Jim Lewis asked what needs to be done to add the form into the process. He stated that when a final release request is submitted, there is no mandated deadline for the City to issue a response, so he felt a form may resolve the recent problems they've been facing with releases.

Mr. Ayrassian stated that it would partially address things. He stated that it will attest to what the developer has completed, but that attestation may not be an accurate reflection of the work completed. He stated that he felt the form will help Public Works focus on what needs to be inspected and makes the developer more cognizant of their responsibilities. He asked how to handle if Public Works finds the work claimed to be completed has not actually been done.

Chairman Danesi suggested that the developer represent to Public Works what is done, an inspection is performed, and Public Works reports what's actually been completed to the Planning Board.

Mr. Ayrassian stated that he felt having the requests go directly to Public Works would take away some of the Board's authority.

Ms. Davies suggested the form could be a Public Works form that they fill out, provide to Public Works for inspection, at which point if the work is actually complete, they can return to the Planning Board for a release of funds.

Mr. Ayrassian stated that he would be concerned with developers representing the form to their bank or insurance company as a release. He felt it was important the form comes to the Planning Department for tracking and accountability purposes.

Mr. Tyler noted that Public Works only provides recommendations and at the end of the day, the Planning Board has the final say on each release.

Ms. Davies noted that the form should be listed as Public Works form, as it is really for their benefit.

Jim Lewis suggested that the same process be followed as previously, but the developer now has to submit the release form to be provided to Public Works for their recommendation.

Mr. Ayrassian suggested holding developers to hard deadlines moving forward in terms of construction and releases.

The Board heard the appointment to speak of Robert Catenacci regarding the "STONE FIELD ESTATES" subdivision roof infiltrators .

Mr. Ayrassian informed the Board that none of the roof infiltrators that appear on the approved subdivision plans were installed in Phase I of the subdivision. He stated that this is unacceptable and Mr. Catenacci owes an explanation to the Board.

Ms. Davies noted that staff discovered the oversight when one of the residents sought a building permit to install a pool where the infiltrator was supposed to be located. She stated that she eventually signed off on the permit once she received a stamped letter from Mr. Catenacci's engineer stating that the lack of infiltrators will not impact the overall stormwater system. She noted that such features are a best management practice, creating separate stormwater management sources.

Jason Gittle sought to confirm that the entirety of the plan was designed and submitted by the developer's engineer and further reviewed by the City's third party consultant.

Mr. Ayrassian confirmed and stated that the infiltrators weren't installed on half a dozen lots and Mr. Catenacci acknowledged his mistake.

Ms. Davies noted that Phase I has already been accepted by the City, so there are no funds available to secure work.

Mr. Ayrassian explained that Public Works wouldn't have picked up on the failure as the features are not part of the stormwater management system that the City takes control of upon acceptance. He stated that the Building Inspector confirmed that the infiltrator for the house in question was shown on the original building permit for the home, but was absent from the permit for the pool. He stated that Mr. Catenacci's suggestion was to approach the homeowners on whether they want the feature installed.

Mr. Catenacci stated that the situation is the result of an honest oversight and that he failed to install seven roof infiltrators. He stated many of the lots involved may have been sold to other contractors who may have never looked at the subdivision plan when building the homes. He stated that he is embarrassed, as the features should have been installed and that he is offering to install them retroactively at his own expense. He stated that they've already heard back from several residents confirming that they don't want the features. He pointed out that it's been six years and he feels since homeowners are not experiencing stormwater issues, they don't want to change the status quo.

Jason Gittle countered that residents are not qualified to make the call as to whether the features are warranted.

Mr. Catenacci agreed and explained that his engineer reviewed all of the drainage reports and the Hydrocad models to analyze the impact of failing to install the seven roof infiltrators. He stated that the change was so negligible that the calculations weren't different at all. He noted that such infiltrators were eliminated from the plans in Phase II and III, as he felt they weren't particularly helpful given the infiltration occurring elsewhere on site.

Mr. Ayrassian argued that Mr. Catenacci designed and offered to install the features and that they are still an element of the approved subdivision. He stated that the feature helps comply with the state NPDES II permitting, as it is a low impact design. He stated that there has to be repercussions for the failure to install these features.

Ms. Davies noted that she recalled the roof drains being a recommendation suggested by staff, as it is a standard comment in the peer review reports as an example of low impact design. She confirmed, however, that the developer did incorporate the feature into their plans.

Jason Gittle questioned whether the matter could be sent out to Horsley Witten Group for review.

Mr. Ayrassian answered no, and explained that there is a very specific scope of work covered by the stormwater peer review contract. He stated that the City does not have the firm on retainer and that they don't have the latitude to review every issue that comes up.

Ms. Davies noted that the developer's engineer, Mr. Spink, verified in his stamped letter that the failure to install the features will not create an adverse impact on the rest of the stormwater management system. She noted that he put his integrity on the line as an engineer by stamping the statement.

Mr. Catenacci stated that the infiltrators were included in the plan at the recommendation of Horsley Witten Group, and stated he didn't think they were valuable in situations like this, where the land is so flat. He stated his sense that the residents of the properties in question are enjoying getting full use of their backyards and that the installation of the features would preclude the installation of other accessory uses, like a pool. He suggested that none of the residents are likely to want them.

Jason Gittle pointed out that typically, the residents wouldn't be involved at all, as it would be decided by professionals during the approval process before the lots were even sold.

Mr. Catenacci stated that he was unsure of any specific recourse, as the land is now private property and the features cannot be installed against the homeowners' wishes. He stated that he didn't think there were easements associated with the features.

Mr. Ayrassian agreed, as they are not part of the stormwater management system taken over by Public Works.

Mr. Catenacci suggested there should be more accountability on the City's part to ensure such features get installed. He asserted that there were no inspections from Public Works or Building Inspections and that he also missed it.

Mr. Ayrassian stated that as the features aren't included in building code, they are not something that are likely to be caught on a building permit.

Ms. Davies agreed that unless staff see as-built plans for each individual home, there is likely no explicit City oversight.

Sean McNamara asked whether the failure to install these will be an issue down the line when someone goes to sell their house.

Jim Lewis stated that a home buyer will not be going into the level of detail. He stated that since they are not officially part of the City's stormwater management system, he asked why the Planning Board has jurisdiction at all.

Ms. Davies explained that rooftop run off is considered clean, so the preference from a design standard is for it to be directed to a separate infiltration basin, so it doesn't go to the main system that requires further treatment. She stated that segregating the clean water can result in reducing the size of the primary stormwater basin(s) in the system.

Jim Lewis stated that in this instance, the Board has no means for remedy, as the houses have all been sold and the bond for the subdivision has been released. He stated he didn't know what could be asked of the developer at this point.

Chairman Danesi agreed that in six years' time, residents would have fully developed lawns, etc.

Ms. Davies agreed that clearly the system is sufficient as it has been functioning for six years without any of those residents complaining of flooding.

Mr. Ayrassian suggested that a close eye be kept on Mr. Catenacci's developments moving forward.

Sean McNamara asserted that the forebay in Phase I was never scraped out before acceptance, contrary to Mr. Catenacci's earlier statements that the pond had been cleaned out.

Mr. Catenacci disagreed and stated that it was cleaned out. He stated that when Public Works requested a second cleaning, they specifically told him not to scrape it out again.

Mr. Ayrassian pointed out that cleaning out the overgrown vegetation from a detention pond is not the same as scraping out the silt and debris.

Sean McNamara asserted that Mr. Catenacci had told both the Planning Board and the Municipal Council that the Phase I system had not been scraped out.

Mr. Catenacci countered that the pond had been scraped out.

Mr. Ayrassian contested that statement.

Mr. Catenacci stated that the pond had been scraped out at an earlier time and Public Works didn't ask for it to be done again prior to acceptance.

Sean McNamara reiterated that this was inconsistent with the statements previously made to the Planning Board and the City Council.

The Board discussed the application of Pike Avenue Land Investments, LLC for the proposed forty-nine (49) lot open space and residential development definitive subdivision plan, pursuant to §17-10.5(F)(2) OPEN SPACE RESIDENTIAL DEVELOPMENT - STANDARD DESIGN of the ZONING ORDINANCE and the Planning Board's RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND, as amended, entitled "PIKE ESTATES", located at 419 and 439 Pike Avenue, more specifically Assessor's plat #130, lot #81, and plat #123, lot #23, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated December 18, 2018 and revised through June 3, 2021 .

Jason Gittle made a motion to approve the proposed forty-nine (49) lot definitive subdivision plan entitled "PIKE ESTATES" located at 419 and 439 Pike Avenue, more specifically Assessor's plat #130, lot #81, and plat #123, lot #23, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated December 18, 2018, and revised through June 3, 2021. Sean McNamara seconded the motion.

Sean McNamara made a motion to grant the requested waiver from the provisions of §5.5(G) REQUIREMENTS FOR CONSTRUCTION PLANS AND PROFILES and thereby allow the installation of underground utilities in lieu of aboveground utilities, as shown on the approved definitive site plan. Jason Gittle seconded the motion and all voted in favor.

Sean McNamara made a motion to grant the requested waiver from the provisions pursuant to §6.1(H) STREET LOCATION AND ALIGNMENT, CURVE RADIUS AT INTERSECTIONS and thereby allow curb radii to be shorter than thirty-seven (37') feet at all intersections, as shown on the approved definitive plan. Thom Morin seconded the motion and all voted in favor.

Sean McNamara made a motion to grant the requested waiver from the provisions pursuant to §6.1(J) STREET LOCATION AND ALIGNMENT - DEAD END STREETS, and thereby allow forty-nine (49) lots on a dead-end

street, in excess of the maximum number of twenty (20) lots. Jason Gittle seconded the motion and all voted in favor.

Thom Morin made a motion to grant the requested waiver from the provisions of §6.2(C) STREET WIDTH and thereby allow a pavement width of twenty-eight (28') feet within the forty-five (45') foot wide Paisley Way right-of-way, as shown on the approved definitive site plan. Sean McNamara seconded the motion and all voted in favor.

Shannon **Bénay** made a motion to grant the requested waiver from the provisions pursuant to §7.7(A) SIDEWALKS, and thereby allow the construction of five (5') foot wide bituminous concrete sidewalks on only one side of the Paisley Way, Tulip Court, Sunflower Drive, and Cherry Tree Lane rights-of-way, as shown on the approved definitive site plan. Jason Gittle seconded the motion and all voted in favor.

Jason Gittle made a motion to grant the requested waiver from the provisions pursuant to §7.8 TREES, and thereby allow the proposed street trees to be shown on the 'Layout & Materials' sheets of the plan, instead of on the topographic sheets. Sean McNamara seconded the motion and all voted in favor.

Shannon **Bénay** made a motion to grant the requested waiver from the provisions pursuant to §17-10.5(F)(2) OPEN SPACE RESIDENTIAL DEVELOPMENT - STANDARD DESIGN of the ZONING ORDINANCE and thereby allow for the development's open space to be contained in two parcels in lieu of the required one contiguous parcel, as shown on the approved definitive site plan. Jason Gittle seconded the motion

All voted in favor of the subdivision approval.

The Board reviewed the memorandum from Public Works Superintendent Michael R. Tyler, dated July 8, 2021, to the Planning Board, recommending a FINAL release in the amount of \$141,075.89 plus interest, relative to work completed at the "STONE FIELD ESTATES II" subdivision.

Sean McNamara pointed out that the Public Works report didn't discuss stormwater at all. He stated his understanding that the developer's been using sump pumps to remove water from the ponds since April.

Mr. Ayrassian noted that the developer would have had to pump the water out to be able to scrape out the bottom as is required before acceptance.

Sean McNamara stated his understanding that Public Works doesn't test the functionality of stormwater systems and merely evaluates whether they are functional based on a lack of flooding during storm events.

Ms. Davies noted that Public Works does check the as-built plans to ensure systems are built according to plan.

Jim Lewis made a motion to grant a **FINAL** release in the amount of \$141,075.89 plus interest relative to the "STONE FIELD ESTATES II" subdivision. Shannon **Bénay** seconded the motion and all voted in opposition. The Board opined that they want to see the stormwater system's functionality through another season before issuing the release.

The Board reviewed all other correspondence.

The Board tabled the pending minutes of June 7, 2021.

The meeting adjourned at 10:37 p.m.