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**MINUTES OF THE
PLANNING BOARD**

**MEETING OF
October 10, 2023**

A meeting of the Planning Board was held on October 10, 2023 in the Knightly Meeting Room at Salem Town Hall.

PRESENT: Joe Feole, Vice-Chairman; Bianca Carlson, Secretary; Paul Pelletier, Town Council; George Perry; Sean Lewis; Damon Norcross; Mike Banks, Alternate; and Jacob LaFontaine, Planning Director

The meeting was called to order at 7:00 p.m. with the Pledge of Allegiance. Vice-Chairman Feole introduced the board members and went over the agenda. Main Street 380 LLC requested a continuance.

REVIEW OF MINUTES

Ms. Carlson said we have one set of minutes from the regular meeting of September 26, 2023.

**MOTION by Mr. Lewis to accept the minutes of September 26, 2023 as written.
SECOND by Mr. Norcross.**

VOTE ON MOTION: 5 – 0 – 2 (Mr. Perry and Mr. Banks abstained.)

NEW BUSINESS

1. LAURENTI & MOSTO SUBDIVISION PLAN – Preliminary Hearing for lot line adjustment at 37 and 39 Fraser Drive, Map 111, Lot 11282 and 11283.

**MOTION by Mr. Lewis to accept the Laurenti & Mosto subdivision plan application as complete.
SECOND by Mr. Banks.**

**VOTE ON MOTION: 7 – 0
UNANIMOUS**

Abutters: There were no abutters present.

Ryan Lavelle, from James L. Lavelle & Associates, is representing the Mostos and Laurenti. This is an exchange of 7,124 square feet, or .16 acres. The plan shows the old lot line as well as the proposed new lot line. Map 111, Lot 11282 was .4 acres and now it is .56 acres, and Map

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1 111, Lot 11283 was .72 acres and now will be .56 acres, making them the same size. The reason
 2 is mostly for the use of the garage for parking and access. The piece being changed is behind the
 3 house at 37. It is eliminating a harsh angle point, making the lot more conforming than it was
 4 previously.

5
 6 Staff Comments:

7 This was originally approved in 1992.

8 There is a slight encroachment when they removed vegetation on the lot and they encroached
 9 into the open space in the rear. One recommendation is for them to mark the open space in the
 10 field and that it not be further disturbed.

11 We have Engineering comments pending. They can be incorporated with a condition of
 12 approval.

13 We received approval from the Assessing Department.

14 Recommend - motion to hear in one hearing and grant conditional approval subject to conditions.

15
 16 Mr. LaFontaine read the following conditions:

17 1. Prior to recording plan, submit Engineering approval.

18 2. Prior to recording plan, mark open space in field.

19 3. All representations made by applicant or agents and all notes on the plan are incorporated as
 20 part of the approval.

21
 22 Vice-Chairman Feole asked for public input. There was none.

23
 24 Mr. Lewis asked, regarding marking the open space, we are not asking the applicant to seed or
 25 re-establish? We are just going to let it naturally occur?

26 Mr. LaFontaine said he thinks that would be appropriate, but if the board feels otherwise, we
 27 could have them plant. There is no wetland. If you mark it and allow it to revegetate over time
 28 that would be effective.

29
 30 **MOTION by Mr. Lewis to grant conditional approval of the Laurenti & Mosto subdivision
 31 plan with the 3 conditions as stipulated by Mr. LaFontaine.**

32 **SECOND by Mr. Pelletier.**

33 **Mr. Lewis said the motion is to hear in one hearing and grant conditional approval.**

34 **SECOND by Mr. Pelletier.**

35
 36 **VOTE ON MOTION: 7 – 0**

37 **UNANIMOUS**

38
 39 2. DIPRIMA ETERNAL LIGHT, LLC SITE PLAN – Public Hearing for 2,100 sq. ft. addition
 40 to existing mausoleum at 23 Pond Street, Map 151, Lot 9481.

41
 42 **MOTION by Mr. Lewis to accept the DiPrima Eternal Light LLC site plan application as
 43 complete.**

44 **SECOND by Mr. Banks.**

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VOTE ON MOTION: 7 - 0
UNANIMOUS

Abutters: Voskerjan was present.

Chris York with Greenman Pedersen, said that this is a proposed addition to an existing mausoleum. It an approximately 2,100 square foot addition with grading around the building for drainage, and the rooftops will be infiltrated. He then showed the plan. We are showing some underground chambers to tie into the rooftop drainage. It will sheet water away from the proposed building and we show silt fence around the edge of the grading. We are not touching anything in the road. There is not a lot of activity. The building is open during business hours. We did provide a fire truck template that shows a ladder truck can get around. There is no lighting other than on the building.

Staff Comments:

The proposal is for a 2,100 square foot addition to the existing mausoleum.

The entire site is 18 acres. It was originally approved by a variance in 1974. Its zoned rural, and it is a non-permitted use.

There are wetlands on site. They are shown on the plan.

He showed pictures of the site from May 2022. There was some wetland impact. They removed some vegetation within the 20 foot no disturb buffer and within the wetland. In back is a prime wetland and the buffer may have been disturbed.

He recommends that they have that buffer marked in the field and have it re-established where necessary with wetland plantings.

There is no floodplain on the site.

He discussed the drainage.

They are on private well and private septic.

They have one way circulation, but typically we like to see something to facilitate or encourage the one way circulation, whether it be a sign or arrow markings on the pavement.

We got comments from the Fire Department. One of them was to provide the truck turn template.

The Deputy Chief was not in the office so he didn't have a chance to review the template. Mr. York said that they did provide that and it shows a truck can maneuver around the cul-de-sac with a limited number of cars.

It would be nice to have a better understanding of how internments work here. Mr. York said it is one to two a month. But Mr. LaFontaine said he doesn't know if the addition will increase that.

This is an opportunity for us to review the site in terms of our current regulations, and address any concerns.

We have not received comments from the Fire Department on the truck turning template. They haven't delineated anything beyond 6 vehicles.

Another concern is the ADA spaces. It is a low traffic generator. But we may want to designate a couple ADA spaces. On the truck turn template we have vehicles in front of the pathway. Maybe we can put 2 ADA spaces there.

The walkway is to be extended to the new entrance.

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1 Regarding the impact fee, it's a unique land use and Jacob looked at the ITE trip generation
2 rates. It doesn't equate to the ITE rates but we should discuss if impact fees apply. This is not
3 applicable to cemeteries. The recommendation was that we should discuss if impact fees should
4 apply. They will generate some traffic but not a great deal.
5 It was not sent for an outside review for traffic. Jacob had a conversation with Steve Pernaw. He
6 discussed the travel aisle width. Jacob would like to have the Fire Department sign off on it.
7 Regarding zoning, its zoned rural and they have a variance from 1974.
8 The applicant should clarify the parking procedures, interment ceremonies, and the board should
9 determine if designated spaces are needed.
10 No landscaping is shown. The board could ask if there is an intent to plant along the addition.
11 No signage is proposed.
12 In terms of compliance, we showed the pictures of the disturbance that should be addressed.
13 In terms of the public safety impact fee, the board could consider if the impact fee could apply.
14 We don't have a great comparison for this use, except maybe warehouse. You could use the
15 industrial manufacturing rate, so that would get you a fee that's more consistent. Or you can have
16 Mr. Pernaw generate a figure for you.
17 Outside inspections and as-built site plans are required.
18 Engineering approval is pending.
19 The Fire Department has comments.
20 Police Department approval is pending.
21 The Health Officer recommended 35 foot separation from the proposed drainage system to the
22 leachfield.
23 Recommend - if parking is resolved and staff approvals are received, and the board's concerns
24 are satisfied, we can grant conditional approval.
25 We don't have approval from the Fire Department, but we could condition that, but that may be
26 awkward. They may have to come back here depending on the outcome of that discussion. But
27 that is an option, to condition that parking be approved by the Fire Department.
28
29 Vice-Chairman Feole asked for public input.
30
31 John Belko, abutter, said his only main concern is the clearing of the land and what the motive of
32 all that was. And the potential of going into the wetland, but Jacob discussed that and the lack of
33 erosion control out there. When we clear land we have to put erosion control and a silt fence, and
34 he didn't see those. And if permits were required for the stumps.
35
36 Mr. York said, we do show erosion control around the limits of where we are working. We can
37 add some. One of Jacob's conditions is to re-establish vegetation near the wetland. We can add
38 more in that area, we were just showing some around the proposed work. He doesn't know why
39 it was cleared. That happened before us. What Mr. Diprima did was before our time. One
40 condition is to re-establish that vegetation, and we are fine with that.
41
42 Lisa Chapman, 21 Pond Street, said it was upsetting the way the land was cleared and there was
43 a lot of land that wasn't on the conservation map as wetlands, but Jacob fixed that. He definitely
44 cut into the wetlands behind our home. We directly abut him through the woods and he took

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1 down pretty much every single pine tree on his property and left the rest. She is wondering if
2 there is a specific timeline because he didn't have a fence, and if there is a specific timeline with
3 plantings and how far in does he need to go into the periphery of the abutters.
4 Vice-Chairman Feole said there is no permit required to clear your land.
5 Ms. Chapman said, he had a timber permit.
6 Mr. LaFontaine said there is a timber harvest permit that is required. He explained what is
7 allowed. In terms of the time, our recommended condition was prior to occupancy. So they
8 would be able to pull the building permit under this provision, but they can't occupy the space
9 until the wetland is marked and supplemented or re-established with plantings.
10
11 Camila Chapman, 21 Pond Street, said her understanding was that the owners would be fined
12 and they would have to replant along where it was illegal to cut down the trees in the wetlands. Is
13 that correct? She is wondering if we have a timeline on when those plants will be replanted.
14 Vice-Chairman Feole said he is not aware of the legalities. The Planning Department said one
15 condition for occupancy is to re-establish the wetland and mark the wetland buffer as well.
16 Mr. Banks asked, would it make sense to have a condition stating that the applicant provide the
17 board or staff a comprehensive plan on how they plan to do that, including a timeline?
18 Vice-Chairman Feole said yes, it is still required for occupancy.
19 Mr. Banks said, the way its worded now is pretty vague and this would provide more detail for
20 the abutters
21 Mr. LaFontaine said, prior to building permit, we can ask the applicant to return with a wetland
22 mitigation planting plan to be approved by the Planning Board and then we would require it to be
23 done in accordance with that plan prior to occupancy.
24 Mr. Lewis asked, do we have to be concerned about language of having this reviewed or signed
25 by a wetland scientist?
26 Mr. LaFontaine said we can have the plan produced by a wetland scientist. So the condition
27 would be to produce a wetland mitigation plan produced by a wetland scientist.
28 Mr. Lewis said, if that keeps us in line with the previous actions, he would like to do that.
29 Vice-Chairman Feole said that will be added to the other conditions.
30
31 Mr. Norcross asked about the use of the expansion.
32 Mr. York said he is just running out of room so it's an expansion of the existing mausoleum.
33 Mr. Norcross asked, there is no change in use?
34 Mr. York said no, just more space.
35 Mr. Norcross asked, do you currently run one or two interments a month?
36 Mr. York said, according to Mr. Diprima, it is one or two per month, maybe less than that. It
37 wouldn't change. He doesn't have a waiting list or anything, but he is running out of space now.
38 He can check but he doesn't think it will increase the amount of services.
39
40 Mr. Lewis has a question about parking. Regarding ADA, you are limiting it to the designation
41 in their current set up, we are not talking about building some?
42 Mr. LaFontaine said that's correct. He just thought it would be more beneficial to stripe
43 something. It may be a benefit given the use of the property.

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- 1 Mr. Lewis asked, regarding the parking in front of the pathway, will this be an emergency
2 services issue?
- 3 Mr. LaFontaine said, that was kind of his thought when he looked at that. Even if we don't
4 designate ADA spaces, the ADA Act was well after this was approved in 1974. He thinks there
5 are minor changes that can be made to make it more compliant with ADA including striping.
- 6 Mr. Lewis said, it would be nice if there was a clear path for the Fire Department. What is the
7 current condition of the road/driveway? He has been down it but not in a few years, it was pretty
8 rough then.
- 9 Mr. York said, it hasn't been paved in the last two or three years. He has been down it a couple
10 times.
- 11 Vice-Chairman Feole asked, have we received any complaints on this property?
- 12 Mr. LaFontaine said, aside from tree removal, no.
- 13 Vice-Chairman Feole asked, in terms of traffic there are no issues, and it's been operating like
14 this since 1974?
- 15 Mr. LaFontaine said that's correct.
- 16 Vice-Chairman Feole said he would be hard pressed to put any conditions on parking since it is
17 been operating like that for almost 50 years. With the fire truck turnaround it shows access. He
18 has parked in there and hasn't seen any issues.
- 19
- 20 Mr. Pelletier said he agrees to have the Fire Department approval as part of the conditions. He
21 would also like you to ask why they say a fire alarm cistern is required. It is granite, marble, and
22 brick.
- 23 Mr. LaFontaine said he thinks it's based on square footage.
- 24 Mr. Pelletier said he doesn't know if the building has a fire alarm system in it now.
- 25 Mr. York said he can find out, he doesn't know.
- 26 Mr. Pelletier said he just wanted to know why they are requiring that.
- 27
- 28 Mr. Lewis said, he understands the Vice Chairman's point about not changing anything, but
29 when you say no ADA spaces shown and ADA compliance should be met, by taking on this
30 expansion are we legally triggering anything which is thereby forced to meet ADA
31 requirements?
- 32 Mr. LaFontaine said he is not sure about the ADA Act, but in terms of our parking regulations, it
33 says no expansion of a building or use may take place unless the requirements of this section are
34 met with respect to such expansion. So if this were a new proposal, we'd have them do
35 something more formal. He doesn't know if that level of traffic designation is warranted here in
36 terms of striping spaces all along the accessway and cul-de-sac. It is such a low traffic generator
37 that it is probably not a significant concern. Maybe just striping a walkway so that you don't
38 have a vehicle obstruct the accessway and any pinch points along the accessway where a fire
39 truck may be concerned. So that vehicles aren't parked in areas that would prevent circulation.
- 40 Mr. Lewis asked, is this something you can discuss with the Fire Department as part of their
41 approval process?
- 42 Mr. LaFontaine said, maybe just having the parking and circulation reviewed by Fire, if the
43 board is OK with that.
- 44 Vice-Chairman Feole said, they still need to send their comments in anyway.

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1 Mr. Banks asked about impact fees.
 2 Mr. LaFontaine said the idea for impact fees is to try to capture that additional traffic and
 3 demand on public safety although that is probably minimal. In terms of traffic, Mr. York said
 4 they won't increase the business, but there is potential for additional traffic beyond what exists
 5 there now. There will be some impact.
 6 Mr. Banks said he is torn on the impact fees.

7
 8 Vice-Chairman Feole said it has been operating this way since 1974. It's not like a gathering
 9 place that will create more traffic.

10 Mr. LaFontaine said that warehousing is our lowest traffic fee, 31 cents per square foot, so that
 11 would equate to \$651.00. In terms of the public safety, he doesn't feel they will have much of a
 12 demand on public safety, but we don't have a use that would equate to it.

13 Vice-Chairman Feole asked, what is the Planning Department's take on the impact fee?

14 Mr. LaFontaine said he thinks it is probably OK that it not be applicable for this land use
 15 category. We want to be careful making this exception. You could have others here saying they
 16 don't have any impact. You can ask for more supporting evidence showing that they have no
 17 negative impact. Or you can apply the \$651 for warehouse and that's probably the most
 18 consistent. It is not consistent with any other uses that we have.

19 Vice-Chairman Feole said he is OK with using warehouse.
 20

21 Mr. LaFontaine read the following conditions:

- 22 1. Prior to building permit, submit Engineering and Fire Department approval.
- 23 2. Prior to building permit, supplement erosion control to be reviewed by Engineering.
- 24 3. Prior to building permit, submit wetland mitigation plan produced by wetland scientist to be
 25 reviewed and approved by Planning Board.
- 26 4. Prior to building permit, parking and circulation to be reviewed by Fire Department.
- 27 5. Prior to occupancy, mark and re-establish 20 foot wetland buffer in field.
- 28 6. Prior to occupancy, pay road impact fee of \$651.
- 29 7. Prior to occupancy, provide certified as-built site plan.
- 30 8. Construct all site improvements in accordance with approved plan.
- 31 9. Applicant must operate site so that parking lot capacity is not exceeded.
- 32 10. All representations made by applicant or agents and all notes on plans are incorporated as
 33 part of the approval.

34
 35 **MOTION by Mr. Lewis to grant conditional approval of the Diprima Eternal Light, LLC**
 36 **site plan with the 10 conditions as stipulated by Mr. LaFontaine.**

37 **SECOND by Mr. Pelletier.**
 38

39 Mr. Norris thanked the citizens for coming out. This is the second one in two meetings where we
 40 have had clearing of land. There is a missing piece in the way we are handling taking down trees.
 41 He mentioned that the citizens talked about erosion control. If you were doing this as part of a
 42 business you would be held to a much higher standard. He hears you and thinks there are
 43 discussions that should be had regarding clearing trees and going through some sort of approval
 44 to mitigate some of the issues we have heard the past two weeks.

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1 Chairman Feole asked Mr. LaFontaine, when the owner or applicant gives us the information on
 2 the wetlands, can you get a reason for the clearing too?

3 Mr. LaFontaine said, he did have a conversation with the applicant soon after trees were cleared,
 4 or during tree removal and they said it was to beautify the area. That was the rationale that they
 5 provided at that time.

6 Mr. Norcross said he thinks the clearing is more than what is depicted here.

7 Mr. LaFontaine said this picture is as of June 21st. When you are on the site the tree canopy is
 8 kind of deceiving.

9 Mr. Pelletier said, the landowner can cut as many trees as they want, and it's the responsibility of
 10 the person cutting them to know where the wetlands and buffers are. So it should be the owner's
 11 responsibility to replace vegetation.

12

13 **VOTE ON MOTION: 7 - 0**

14 **UNANIMOUS**

15

16 3. TUSCAN VILLAGE MASTER DEVELOPMENT – Public Hearing for 300-unit apartment
 17 building, 80,800 sq. ft. first floor retail at 20-24 Via Toscana, Map 108, Lot 12657.

18

19 **MOTION by Mr. Lewis to accept the Tuscan Village Master Development application as**
 20 **complete.**

21 **SECOND by Ms. Carlson.**

22

23 **VOTE ON MOTION: 7 - 0**

24 **UNANIMOUS**

25

26 Abutters: There were no abutters present.

27

28 Mark Gross with Tuscan Village development said we got master plan approval on August 22nd,
 29 so we are here to talk about the site plan for building 1300. He showed perspective views and
 30 showed the elevation drawings. He mentioned the jog in the building. There are a lot of
 31 horizontal and vertical changes in terms of materials and colors to break up the mass of the
 32 building. He then showed the north elevation and the south elevation including the entrance to
 33 Whole Foods. He also showed the west elevation. There was a lot of discussion about recreation
 34 and open space during the master plan. One thing we talked about was the area between building
 35 1200 and 1300. We had a couple of concept plans. This space is as big as Lake Park, so there is a
 36 great opportunity to create a gathering space. We looked at this in three sections. The area to the
 37 west, adjacent to where everything is happening, including the central piazza, is kind of a
 38 gathering space. The center third of this is an area that is flexible in terms of popups during the
 39 holidays, similar to Lake Park. We are looking at something in the center, either a statue or water
 40 feature, as a focal point. Towards the east, we are thinking about some kind of play area for kids.
 41 You have Friendly Toast to the left and families go there, so this gives kids something to do if
 42 they are waiting to go in. He also mentioned Whole Foods. We reviewed this with Jacob and it
 43 still will be evolving as time goes on in terms of what we want to do in that space, but this is the
 44 general idea. He showed images of things that we may be looking at including seating areas

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1 similar to what we did in Lake Park and some kind of sculpture or water feature in the center and
 2 also playground stuff. We will work with Jacob on developing this area as we go along.
 3
 4 Joe Preschino from Tighe and Bond, civil engineer, showed a plan with the new lot that will be
 5 created for the building. He also showed an overall view of what the project entails which he
 6 discussed. He also discussed the parking area behind building 1200 and around building 1300.
 7 The tenant wants the parking to align with their front door. There is a parking garage that will be
 8 there. He then showed the parking for the residences. It is looked at as temporary parking until
 9 the parking garage is done. He also showed the area for the relocated stormwater detention. He
 10 also showed the landscaping plan. He discussed the temporary parking area and the lighting plan.
 11 He showed the fire truck turning plan and the delivery truck access. And also the circulation plan
 12 for trucks.
 13
 14 Mr. Gross said we have 7 conditional use permits that we need for this project. One is use
 15 because residential use is not allowed in the Commercial Industrial District. Also building
 16 setback and building height for the proposed garage and the 6 story height. We meet the Fire
 17 Department’s requirements for the highest occupiable floor being below the 75 feet. Also
 18 parking space size, and number of parking spaces, parking setback and lot coverage.
 19
 20 Mr. LaFontaine read the staff comments:
 21 He discussed the proposal.
 22 The master plan was updated in August to increase the building from 2 stories to 6, and add
 23 residential units which he discussed.
 24 In regards to drainage we did receive the outside approval from RCCD today.
 25 In terms of water they are on town water. The daily usage is 24,283 gallons per day. They are on
 26 town sewer so a demand benefit assessment is required.
 27 They need to receive a sewer discharge permit and an AOT permit.
 28 Regarding the detention pond, we had a recommendation from our design consultant that the
 29 proposed pond could be a unique part of the open space system. He believes that the applicant
 30 has addressed that concern.
 31 We previously talked about the utility yard. There are large generators and he showed the one at
 32 Mass General that we talked about, and what we could do better about screening it. One of Terry
 33 DeWan’s comments is that the applicant should consider some means of screening the utility
 34 yard to minimize its impact of pedestrian space outside the building. He showed that area.
 35 He showed downtown buildings and Terry DeWan submitted comments on the architecture.
 36 Elevations of the garage were not submitted. They wanted to phase parking and it would be good
 37 to have an idea of how that will work. Terry DeWan also noted that the pedestrian bridge should
 38 be shown.
 39 Both Terry DeWan and Steve Pernaw have comments on the angled spaces to the south of the
 40 parking lot. Jacob discussed this. There were concerns about sight distance. Also if those spaces
 41 are necessary and if they can be designated for another use. One suggestion was for pickup.
 42 Regarding circulation, he read the comments from Terry DeWan. One modification is that they
 43 eliminated one space.

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1 Steve Pernaw did provide comments on circulation. Jacob mentioned that there is an area outside
2 of the loading dock, and Mr. Pernaw thought it was appropriately signalized, but Jacob had a
3 comment to ask if that was advisable and Steve Pernaw thought it was OK.
4 Regarding the trip generation, the applicant will need to verify the trip generation budget
5 estimates.
6 We had a lot of discussion about the impact fees. The town is currently contracted with VHB and
7 they are updating our traffic impact fees. You may want to ask the consultant to commit as they
8 had during the master plan update, to pay any impact fees as amended.
9 We have received final comments from Steve Pernaw. Most of his comments are relative to
10 circulation and parking. He provided alternate layouts which Jacob showed. He discussed the
11 angled spaces and that Mr. Pernaw is advising against the ones that back into the ring road. And
12 the applicant's comments saying they must remain. The board should inquire if 30 of those can
13 be reserved for employee spaces. Steve has completed his review.
14 NHDOT approval is needed but they approved the master plan revision.
15 Mark Gross mentioned conditional use permits for building setback, height, lot coverage,
16 parking lot buffer and parking lot space size, and the residential use. In addition to that, they
17 need a conditional use permit for reduced parking. There are 949 spaces required for building
18 1300 and 642 are provided. 420 of those will be reserved for residential use.
19 We noted the construction of the parking should be phased to match occupancy. And the board
20 should require a monitoring study 6-12 months after final occupancy, along with an explanation
21 how temporary parking will be phased and mitigated when the garage is under construction.
22 They need relief in the form of a variance for the phasing requirement. And they need relief for
23 Section 490:817 which is workforce housing and the new multi-family project, which requires
24 ten percent to be affordable.
25 He discussed the master plan.
26 In terms of the 2023 conceptual master plan, there were a few conditions that needed to be met
27 before individual projects, which he discussed.
28 We advise the board to provide feedback relative to the programming of that area.
29 He also discussed the impact fees. We are trying to hire a consultant to update our public safety,
30 school, and recreation impact fees.
31 He discussed landscaping goals and requirements.
32 In terms of the design guidelines, our final memo from Terry DeWan is still pending. The other
33 outside consultants have been received.
34 We advise the board to consider the area between building 1200 and 1300 be thoughtfully
35 programmed.
36 We are still pending Engineering, Fire Department, Police Department and Public Works.
37 Recommendation – continuance as we wait for the approvals and the design consultant.
38
39 Vice-Chairman Feole asked for public input.
40
41 Jeff Hatch, 35 Royal Circle, mentioned the variance required for the building. The first one being
42 where they can't build over 50 units. Traditionally, the ZBA grants that variance without an
43 issue. The Town Council should get rid of it. The other one where it talks about workforce
44 housing, there is no conditional use permit for workforce housing. So the way he reads the

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1 ordinance they do need to go to the ZBA for a variance. He will ask this board to hold off on any
2 approval votes until you get approval from the ZBA. There is no rule that says the applicant can't
3 come to the Planning Board first, then go to the ZBA. But usually they go the ZBA first. The
4 decision on workforce housing could have a huge impact on this building.
5

6 Mr. Banks said he read through the packet and all the comments from town consultants and some
7 of the responses from the applicant. They seem to be out of sync. A lot of it predated the
8 approval of the master plan revision.

9 Mr. LaFontaine said, included in the packet was a memo from May, but it was in the packet
10 because it was referenced by Terry DeWan, so it was only included as a reference. They have
11 had back and forth as of October 4th, when the applicant submitted their response. The one from
12 May was referenced in Terry DeWan's current memo. Since he referenced it, it was included in
13 your packet.

14 Mr. Gross said it was a reference to the architectural design which we included to reinforce his
15 positive comments on the architectural design of the building. We received a memo from Terry
16 DeWan and we replied to it, but we haven't heard back from him yet.

17 Mr. Banks said, he sees a lot of terms like, evolution and high level, so he is curious how much
18 of a gap do you have between the reality of what reflects the new master plan? What do you have
19 left regarding changes to the recreation, and architectural design?

20 Mr. Gross said, the architectural design is the same as during the master plan update, there are no
21 changes.

22 Mr. Banks asked, how about recreation?

23 Mr. Gross said we depicted an area on the master plan update between 1200 and 1300, and a new
24 recreational area adjacent to the MGB site, which we call Overlook Park. We want to
25 concentrate on the area between 1200 and 1300 which we briefly discussed as another area that
26 we thought would be appropriate. It's as big in square footage as Lake Park. This was an
27 embellishment of the six different concept plans that we had.
28

29 Mr. Norcross asked about the timing of the parking plan.

30 Mr. Gross said, this is a 26 month project. There is no occupancy anticipated until the end of
31 2025. We have a requirement to turn the building over to Whole Foods by a certain date. We
32 don't anticipate that this building will be complete for occupancy until the end of 2025. All
33 residential is not turning over. Like any other residential project here, we have three phases. So
34 the end of 2025 is the first phase for residential, and the rest will be in 2026. Right now, we are
35 showing a temporary garage which would have been for building 1300, which would house all
36 the residential. We are showing the temporary parking which we don't anticipate that we will
37 build. We will have that garage built. It is depending on building 4000. He discussed this. We
38 feel that we will have the financing in place so that we don't have to spend money to build
39 temporary parking areas. We will put together a timeline. He discussed the worst case scenario.
40 We feel that with the building 4000 financing, that will allow us to build the parking garage for
41 building 1300. He discussed parking for Whole Foods. And the ones that Steve Pernaw had
42 concerns about people backing out. There are 4 on the current plan. As we go through this
43 process, we make changes and submit them to the consultants. Those are for people to pick up
44 and if you order through Grubhub or one of those services. He discussed those three spaces. The

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1 other 30 spaces, the ones that are furthest away from the front entrance, we'd stipulate those to
2 be employee parking spaces because they don't have a high turnover. The other 15 closest to the
3 door would still be customer spaces but we made some changes to provide traffic calming where
4 those spaces will be. We provided a 3 way stop, and raised traffic table, like an oversized speed
5 bump. We are going to respond to Steve and explain what the three spaces are really used for,
6 which are for quick trips in and out, for people who are just running it to get something quick.
7 They will be signed as such. Services like Grubhub, or Uber Eats or people who do your grocery
8 shopping. It's not like Walmart.

9
10 Vice-Chairman Feole asked, the garage in building 1300, is that for residents and retail?

11 Mr. Gross said, the underground is for Whole Foods only. The parking garage, which will be 5
12 stories, the top 3 stories will be for residents. That garage is exactly the same size and type that
13 we have for building 3000, where three floors are for the residents of building 3000, and the
14 lower two floors are for the general public.

15 Vice-Chairman Feole asked, how many spaces are there in the underground parking?

16 Mr. Gross said, the underground is about 93 spaces, and the garage is about 504.

17 Vice-Chairman Feole said he is wondering how you prevent building 1200 from taking up that
18 whole lot.

19 Mr. Gross said there is a whole other parking lot beyond this for 1200, and we had it reviewed by
20 Desmond to show it works.

21
22 Mr. Norcross asked, for a truck to enter the loading dock, are they pulling into where the arrow
23 is?

24 Mr. Gross explained how a truck would enter and exit that area.

25 Mr. Norcross asked, the parking spaces that the truck is in front of, are those parking spaces for
26 the general public?

27 Mr. Gross said no. Those will probably be employee spaces. You don't want the public back
28 there parking. It's like the parking behind Market Basket.

29 Vice-Chairman Feole asked about the utility yard. No problem screening that?

30 Mr. Gross said we already made that change. We resubmitted the plan for consideration for the
31 next meeting and in that we show some landscaping in the utility yard outside of the fenced area.
32 It's really the back of the house, but you will have people that will come out of the garage and
33 walk into the entrance. There will be two entrances into the apartments. One on this side and one
34 at the front of the building off Via Toscana.

35 Vice-Chairman Feole mentioned future impact fees.

36 Mr. Gross said, we are all set. We agreed to that under the master plan that for any new project
37 we'd agree to any increase in the impact fees.

38 Vice-Chairman Feole asked about the workforce housing variance.

39 Mr. Gross said, we don't believe that we need that variance. We are working with Jacob, the
40 town attorney, and our attorney. We have a condition on the master plan from 2021. We have to
41 run through that with Jacob, the town attorney, and our attorney.

42
43 Mr. Pelletier asked, does Whole Foods require rooftop mechanicals?

44 Mr. Gross said yes.

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1 Mr. Pelletier asked, will they be screened?

2 Mr. Gross said yes. We have a 6 foot high parapet on that part of the roof.

3

4 Vice-Chairman Feole asked about recreation.

5 Mr. Gross said, whatever you guys think.

6 Vice-Chairman Feole asked, what is the square footage on play area? And what is the gathered
7 areas, just open space?

8 Mr. Gross said, we want it to be as flexible as possible and we have to keep a clear path at each
9 end for a fire truck. This was in the original presentation. It was a little narrower but we
10 expanded it out so it is probably much bigger than what we talked about under the master plan
11 update. But the thought was to keep it as flexible as possible and create an anchor point in the
12 middle, like a statue or fountain. But it has to be a fountain that if the water is off, it still has
13 interest. We are not married to anything, these are just examples. We won't build a playground
14 there.

15 Vice-Chairman Feole mentioned the playground outside the Childrens Museum in Boston. That
16 is what we were advocating for is something along those lines. He would like to see more of a
17 play area. He also mentioned the one in Assembly Square, it fits. Anything you can do to make
18 this recreation area that. He thinks a fountain looks nice but he doesn't see recreation in a
19 fountain. Anything you can do to make it useful.

20 Mr. Gross said you also have to look at the use on the other side of it. You won't put a
21 playground area next to Tavern in the Square.

22 Vice-Chairman Feole said, there is a lot of retail there.

23 Mr. Gross said that is why we said Friendly Toast, which is a kid friendly area, that is why we
24 put it at that end of the park, and try to create something in the middle. We will work with Jacob
25 to come up with something that everyone can live with.

26

27 Mr. Pelletier asked, that will change with the seasons?

28 Mr. Gross said, exactly. It depends on how active this area is and how it evolves. This has to be a
29 multi-purpose area. It is just another opportunity to do something that makes sense with the uses
30 that are there.

31 Mr. LaFontaine said the applicant has provided that and he thinks it will be a benefit for the
32 applicant and the community if there were a more thoughtfully programmed play structure. Or if
33 not here, then maybe consideration can be given to Overlook Park or Rec Park. It's a conceptual
34 plan but we have a number of pickleball courts and basketball park for Overlook Park. The
35 demand for pickle ball is high but maybe instead of having one at both parks, maybe they can
36 diversify their recreational offerings.

37 Vice-Chairman Feole said that Terry DeWan had a comment on the pond.

38

39 There was a discussion of the play area.

40

41 Vice-Chairman Feole asked, how do we get to an agreement on something like what is outside of
42 Boston Childrens Museum or Assembly Square?

43 Mr. LaFontaine said, if that's the direction, then he thinks that is the advisement we can provide
44 to the applicant. From a staff perspective, we advocated for a more programmed playground.

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1 That is what was provided to the applicant, and the applicant came back with a pickleball court
 2 and he understands there is high demand for that use. But then after that was added to Rec Park,
 3 we had Overlook Park, which is conceptual, which showed a series of pickleball courts. And it
 4 would be good to diversify. He mentioned programming Rec Park similar to Martins Park and
 5 Assembly Row.

6 Mr. Gross said, one of the other things that came up was the ability to put a half basketball park
 7 in Rec Park, along with a pickleball court. That may be the other thing we go with. Right now
 8 you have playground equipment and people are using it. and there is book thing, where people
 9 can take a book and read. That’s the passive part of this. He mentioned the idea of going to the
 10 Recreation Department and asking them their thoughts on this, and having them look at
 11 Overlook Park as well. He discussed when Overlook Park would be developed.

12
 13 Mr. Pelletier said he noticed a lot of kids in the development are on bikes. Is there a concern on
 14 that, in the future of a bike park?

15 Mr. Gross said, that is not our kids. It is a tough thing to manage. There is a group of kids on
 16 bikes that are tough to manage. They are not polite bike riders.

17 Mr. Pelletier said he sees bicyclists going by and they are very high quality bikes and they look
 18 well dressed, so it makes him wonder if they are from the village.

19 Mr. Gross said no. There are 41 kids in all the developments that are occupied and they range
 20 from kindergarten to 12th grade.

21
 22 **MOTION by Mr. Banks to continue the Tuscan Village master development.**
 23 **SECOND by Mr. Lewis.**

24
 25 **VOTE ON MOTION: 7 - 0**
 26 **UNANIMOUS**

27
 28 **PUBLIC MATTERS**

29
 30 1. Building 2000

31
 32 Mr. LaFontaine said that when building 2000 was approved, it was with a reference to the
 33 conditions of approval for the conceptual master plan for the central village. One was to execute
 34 a lease agreement with the town for a public safety office space per section 15 of the MOU
 35 approved by the Board of Selectmen prior to first occupancy permit in Central Village. We are
 36 now at the time when they are looking for first occupancy in the central village for building
 37 2000. The applicant has submitted a lease agreement reviewed by the town attorney and Primex
 38 and those comments were returned to Tuscan. There is a potential that the lease won’t be signed
 39 and executed prior to occupancy. He is comfortable with that because the public safety spaces
 40 will be in building 2000 and we have several other occupancies that will need to get in building
 41 2000 as well, and the central village as a whole. Shake Shack will be coming. He just wanted to
 42 make the board aware and make sure that you didn’t have concerns about this condition
 43 potentially not being fully satisfied at first occupancy of the central village knowing we’ll have

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1 several other opportunities. He read the condition. It has been reviewed by the town attorney,
2 Primex and the Town Manager.

3
4 Ms. Carlson asked, what is the gap between when they get occupancy?

5 Mr. LaFontaine said, the space is already built but it is in building 1200. But it won't be
6 occupied until that building is occupied. He asked Mr. Gross when building 1200 will be
7 occupied.

8 Mr. Gross said, next spring. He discussed the language. When you say execute, that doesn't
9 mean it has to be signed.

10 Vice-Chairman Feole said that executed is a signed agreement by both parties.

11 Mr. LaFontaine said he thinks we have a number of other opportunities to hold them to it. When
12 the approval was granted, we didn't know where the public safety space was going to be. They
13 have designated a space and we know its location and it will be occupied next spring.

14 Vice-Chairman Feole said he is OK with it.

15 Mr. Gross said, we spent 8 months on the master plan getting one report. This was sent to Jacob
16 and to the manager like 4 weeks ago and we are just getting comments now.

17
18 2. 74 Wheeler Avenue
19

20 Mr. LaFontaine said, 74 Wheeler Avenue, formerly Bruces Garage, had a retail auto sales license
21 at that location. We recently had a new occupant of that space come in and they want to sell
22 retail vehicles but greater than what was historically done there. They want to have
23 approximately 23-25 cars. The hours are 10:00 am to 6:00 pm Monday through Saturday. They
24 don't plan to hire any employees, he thinks it is two employees. He read from their letter and
25 showed their plan. The use is permitted. They provided a bill of sale from November of last year.
26 The use needs to be abandoned for 24 consecutive months, and they provided something
27 showing that is not the case here. He showed pictures of the site. The primary use was auto repair
28 and ancillary to that was vehicle sales, but to him it doesn't appear to be what you would
29 envision with 25 vehicles for sale. He showed the area where they want to display the vehicles.
30 They have another location in Billerica. This will be more traditional car sales, as opposed to
31 auto repair shop, ancillary car sales. They haven't lined the spaces. It is a pre-existing non-
32 conforming use and we are trying to determine if this requires site plan approval. The criteria
33 that we rely on is the applicability section in our site plan regulations, which he read. They have
34 made drainage improvements on the site. We are working with them to address those. He
35 showed pictures. He did provide guidance from the town attorney in the email. He doesn't know
36 if you want to act tonight or if you need more time.

37 Mr. Pelletier thinks it is too big of a project not to have a site plan.

38 Vice-Chairman Feole asked, is the concern a change of use?

39 Mr. LaFontaine said it is not a change of use because they demonstrated that they historically
40 had the use. It is zoned rural so it wouldn't be a lawful new use but because they provided a bill
41 of sale from November and they historically have the wholesale license. The use is OK you just
42 have to determine if this is an expansion of that use that would have a potential impact on traffic,
43 off-street parking, drainage, and a negative impact on the surrounding area.

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1 Vice-Chairman Feole said, it is in the Rural District, and he thinks we owe it some attention.

2 Mr. Pelletier said we don't know about the drainage.

3 Mr. LaFontaine said, they had a plan produced by a surveyor. We requested an engineer to
4 provide drainage calculations to ensure that there is no impact to abutters.

5 Mr. Pelletier asked, is the space paved?

6 Mr. LaFontaine said he doesn't think it's paved. It is resurfaced gravel parking.

7

8 Mr. Norcross asked, across the street, is that also part of the property?

9 Mr. LaFontaine said he thinks at one point vehicles were stored across the street. He doesn't
10 believe it is owned in common. Mr. Mustapha is here.

11

12 Mr. Mustapha Serek, 74 Wheeler Avenue, said we want to open a small used dealership. We
13 mainly want to sell used cars.

14

15 Mr. LaFontaine said, the consensus of the board is that this triggers site plan and we will have
16 them submit a formal plan.

17

18 3. Jocelyn's Restaurant

19

20 Mr. LaFontaine said that Jocelyns Restaurant came in. Mr. Sfeir converted the space to a lounge
21 and he would now like to convert that area back to restaurant and another area to a lounge. Mr.
22 LaFontaine showed the plan with the restaurant area and lounge area. We talked about parking
23 calculations, and Jacob discussed the number of parking spaces needed. It would require a total
24 of 68 spaces with Hannoush Jeweler, which is still below the previous demand. He wanted to
25 bring it to you because you previously said it was OK to convert the restaurant to a place of
26 assembly and it was a lounge area. Now they are going to convert that lounge area in part back to
27 restaurant and add lounge in the other restaurant area, still below the parking demand that was
28 previously there when Jocelyns was there. Did you want this to go through a conditional use
29 permit process or are you comfortable with it being under the parking demand that the previous
30 use had?

31 Vice-Chairman Feole asked, it was a restaurant before, and were there parking issues?

32 Mr. LaFontaine said, not that he is aware of. He spoke with Mr. Sfeir about the sequencing. The
33 idea was that we'd go restaurant, lounge entirely, and now we are going restaurant, partial
34 lounge. He occupied the lounge and we said the lounge is OK because your parking demand is
35 less. Now he wants a restaurant and a lounge, parking demand is still no greater than what
36 existed when it was entirely restaurant, but it's a change from what we approved previously.

37

38 Mr. Pelletier asked, when we gave approval for the restaurant to become a lounge, what became
39 of the previous lounge part?

40

41 Richar Sfeir, 355 South Broadway, said that it was previously Jocelyns Mediterranean
42 Restaurant. He did come in here and asked to convert the restaurant to a cigar lounge. But part of
43 the space he is leasing is being used and the other part is not. So he spoke with the landlord and
44 got the OK from him to use it as restaurant as well. And due to high demand, we still have

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1 customers asking for food and the restaurant. So he thought about it and figured why not since
2 the space is there, and if he can do it, why not?
3 Mr. Pelletier asked, is the kitchen still there?
4 Mr. Sfeir explained what is there. We just need to hook it up again, the space of the kitchen is
5 still there.
6 Vice-Chairman Feole asked about seating.
7 Mr. LaFontaine said there were 135 seats at the previous restaurant. They have been there for a
8 long time so we don't have an approved site plan. Now they are proposing to have 14 bar seats.
9 Mr. Sfeir said, the total seats in the restaurant area will be 60 seats and the same amount in the
10 lounge area. The hours of operation for the restaurant will be from 11:30 am to 9:00 pm and the
11 lounge will be open from 9:00 pm to 1:00 am. So they will not be open at the same time.
12 Ms. Carlson asked, the restaurant will be open at the same time as the jewelry store?
13 Mr. Sfeir said that's correct. The jewelry store closes at 6:00 pm. The capacity was 189 when it
14 was Jocelyns Restaurant with the same parking. We are downsizing. We don't want a restaurant
15 that big. We are just trying to make use of the premises.
16
17 Mr. Lewis asked, you don't have an approved site plan for the previous business?
18 Mr. LaFontaine said, we have a site plan from years ago. Mr. Sfeir modified it to present it to the
19 board previously. He hired someone to produce this plan here. It is different from what we see
20 now.
21 Mr. Lewis asked, is this like a T that we have to cross?
22 Mr. LaFontaine said, the previous restaurant was at 135 seats, which wasn't noted on the plan in
23 the file. That would require 68 spaces. They calculated this use at 63 spaces for the restaurant.
24 What interrupted things is they went to a lounge, and said their parking demand would be 54
25 spaces, based on place of assembly. Then they changed their mind, so the parking demand is no
26 greater than what existed at Jocelyns, 68 spaces. Now its 63 spaces based off this use.
27 Mr. Lewis asked, when we don't dot our I's and cross T's, he doesn't know how much trouble
28 we'd get in but just in the interest of not setting a precedent.
29 Mr. LaFontaine said it is good criteria for a conditional use permit, which he isn't requesting but,
30 he is still entitled to the net demand that he had when Jocelyns was opened, despite the portion
31 that's lounge being converted back to restaurant. No greater parking demand for the site as it
32 existed when Jocelyns operated.
33 Mr. Lewis said, we should have an approved site plan.
34 Vice-Chairman Feole said he is OK with it as long as the demand is the same or less.
35
36 Mr. Norcross asked, the space between the two facilities, can you pass through that? Is there a
37 wall?
38 Mr. Sfeir said there will be a wall.
39 Mr. Norcross said he has no issue with it.
40 Mr. Banks said, when Jocelyns was open, it was full but not spilling onto Route 28. That would
41 have been the worst case scenario. He discussed this plan. He thinks there will be less demand.
42 But what is the precedent that we set here? That's where he is stuck.
43 Vice-Chairman Feole asked, it's not a change of use, right?

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1 Mr. LaFontaine explained what he calculated it as. It is a change of use likely with a lesser
2 impact. We were going to convert the entire area to place of assembly, which required 54 spaces,
3 and they got an occupancy permit. But now they want to do a restaurant in an area, so that's
4 where the sequency came in. He told Mr. Sfeir that we would like him to submit a conditional
5 use permit.

6
7 4. Depot and Main

8
9 Mr. LaFontaine showed the Depot and Main approved site sign. They would like to incorporate
10 it. There is a stone wall on the corner that leads to a pedestrian park on that same corner. Do you
11 have any concerns of going from this sign to the stone wall?

12 Mr. Lewis asked about the electrical infrastructure.

13 Mr. LaFontaine said, they will have illumination.

14 Mr. Lewis said there was a discussion about moving the poles.

15 Mr. Pelletier said that the council gave permission to Roy Sorenson to submit a letter to Liberty
16 Utilities and demand that the lines are underground. So the poles will eventually be eliminated
17 when Liberty Utilities does the work.

18
19 There was discussion about the sign.

20
21 The consensus of the board is that there are no concerns about the sign.

22
23 Ms. Carlson said, on the original sign, it said Depot and Main Apartments and on the new sign it
24 is just Depot and Main. Would it make sense to have it say "Depot and Main Apartments"?

25 Mr. LaFontaine said he can mention it. He had also asked about having the address on it. They
26 would like to coordinate with emergency services to have the address on both corners of the
27 building and not on the sign.

28 Ms. Carlsons said she is fine with it being on the building. But Depot and Main doesn't really tell
29 what you are going into.

30
31 5. T-Bones

32
33 Mr. LaFontaine mentioned TBones. They have a drainage issue. They would like to cut
34 sidewalk, which he showed. And they would like to provide a slope there so that the drainage
35 will drain out and go across the parking lot. The engineer said that's how it was designed. He
36 explained what happened. The patio wasn't constructed at the correct elevation. It is being
37 reviewed by the Engineering Department. They have concerns about the sheet flow and where
38 that water will outlet. One other concern they mentioned is the fact that icing may occur there
39 and there is a sidewalk. If the Engineering's concerns are satisfied, is the board comfortable with
40 this modification to the site plan?

41
42 The consensus of the board is that they are comfortable with it.

43
44 6. EV charging stations

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1
 2 Mr. LaFontaine mentioned EV charging stations. Salem Ford wants them. He asked if they are
 3 for their fleet or is it for the public. They said it may be something they may open to the public at
 4 some point, and we may see more of that. He also asked them about landscaping. They won't
 5 disturb any of the existing landscaping but they will install a utility transformer and a switch gear
 6 and those will be larger utilities. The applicant was made aware that we'd like them to do
 7 something to be mindful of our design guidelines. So he thinks they will add supplemental
 8 plantings. And we asked the applicant to put the charging stations in the less utilized spaces.
 9 They will consider that on this site. Do you have any concerns?
 10 Vice-Chairman Feole said, screening and landscaping.

11
 12 **MOTION by Ms. Carlson to adjourn.**
 13 **SECOND by Mr. Banks.**

14
 15 **VOTE ON MOTION: 7 – 0**
 16 **UNANIMOUS**

17
 18 The meeting adjourned at 9:23 p.m.

19
 20 For further information, kindly refer to the DVD dated 10/10/2023, located in the Planning
 21 Office.

22
 23 Minutes by: Susan Strugnell, Planning Board Recording Secretary
 24 Approved: Planning Board
 25 Date: