



TOWN OF LAKEVILLE MEETING POSTING & AGENDA

Town Clerk's Time Stamp
received & posted:
[Signature]
LAKEVILLE TOWN CLERK
RCUD 2022 JUN 21 PM2:3E
48-hr notice effective
when time stamped

Notice of every meeting of a local public body must be filed and time-stamped with the Town Clerk's Office at least 48 hours prior to such meeting (excluding Saturdays, Sundays and legal holidays) and posted thereafter in accordance with the provisions of the Open Meeting Law, MGL 30A §18-22 (Ch. 28-2009). Such notice shall contain a listing of topics the Chair reasonably anticipates will be discussed at the meeting.

Name of Board or Committee:	Planning Board
Date & Time of Meeting:	Thursday, June 23, 2022 at 7:00 p.m.
Location of Meeting:	Lakeville Police Station 323 Bedford Street, Lakeville, MA 02347
Clerk/Board Member posting notice:	Cathy Murray

Cancelled/Postponed to: _____ (circle one)

Clerk/Board Member Cancelling/Postponing: _____

A G E N D A

1. Site Plan Review – 156 Rhode Island Road, continued – T. Sikorski Realty, LLC – applicant
 - Accept request to continue
2. Discussion regarding modifying setbacks and coverage in business/industrial zones.
3. Approve the April 20, 2022, and May 26, 2022, Meeting Minutes
4. Review correspondence
5. Next meeting. . . July 14, 2022
6. Any other business that may properly come before the Planning Board.
7. Adjourn

Please be aware that this agenda is subject to change. If other issues requiring immediate attention of the Planning Board arise after the posting of this agenda, they may be addressed at this meeting

#1

Cathy Murray, Appeals Board Clerk

From: Bob Rego <brego@riverhawkllc.com>
Sent: Friday, June 17, 2022 2:37 PM
To: Cathy Murray, Appeals Board Clerk
Cc: bkenney@riverhawkllc.com; Tsikorskient@gmail.com; Marc Resnick
Subject: Re: Amended Site Plan-156 Rhode Island Road

Hi Cathy,

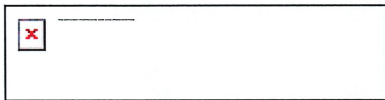
On behalf of our client, Tyler Sikorski, please continue the hearing for one month. We are working on changes to the plans and will need time to finalize them.

(July 28)

If you have any questions, please let me know.

Thank you,
Bob

Bob Rego, PE, LSP | Manager/Senior Engineer
River Hawk Environmental, LLC
2183 Ocean Street, Marshfield, MA 02050
office phone [781.536.4639](tel:781.536.4639)
cell phone [508.523.1007](tel:508.523.1007)
email brego@riverhawkllc.com
website www.riverhawkllc.com



On Fri, Jun 17, 2022 at 12:53 PM Cathy Murray, Appeals Board Clerk <cmurray@lakevillema.org> wrote:

Bob/Bill/Tyler,

Please advise if you will be presenting an amended plan at the next regularly scheduled Planning Board meeting on June 23rd. If not, please forward a continuance request in order that the agenda can be posted properly.

Thank you.

Cathy

**TOWN OF LAKEVILLE
Select Board Meeting Minutes
April 20, 2022 – 6:30 PM**

**Lakeville Public Library
4 Precinct Street, Lakeville, MA**

On April 20, 2022, the Select Board held a meeting at 6:30 PM at the Lakeville Public Library located at 4 Precinct Street, Lakeville, MA. The meeting was called to order at 6:30 PM by Chairman LaCamera. Members present were Chairman LaCamera, Member Fabian, and Member Carboni. Also present was Ari Sky, Town Administrator, Shirin Everett, Esquire from KP Law and Tracie Craig-McGee, Executive Assistant. LakeCAM was recording the meeting for broadcast.

Meet with Planning Board, Conservation Commission and Open Space Committee to discuss the withdrawal of the Lakeville Country Club property from Chapter 61A/B and whether the Select Board should exercise the Town’s Right of First Refusal to purchase the property

Present for the discussion were Mark Knox; Nora Cline; Jack Lynch; and Peter Conroy from the Planning Board; Robert Bouchard; Joseph Chamberlain; Fred Frodyma; Nancy Yeatts and John Leblanc from the Conservation Commission and Fred Frodyma; Brian Reynolds; Joan Morton; and Martha Schroeder from the Open Space Committee. The Planning Board called their meeting to order at 6:30 PM. The Conservation Commission called their meeting to order at 6:33 PM. The Open Space Committee called their meeting to order at 6:34 PM.

Chairman LaCamera said the Town has four (4) golf courses. He summarized the date of construction, purchase history and tax assessments of Poquoy Brook; Back Nine Golf Course and LeBaron Hills Country Club. Lakeville Country Club (LCC) was built in 1969 and purchased for \$5 million in 2011, foreclosed on in April of 2011 and purchased at auction for \$3.2 million and is assessed for \$1.7 million. Part of the LCC is under Chapter 61A which is agriculture, consisting of 20 acres of cranberry bogs. The Chapter 61B property is 44 Clear Pond Road, which contains 138 acres. State law provides the Town with the opportunity to declare its intention to purchase the property within 120 days (right of first refusal). He reviewed a map of the property. There is other property in a private sale, and the Town does not have the opportunity to purchase them.

Chairman LaCamera summarized the initial notice from the owners of LCC and problems with the proposed Purchase & Sales Agreements (P&S), which invalidated the agreement. The current agreement was submitted on March 4, 2022, one for \$900,000 for the cranberry bogs and \$12,725,000 for the golf course. We have until July 2, 2022 to determine whether to exercise the Town’s right of first refusal for \$13,625,000, which is equivalent to 40% of the Town’s annual operating budget. We do not have financial reports on the current operation. The P&S has been determined to be valid. The amount of \$13,625,000 to purchase must be raised through debt exclusion, which requires approval of Town Meeting and a Special Election to be held prior to the end of the 120-day period. A surcharge would be placed on property tax bills for an estimated \$225 annually based on a house valued at \$400,000. Interest would be \$6.8 million for a total cost of \$20.4 million over 20 years.

Mark Knox asked if the Town could purchase the golf course and not the cranberry bogs and house. Attorney Everett said you can purchase one without the other. Chairman LaCamera said the reservoir is staying with the property. Fred Frodyma said this property is probably one of the largest continuous area of open space and is quite valuable. There are endangered species that are on the

property. Chairman LaCamera said Natural Heritage mitigates the habitat so it will not stop the project. Martha Schroeder said this should go before the Town at Town Meeting so all people in the Town have a chance to express their opinion. Chairman LaCamera said we plan on doing that on May 16, 2022. The Board will be discussing this being placed on the Annual Town Meeting Warrant after this meeting. If it passes, there will be a debt exclusion election. Mr. Knox said to remove a parcel from 61A or B, if the owner is converting the use, that triggers the right of refusal at fair market value determined by an independent appraiser. Recently we received a plan to freeze the zoning, submitted by the current owner and subdivide the property. Because of the way that this is being done, does that negate the P&S and the Town can negotiate to purchase at a market rate. Attorney Everett said the owner is free to submit a plan to change the use and subdivide. The plan is submitted for the purchaser. The owner is not changing the use; the buyer is. The purchase price offered by the buyer is what is offered by the Town. Joseph Chamberlain said under 61B if a change of use occurs, someone has to provide to the Town the difference in funds from what they have been paying on reduced real estate taxes than what they would have been paying. Chairman LaCamera said they owe the Town \$25,000. They removed it from 61B last year, so it is only a four (4) year buyback. Mr. Frodyma asked if the buyer intended to put a distribution facility on the property. Chairman LaCamera said we do not have a site plan. Chairman LaCamera said the P&S states a warehouse/distribution center.

Chairman LaCamera said owning it as a golf course is a big cost to the Town. The costs have not been determined as we have no financial information on the running of the golf course. It will cost \$20 million to buy this over 20 years. The course is not in very good shape and needs improvements. John Leblanc asked is the intention to keep it as open space. Chairman LaCamera said there will be a lot of work to protect it. There was a covenant put on the property before it was sold in 1969 that states that if it does not remain a golf course, the buyer has to pay \$1 million back to the previous owners, the Beech and Ericson family. That is on the deed. Ms. Schroeder said this property is not zoned Industrial; how can it be developed industrially. Mr. Knox said currently there is a Development Opportunities District (DOD), which allows any parcel 25 acres or greater to be subject to that zoning. The seller has found a buyer that is intending to use that zoning. Chairman LaCamera said whatever goes there, the lot coverage cannot include any wetlands or cranberry bogs. Discussion occurred regarding the available land for development. Mr. Knox noted there are density bonuses that can apply, which can go up to 70%.

Audience participation:

Barbara Mancovsky of 17 Johnson Drive said the Town should be using a real estate attorney who is used to negotiating with developers like this. She would like the Select Board to modify the tax schedule to address large distribution centers. There are no contingencies in the P&S, so it could be a warehouse or high-density residential development. Chairman LaCamera said Town Counsel has 40 or 50 specialized attorneys with a lot of experience. To change the tax rate for another group, the Assessors and the State will most likely not approve a specialized tax rate. Lakeville has 4.5% industrial development right now with \$1.2 million in tax revenue. If you were going to double that to pay for this project, the tax rate would be \$28.00, and the State would not approve that.

Mark Bosse of 22 Johnson Drive said it will be \$13-15 million to keep the property green. We will have tax issues for other things coming up. Asking the residents to come up with \$20 million over 20 years may not make sense. The average house is assessed at \$449,000 for a \$225 tax increase. You can try to run it as a golf course, which will cost a lot. It's nice to have open space, but is the

cost worth it and the expenditures after that to try to keep it up. If we need the funds later for other uses, he would rather see it go for that.

Mr. Knox asked if the Town were to exercise the right of first refusal and send it to Town Meeting, what would happen if the Town voted no. Chairman LaCamera said the property would be sold to the buyer. Mr. Sky said it would require a 2/3's vote in Town Meeting to go to the election, which would be a majority vote.

Brynna Donahue of 87 Crooked Lane asked if it has to stay a golf course. Chairman LaCamera said that is questionable as there is a covenant that talks about the \$1 million payment if it doesn't stay a golf course. Chairman LaCamera said over 20 years it would be \$1 million a year average. Ms. Donahue said if we bought it for a golf course, would any revenue generated from the course generate funds. She spoke of some potential uses including community gardens, dog park; a green for yoga or exercise class; open space for local artists, such as topiary gardens, and an art park. There could be space for parties. There aren't park spaces in Lakeville that are not dominated by sports. We need a park. Chairman LaCamera said there are costs associated with that.

Richard Scott of 9 Rush Pond Road said looking at the purchase history of the parcel, it has gone higher and higher. This is a \$20 million expenditure. If this property wasn't going to become a warehouse, perhaps the price would be lower. If it went to housing, would the number be lower. Chairman LaCamera said the owner had the opportunity in April of 2020 to ask the Town to purchase the property for a certain amount and they decided not to. The appraisal that was done when the owner bought it was \$3-4 million. Mr. Scott said the DOD is the issue which allows certain uses that bypasses Town Meeting. DOD is a contributor to this because there is a potential use that does not allow the public to comment. There are 3,600 acres in Chapter 61A or B, if we don't get our zoning right, we may be back having this discussion. We could spend \$20 million on something we should be spending half of that on. We don't know what we will do with it and are being faced with the worst possible use of that property.

Joseph Jacques of 16 Stetson Street said Wareham has Little Harbor, which is 54 acres and has been owned by the same family for decades. They wanted to sell and put it up for sale and Massachusetts Audubon Society wanted to buy it for a bird sanctuary. The Town of Wareham wanted to keep it as a golf course and went before the Town and it passed to keep it at a price of \$2.6 million. Would Massachusetts Audubon be willing to buy this for a bird sanctuary? Chairman LaCamera said we don't have the time to try that at this point as we have 120 days to make a decision. We can apply for grant money afterwards. A lot of these agencies do not have this amount of money. When we bought Betty's Neck it took 1.5 years to negotiate with Decas Cranberries at a purchase price of \$11 million. We received \$10 million from the State to purchase 300 acres of land and received 3,500 acres of conservation restrictions. The State did that to protect New Bedford and Taunton's water supply.

Noelle Rilleau of 22 Reservoir Avenue said on April 4, 2022, the Community Preservation Act was passed. The opportunity to purchase the property aligns with the desire to designate open space area as the community grows. We have already had enough distribution centers and the Lakeville Hospital property will provide more. Single family homes about the golf course and enjoy the residential aspect of the neighborhood. If we fail to preserve this property for future use, living in the shadow of a distribution center will create traffic hazards for abutters.

David Lodge of 21 Sandy Circle said he is concerned on how the Town would operate a golf course. Leasing it to someone to operate it would be a quick solution.

Susan Spieler of 10 Valley Road asked if the Town can we keep it as a 9-hole golf course to deal with the covenant or does it need to stay at 18 holes. Chairman LaCamera said he doesn't know; that is what the covenant says. Ms. Spieler asked if we could lease it out like we do with Loon Pond Lodge. Have you checked with the Buzzards Bay Coalition or any land trusts to partner with the Town and CPA funds? Chairman LaCamera said we don't have enough time to do that. It has to go to Town Meeting in three (3) weeks. The first thing they would want to do it an appraisal, and the inflated price would make it not worthy of investment.

Ms. Mancovsky asked if anyone has explored grant opportunities for this? Mr. Sky said not for this acquisition. It is not feasible in our experience that the State or a Trust would consider \$13,625,000 for a golf course. Chairman LaCamera said we would want to do a 21E to make sure it is not contaminated, but we can't do that before the sale. Mr. Knox said there was a big fire there with golf carts. Mr. Sky said if it was a typical arm's length transaction regarding a sale of a property and we had time to assemble the financing, then we could look for grants. If Town Meeting approves it, there is language in the draft article to obtain grants to help pay for it.

Paul Mcallister of 30 Reservoir Avenue asked what controls would the Town have with lights 24/7. He is concerned with trees and aesthetics. Mr. Knox said we don't have a plan yet. There is no guarantee their plan would be approved. It has to be non-impactable to the neighboring community. There are mechanisms for buffers and tree areas that would separate from the abutting residential properties. Mr. Knox said all abutters would be notified of any public hearings to attend. You would be able to speak to the Planning Board. We have a lighting by-law and buffers written into zoning regulations.

Nancy Yeatts said she has spoken to Wildlands Trust about grants, and there are a few land and water grants. When the grants come up, there is a short window to put in for the money and it is only for one (1) year. They are small amounts and do not extend out over a period of time.

John Jenkins of 31 Pickens Street said it would be \$225 on an average household. We can buy one (1) or two (2) pieces. The water reservoir goes with the 61B. The Open Space Committee says it is one of the larger tracts of land in Town. Town Meeting is May 16th, there is not a lot of time. It was stated that the assessed value was \$1.7 million, but the price is about \$14,000,000. When the Town has the option to buy a chapter property, do we have to match the purchase price or the assessed value. Chairman LaCamera said the purchase price. Mr. Jenkins asked if this P&S is a shell to get the Town to overspend on it. Chairman LaCamera said it is a valid P&S according to the Assessors and Town Counsel. Mr. Jenkins said if this goes to a debt exclusion election, is it majority? Member Fabian said 2/3's at Town Meeting; simple majority at the ballot. Mr. Jenkins asked about the current tax revenue on the property. Mr. Knox said it is less than a typical house real estate tax bill; approximately \$5,000 a year. Mr. Jenkins said so our loss would be under \$10,000. If the Town purchases it, we can anything we want with it. We can look at it and say this is what it could be. The Planning Board decides if there is a special permit required for development once you see the plans. Mr. Knox said if they put in an application under the DOD, which they have now, the Planning Board will have to decide on granting the special permit based on the impacts. Mr. Jenkins said to issue that special permit four (4) people have to approve it. You are assuming that the entire Town is covered by the DOD if you have 25 acres, can anyone apply for a DOD special permit. Mr. Knox said the Planning Board will be discussing this tomorrow night. Mr. Jenkins said there is litigation against the Town,

he is one of the plaintiffs, we don't feel the DOD is done properly. Chairman LaCamera said we can't talk about litigation. Member Fabian said we are in active litigation and that prevents us from speaking publicly. Mr. Jenkins said what happens if the DOD is not determined to be Town wide. Mr. Knox said we are discussing eliminating the DOD tomorrow night.

Brian Day said the warrant article is combined for both properties. Chairman LaCamera said we have to verify that before Town Meeting. It can be adjusted on Town Meeting Floor. Mr. Day asked what are they requiring on both properties for density use. Chairman LaCamera said we don't have a plan. Mr. Day said if we bought the smaller one, it could stop the project, but they could come before with a 40B for the larger property. Chairman LaCamera said we received a subdivision plan and they have taken all the property and combined it into one (1) lot. Mr. Day asked how many acres are developable. Mr. Knox said 90 to 100 acres, not including buffer zones. If the town attempted to buy the smaller parcel, it would not affect the project. They are in negotiations with an abutting property to gain access in another area.

Ms. Donahue said every project seems to big. There isn't a lot of information, but no one wants this project. Chairman LaCamera said these are the facts that we are bringing to Town Meeting. Ms. Donahue said we have three (3) weeks to inspire the Town to spend the money and come up with ideas. How do we purchase this; how do we change it? Member Fabian said we all agreed at our meeting on the 11th that we can, as the Select Board, make this decision on behalf of the Town. With no input from the public, we can make the decision. We are here tonight and all three (3) of us have agreed to let the townspeople make this decision. When it comes to taxation, she feels better hearing from the people. That is what we are doing tonight. As far as what we can and can't do, if you are getting a vibe that we are hesitant that could be true because everything we do has MGL written after it. If we discuss things not on the agenda, we have broken the Town Meeting law. We will have answers for Town Meeting. Ms. Donahue asked what can we do. Member Fabian said people need to go to Town Meeting. Our Town Moderator will let people speak. Her concern is where does the operating money come from or to run it as a park. She is not finding a few hundreds of thousands to operate a golf. She is willing to let the people decide. With inflation, she has had residents tell her they can't afford gas to get to work. We need a new fire station and other things we can't live without. The Chairman was appointed by the Board to work on this project; that is why he is speaking. Mr. Knox asked if the Board will you be taking recommendations from the other Boards. Chairman LaCamera said we have already decided to place this on Town Meeting. Member Fabian said we want the people to make this decision.

Martin Schwalm of 22 Stetson Street asked if the Town can sell it afterwards if we buy it? Chairman LaCamera said yes, subject to the \$1 million covenant. Mr. Sky said it depends on the purpose in the article. As it is being purchased with Town money, it has to be used for public use. We could sell it to diffuse the debt. Mr. Schwalm asked regarding tax planning, have you considered the revenue from Lakeville Hospital. Chairman LaCamera said we are restricted under Proposition 2 ½ in increasing the tax levy. It is \$27 million and we can increase it by 2.5%. Any new growth gets added on; it is approximately \$1 million. The Lakeville Hospital is projected around \$430,000 for property taxes. We do have other needs that we need to look at. Mr. Schwalm said is there a possibility that their sale goes through and their price goes down. Attorney Everett said they would have to come back to the Town if the purchase price changes. Mr. Schwalm asked if there are any conflicts of interest on the Boards regarding this? None were noted.

Ann Marie Sherrick of 1 Sterling Court said we have some debt ending for the Council on Aging, Library and Bettys Neck. Member Fabian said we also have some debt beginning for Route 79.

Chairman LaCamera said \$60,000 a year for Bettys Neck expires this year; the Council on Aging debt per year is \$35,000; the Police Station is \$683,000 per year for 15 years; and \$116,000 per year for the Library expires in two (2) years. That would reduce taxes, but not by significant amounts. Member Carboni said this is hard because we don't have a plan. We are asking our taxpayers to ask to spend \$20,000,000 with no plan. She has her own ideas and would hate to see the proposed development. She would like affordable senior housing. Our industrial park was owned by the Town and there was a committee formed to develop it. We could do the same thing here. Residents may decide at Town Meeting not to go to election. It is a big ask, but we need to leave it up to residents.

John Gregory of 8 Bartelli Road asked can Ms. Donahue's plans for the property be presented to the Select Board before Town Meeting. Chairman LaCamera said we don't have time to develop a business plan. Ms. Donahue can present her plans at Town Meeting.

Ms. Schroeder asked the Conservation Commission where would the access to Route 18 be? Mr. Chamberlain said we don't have a plan, so we don't know. Chairman LaCamera said when we received the P&S in April of 2020, we told them that we would not allow them to use Clear Pond Road for access. Mr. Frodyma said the owner would rather have the Town purchase the property than sell it to the prospective buyer. Can we negotiate with him? Chairman LaCamera said he had the opportunity twice to do that and he didn't do it. It's too late. Member Carboni said Chairman LaCamera is the Board's liaison for LCC. There were discussions with them; did they present this type of development. Chairman LaCamera said we told them we needed a site plan or P&S Agreement. Maria Perroni-Martin of 207 Cedar Drive said people need to go to Town Meeting and make your voices heard. If it does pass, you need to go to the election and vote. Those are the most important things to come out of this meeting.

Brad Fahey of Reservoir Avenue asked is there any sort of legal motion that we can file. Chairman LaCamera said no. This has to do with a P&S; it is not related to the DOD. Member Fabian said for anyone that has their land in Chapter 61A or B, this is the same process that is governed by MGL. There is no flexibility. This is not special for this property. Mr. Knox said the process that is happening tonight is more than what is required. We see several of these a year and the Town Boards go through the process. Member Fabian said sometimes people will pull out land to use for their selves and they pay the roll back taxes. The only control we have is out internal process on how the Boards are notified

Kelly Kutchmanich of 93 Crooked Lane said if the Town can't purchase it and the developer purchases it, do they have to put through a plan for us to see. Different boards have to approve the details of the plan. Mr. Knox said yes. Ms. Kutchmanich asked if there is a possibility that their plan would not be approved. Mr. Knox said it is a potential. If the plan shows atrocious traffic and the Planning Board could not vote for it, we could deny it based on potential impacts. We can't say what will happen. They could come back with a different project. Everything is vague right now. The plan we have is an outline of several parcels to freeze the zoning. Ms. Kutchmanich asked does the Town have any say. Mr. Knox said you can come to the Planning Board Meetings. You would be heard, but it is the Planning Board's decision. Ms. Kutchmanich asked can the Planning Board fight the decision. Mr. Know said abutters can take it to court as abutters with standing. Ms. Kutchmanich asked who deals with endangered species. Mr. Chamberlain said the Conservation Commission. Ms. Yeats said the Department of Environmental Protection has the bottom line. The current map will show items of special concern and where turtles have been sighted. Mr. Sky said the matter before the Select Board is not what happens with the property. The only matter is whether the Board exercises its right to purchase. They are sending it to Town Meeting for a decision.

Ms. Spieler said she sent a memo yesterday regarding the formation of the Community Preservation Committee so we could leverage funds. Chairman LaCamera said it doesn't take effect until July 1st. Chairman LaCamera said the CPA doesn't go into effect until July 1. Ms. Spieler said the money starts coming out July 1st. Once the CPA was passed, it says in the bylaw it is in effect.

Upon a motion made by Ms. Cline and seconded by Mr. Conroy, it was:

VOTED: To adjourn the Planning Board at 8:30 PM.
Unanimous in favor.

Upon a motion made by Mr. Chamberlain and seconded by Ms. Yeatts, it was:

VOTED: To adjourn the Conservation Commission at 8:30 PM.
Unanimous in favor.

Upon a motion made by Mr. Frodyma and seconded by Ms. Morton, it was:

VOTED: To adjourn the Open Space Committee at 8:30 PM.
Unanimous in favor.

**Planning Board
Lakeville, Massachusetts
Minutes of Meeting
Thursday, May 26, 2022**

On May 26, 2022, the Planning Board held a meeting at the Lakeville Police Station. The meeting was called to order by Chairman Knox at 7:00 p.m. LakeCam was making a video recording of the meeting.

Members present:

Mark Knox, Chair; Peter Conroy, Vice-Chair; Michele MacEachern, Jack Lynch

Others attending:

Marc Resnick, Town Planner

Preliminary Plan – 44 Clear Pond Road – Derek Maksy – applicant

Mr. Knox advised a plan had been provided. This plan had been sent to Town Counsel, and they had received comments back from Counsel. It appears that the plan does not meet the requirements to be a subdivision because it does not show the requirement for lots. Mr. Resnick added a subdivision is defined as two or more building lots, but a preliminary plan can be amended at any time.

Mr. Rick Friberg from TEC was present. He advised he was representing the applicant for 44 Clear Pond Road. He stated that a preliminary plan is a starting point for discussion about a subdivision. It is an opportunity to meet with the Town and talk with staff in order to get feedback on any items that might come up, either technical or other issues within the Subdivision Control Law, that have to be addressed prior to being able to move into the Definitive Subdivision stage of a project. The subdivision plan that was submitted proposes two parcels; a right of way parcel and the remainder of the parcel which is the remainder of the Lakeville Country Club. These items come up and sometimes the Planning Board will get comments back from other departments.

The Planning Board through these discussions has the ability to work with the applicant to amend the plan to bring it into compliance to subdivision control as part of the preliminary filing. The Board can then approve the plan as it is; it can approve as amended; or it can disapprove of the plan. The applicant has the ability to adjust the plan to bring it into conformance and without prejudice. They provide the plan not as a refile but as a resubmission and the disapproval is revoked or withdrawn. The plan then moves forward toward the Definitive Subdivision plan stage.

Mr. Friberg then stated many Towns do not look favorably on a cul-de-sac or an additional dead-end street. Often times, they create issues for emergency response personnel and cause dead-ended utilities. One proposal that would remedy that would be to propose a through street that went from

a Clear Pond driveway and instead of ending at a cul-de-sac continued through to Harcourt. That would create a right of way and the creation of two developable lots. Alternatively, if the Board is okay with the idea of a cul-de-sac, then the exact plan that was submitted with the right of way and adding the red lot line that subdivides the solar lot from the balance of the lot creates a right of way lot, a development lot, and a development lot. In his opinion, the alternatives he has shown them would bring it into conformance with subdivision control law and the Town regulations. He noted they would also be legal lots, with the appropriate amount of frontage and lot area.

He advised this is the preliminary stage, and it makes sure the line drawing exercise is at least started the right way. A preliminary plan is not an approval of any development. There are no buildings shown on the plan. It is lot lines on a piece of paper. Mr. Knox asked why this plan was being submitted. Mr. Friberg replied the plan is a lot protection for a zoning freeze. Mr. Knox said it is his understanding the applicant has a purchase and sales to sell the property so why would he do this. Mr. Friberg said that it is a landowner's right to be able to maintain the value of their property and more restrictive zoning is less valuable than less restrictive zoning. The landowner is within his right to file this preliminary plan. It is a sub dividable parcel. and there are certain protections afforded by pursuing a subdivision on the lot.

Ms. MacEachern said in reading the P & S, it states there wasn't to be any zoning moves taken by the seller so it is confusing why he is doing this. Mr. Friberg said that he was not a party to the Purchase and Sales agreement. He was a civil engineer hired to put together a preliminary plan. There is no change in zoning requested by the applicant or the sub-divider in this case, but rather a land owner pursuing what they are legally entitled to do. Mr. Conroy asked with the pending removal of this property from 61A, wouldn't that put this on hold until that was remedied? Mr. Friberg said there are statutory requirements about time frames that are associated with this. The ideal scenario would be that this meeting would not happen until after the Town ballot, but there is a 45-day clock that starts from when the preliminary plan is filed that dictates when this hearing occurs. Mr. Knox added that it is also his understanding that there is no constructive approval if the Planning Board fails to act. Mr. Friberg said that was exactly right. If there is no action taken, you are then free to proceed with the Definitive Subdivision Plan which has a time clock of seven months from the submission of the preliminary plan. The date that plan would have to be filed by would be November 19, 2022.

Mr. Lynch asked if the Board should ask the owner of the property to come in and explain the purpose of this plan. Mr. Knox replied the purpose of this plan is to freeze the zoning. There is no requirement the owner needs to be present, and he has hired somebody to represent him. Mr. Knox asked Mr. Resnick with the two plans they have been presented; the cul de sac with a division of a lot line or an actual through street, would he make a recommendation or not. Mr. Resnick replied there are two things to consider. The first is you have to consider this within 45 days, but you don't have to make a decision within 45 days. This can be continued until another meeting date. He would suggest that because this is a commercially zoned property and it is used commercially, not to impact the Harcourt Street neighbors with additional traffic.

Mr. Friberg said they had felt similarly, and that was why they wanted to show the two different options. Mr. Knox then opened the hearing up to public comment. Mr. Jim Marra of 15 Pheasant Run asked how the property was currently zoned, and if they wanted to put in a residential

development. Mr. Knox replied it was zoned business. All they were looking at was the subdivision of the land. They were not looking at a change in the zoning. Mr. Marra said he thought this was a residential plan. Mr. Resnick explained that you can subdivide commercial property. Mr. Marra then discussed the Development Opportunity District (DOD.) He was not sure why the Town was entertaining this plan when they were still in litigation over this District.

A moratorium was then discussed. Mr. Resnick said that you can pass a moratorium on the implementation of certain types of zoning, or the application for certain permits, as you craft a bylaw to implement that certain use at Town Meeting. This isn't really what they are talking about here. The DOD allows multiple types of uses so he was not sure if it would be appropriate to put a moratorium on new filings for the DOD. He would have to do further research to see if that would be a legal option. Regarding the applicability of the DOD in scattered places around Town, it is similar to those other types of uses where you have an Overlay District that might also have other standards that must be met. It is not on any one parcel, but might be able to be located in a particular district or in multiple districts within the community. After discussion, Mr. Marra said that you should be able to put a freeze until this DOD has been clarified by a Town vote. He felt it was unnecessary for the Town to be going through this, where they are using the DOD which is the subject of two lawsuits in land court, and now another one. Even if it is approved, they are looking at another lawsuit.

Mr. Marra then discussed Overlay Districts, and noted the Judge had been concerned about applying this DOD Overlay to every piece of property in the Town of Lakeville. Mr. Knox replied that the DOD was designed as an Overlay over the whole Town, and that is how it is written. It does not show on the Zoning map, but they have another zone, the Water Resource Protection District, that is the same thing. It is over the entire Town, and also does not show on the Zoning map. He noted that tonight they were here looking at a subdivision and not the DOD. Mr. Marra said that in regards to the Water Resource Protection District, it does indicate in the bylaw that it is considered to be superimposed over the entire town. He felt because of the ongoing and potentially additional litigation, they need to revisit what they are doing with the DOD. Mr. Marra said he wanted the record to reflect, they are trying to use the DOD again, and the Town is going to get into another situation.

Ms. MacEachern asked if they could continue, and get further information regarding a moratorium. Mr. Resnick said that even if you could put a moratorium on an Overlay District, it is a regular Article that has to go to Town Meeting. The Planning Board has already submitted an Article to remove the DOD, and they will be holding a public hearing probably in June or July. The Board has talked about modifying the DOD or the Overlay District and trying to work on something similar, but in the second version having it be more targeted. After further discussion regarding the DOD, Mr. Marra said that he did not believe the offer received was a bona fide offer, because it depends on a zoning change. He then thanked the Board

Mr. Knox said he believed the Planning Board had the opportunity to continue this hearing. Mr. Friberg said it is his understanding that within 45 days they are supposed to get a determination; whether that is approved as is, approved as amended, or disapproved. Mr. Resnick replied the

Board needs to consider it, but not necessarily make a decision. Mr. Friberg suggested granting an extension to a date certain of the 45 days, perhaps to a meeting in July if that is amenable to the Board.

Mr. Friberg asked if there was any additional detail the Board would want to see in advance of that meeting. Mr. Knox said they needed more time for Counsel to review. He would like to get comments back for any other changes or deficiencies within a couple of weeks. Mr. Resnick said as long as it complies with the definition of a subdivision and the zoning requirements, then what has been submitted meets most of the other technical items. He would forward it when it was received.

Mr. Knox made a motion, seconded by Ms. MacEachern, that the Planning Board continue this hearing until July 14, 2022, at 7:00 p.m. The **vote was unanimous for.**

Select Board member, Lorraine Carbonni, then approached the Board. She asked what date the preliminary plan had been received by the Town Clerk. Mr. Friberg advised it was April 19, 2022. 45 days from that would be June 3, 2022. She was concerned that because it was under the subdivision control law, a decision would have to be rendered back to the applicant within that 45-day period. Mr. Resnick replied the statute says the Board needs to consider it, but they do not need to make a decision within the 45 days. They have had an initial meeting with the applicant's representative to consider it. They have gotten feedback, and they have continued it to a date certain by mutual agreement.

Mr. Knox said in addition, he spoke earlier to the Zoning Enforcement Officer, and he concurred with what had been discussed earlier in the presentation. Even if the Planning Board denied what was here, that does not negate that the plan was put in on April 19, 2022, which means the clock has started for seven months from the submission date. The Planning Board also has no penalty if they do not act, and there is no constructive approval. Ms. Carbonni noted that she just wanted that clear for the record. Mr. Knox said he appreciated her bringing it up for clarification.

Site Plan Review – 156 Rhode Island Road, continued – T. Sikorski Realty, LLC – applicant

Mr. Resnick advised correspondence had been received that requested a continuance until their next meeting.

Mr. Knox made a motion, seconded by Ms. MacEachern, to continue the Site Plan Review for 156 Rhode Island Road until June 9, 2022, at 7:00 p.m. The **vote was unanimous for.**

Site Plan Review – 2 Bedford Street, continued - Thomas J. Parenteau of PBT Real Estate-applicant

Mr. Thomas Parenteau and Atty. Jilian Morton were present. Atty. Morton said they were here tonight to present their revised plan. The engineer was not present, but she would review his comments as well as the items that had been brought up by the Town Planner. She began by going

through some of the changes that had been made. She advised there had been an issue with the retaining wall, which has since been removed. This improved the flow of the lot. They were also able to make a lot of the adjustments regarding access to the site, as they did not want any sort of traffic or hazards so some parking spaces have been moved. Some of the comments were notations that needed to be added to the plan.

Atty. Morton said she recently received a comment from the Planner in regards to the dumpster location which she believed was to be in the back on the revised plan. The idea was to move it so it would be more convenient for a restaurant space. The intention would be to fence it in. She would confirm all of this with the engineer. Another note was to replace the paper bark maple trees with native species. She asked if there was anything in particular the Planning Board would like to see. Mr. Knox said they would like to see native species, but they would not hold them to anything other than if the location requires a tree that grows in a certain fashion to allow visibility beneath and does not affect vehicle lines of sight.

Atty. Morton stated at the north entrance, the item where one way do not enter is painted on the pavement, curbing around the patio area should be extended to narrow that drive width was a pretty reasonable request. The last item the use of reclaimed for all the parking lot base material is usually not recommended. They also had no issue with that. Mr. Resnick said if they did half gravel and half the reclaimed as the subgrade, that would be good and probably use up most of that material. Mr. Knox said an additional concern would be if they were using what is on the site currently, is the intent to process it on site? They would then have to have dust controls and additional measures related to that.

Mr. Resnick said it appears that the concerns have been addressed by the applicant. Mr. Knox said he believed that this is actually two lots. It is 2 and 4 Bedford Street, but the plan only references 2 Bedford Street. Is there a reason for that, as he felt lot 4 should be referenced on the plan? Atty. Morton said she did not have the title in front of her, but it could just be a notation regarding that on the deed. Mr. Knox asked if that could be added on the plan. Atty. Morton said they could do that, and she would double check on the title to see how it is held. She believed it was under one deed under the Realty Trust by the LLC. Mr. Knox said the other item was they have plenty of frontage here, but they continue to show the old buildings like it is a pre-existing, non-conforming requirement. Those buildings have been gone for approximately two years. Is there a reason for that? Atty. Morton replied she thought it was just helpful for the zoning compliance table where they have the required, existing, and the proposed. It can be removed if that was the preference.

Mr. Knox noted there had also been a comment from the Board of Health regarding an existing well and having it properly decommissioned. Mr. Parenteau said they do have approval for Taunton water. Mr. Knox said he understood that, but the existing well would still need to be decommissioned properly so nothing could enter into the aquifer. Mr. Knox asked for any additional questions. Mr. Conroy would like to see a rendering of the building.

Mr. Resnick noted that the comment letter does refer to some architectural drawings being amended to show a stone front, other types of siding, etc. However, it was not in this set of drawings, and it was never received. Mr. Parenteau said that it hadn't been done as they wanted to first make sure there weren't any other changes that would be necessary. Mr. Conroy said this is proposed, it's not a density bonus. Mr. Knox said they can't approve tonight based on the changes they need to see and the architectural drawings. They will need to continue for at least one more meeting. When they get on that next agenda, they should have those architectural drawings as well as the minorly amended Site Plan.

Mr. Resnick then went through the previous comments regarding the drawings. Mr. MacEachern said the last plan had mentioned there was refrigeration planned. Atty. Morton replied there would be no cold storage at this facility. Ms. MacEachern said that it also states light manufacturing. Atty. Morton said there will not be manufacturing of anything there. Atty. Morton said they are still developing the site and there will be space for other tenants, but things are still not certain. As they move forward, if they have to go in front of the Board again for something more particular, it would happen at that point.

Mr. Knox made a motion, seconded by Ms. MacEachern, to continue the 2-4 Bedford Street Site Plan Review until June 9, 2022, at 7:00 p.m. The **vote** was **unanimous for**.

Approve Meeting Minutes

Mr. Knox made a motion, seconded by Ms. MacEachern, to approve the Minutes from the March 10, 2022, meeting. The **vote** was **unanimous for**.

Review correspondence

There was no correspondence to review.

Old Business

Mr. Resnick distributed handbooks to Mr. Knox and Mr. Conroy.

Ms. MacEachern would like an update of where the appeal for the Lakeville Hospital currently stands. Mr. Resnick said that he had not received any official update. Town Counsel is monitoring the situation, but not actively defending it as the applicant is. There was a hearing, but he was not aware of any details.

New Business

Ms. MacEachern also asked about the status of a feasibility study for a new Town Hall/Fire Station. Mr. Resnick replied that he was not currently involved in that study, but he could find out and give her an update at their next meeting.

Next meeting

The next meeting is scheduled for June 9, 2022, at 7:00 p.m.

Adjourn

Mr. Knox made a motion, seconded by Mr. Lynch, to adjourn the meeting. The **vote** was **unanimous for**.

Meeting adjourned at 8:11.