TOWN OF LUDLOW PLANNING BOARD
MINUTES OF THE MEETING OF
March 9, 2023

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix – Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Joshua Carpenter (Present)
Joel Silva, Associate Member (Present)

The meeting began at 7:00 p.m. in the Selectmen's Conference Room.

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CONTINUED PUBLIC HEARING – Special Permit / Site Plan – Mr. Joe Alves - 279 Cady Street (Assessors' Map 1B, Parcel 5A) (construction of a self-storage facility with associated site improvements to be located within the Agricultural Moderate Density (AMD) Overlay District.)

SEE ATTACHED MINUTES

PUBLIC HEARING – Zone Change – Manuel D. Silva & Joao Silva – 0 Russell Street (Assessors' Map 1A, Parcel 20J) (Residential B to Industrial A)

SEE ATTACHED MINUTES

Zoning Bylaws – Self-Service Storage Facilities ***(continued from February 23, 2023)***

Mr. Stefancik explained that he removed self-service storage facilities (site plan / special permit approval) out of the Agricultural Moderate Density District and left it only in the Industrial A, Industrial C, and the Mill Redevelopment Districts on the Draft Zoning Bylaw Changes.

Mr. Phoenix said that based on the information that was provided by twelve surrounding towns, showing that none of the towns allow self-storage in AMD, pulling them out of the Agricultural Moderate Density District makes sense.

Mr. Carpenter **MOVED** to recommend approval to town meeting of the proposed bylaw change.
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Ms. Houle – yes; Mr. Coelho – yes; Mr. Phoenix – yes; Mr. Carpenter – yes; Mr. Queiroga – yes.

Documents included: Draft Zoning Bylaw Changes May 2023 Town Meeting

File Mail Item #16 – Letter from Frank Tiano, Superintendent of Ludlow Public Schools re: Traffic concerns at Harris Brook Elementary School

Mr. Stefancik remarked that he spoke with Brian Shameklis from the police department, and that they are proposing two options; one being a traffic plan where they enter through Fuller Street and snake around the building and exit out through Chapin Street, and the second is to have the parents park their cars in the parking lot and pick up the children.

Mr. Phoenix said that he heard that they were going to attempt something the week before spring break, and that the Planning Board should be more in the loop of any action planned. He also remarked that he believes that there is a two-step process to solving the issue which includes mitigating what's existing for the traffic, and then there's eliminating the traffic which would include possibly staggering dismissal times, or through having a bus contract where the bus company provides buses that run on time and are not unruly.

Mr. Phoenix **MOVED** to revisit the school traffic issue no later than the end of April to see if any changes that are implemented are successful in alleviating the problem at the schools and further I **MOVE** to make sure that the superintendent and other officials over there are aware that the Planning Board is willing to engage as actively as we can in order to try and help get this to a situation where it's safe and suitable for vehicular operation and pedestrian movement on and around the site.
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

CONSENT AGENDA:

The Board approved the Consent Agenda under unanimous consent.

- FILE Mail Item 15. - Legal Notices from surrounding communities
- APPROVE Change of Occupancies:
  - Amy Monroe (DoubleMW Corp) – 311-R West Street (from plumbing business to moving/hauling company)
  - Sheryl Higgins (Bella Couture Salon Spa) – 154 East Street (booth rental at existing salon)

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Mr. Carpenter clarified that his motion on the Zoning Bylaw changes for the self-storage units was for all three articles noted on the Draft Zoning Bylaw Changes for the May 2023 Town Meeting. The board members confirmed that they were aware of that.

Mr. Carpenter: Mr. Chairman, I make a **MOTION** to adjourn.
SECOND Mr. Phoenix.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Meeting adjourned at 8:48 p.m.

APPROVED:

Joseph Queiroga, Secretary

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(All related documents can be viewed at the Planning Board Office during regular business hours.)

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TOWN OF LUDLOW PLANNING BOARD
CONTINUED PUBLIC HEARING – SITE PLAN / SPECIAL PERMIT
279 Cady Street – Mr. Joe Alves
(construction of a self-storage facility with associated site improvements to be located within the Agricultural Moderate Density (AMD) Overlay District.)
March 9, 2023

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix – Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Joshua Carpenter (Present)
Joel Silva, Associate Member (Present)

The hearing began at 7:01 p.m. in the Selectmen's Conference Room.

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In attendance: Joe Alves, Rob Levesque – R Levesque Associates, Rebecca Li - R Levesque Associates, attendees

Mr. Queiroga read the legal notice and the letter to the applicant for the public hearing into the record. The legal notice included the description of: construction of a self-storage facility with associated site improvements to be located within the Agricultural Moderate Density (AMD) Overlay District.

Mr. Queiroga: So, do we read these into the record first before talking to them?

Mr. Stefancik: Why don't you read the comments first and then you can read that last.

Mr. Queiroga: Alright. I know you've gone to a couple of other departments. Why don't you tell us what's going on?

Mr. Levesque: Good evening, for the record I'm Rob Levesque from R Levesque Associates here this evening representing Mr. Joe Alves. Also, with us this evening is Rececca Li from our office. She's our PE and project manager on this particular project. Before we get started, I just wanted to thank the Board off the bat for letting us delay the opening of the public hearing allows us to have a full contingent of the board, and that's very helpful to us and we appreciate that very much so. Sorry for the delay, but we're prepared tonight to go forward and thank you very much, we appreciate that. Rebecca has a presentation prepared. She can go through the details of the project. If you'd like her to do that first, we can certainly do that, or if you'd like, we can go through comments, etcetera, so we'd be happy to open it up with a brief presentation if that pleases the Chair and the Board.

Mr. Queiroga: That'd be fine.

Mr. Levesque: Thank you.

Ms. Li: Should I go up based off of the screen or the?

Mr. Levesque: Go to the screen probably.

Ms. Li: Ok, sounds good. If you don't mind, Doug, can we go to the existing conditions plan first? Should be the second drawing.

Mr. Levesque: Is it possible, Mr. Queiroga, to pull these microphones towards the screen? Can we walk there with it, is that?

Mr. Queiroga: I don't know, is it, no. He says no over there.

Ms. Li: Ok.

Mr. Queiroga: ---

Mr. Coelho: Yeah, let's go back to analog.

Ms. Li: No problem. Ok, sounds good. Ok, so the subject parcel at 279 Cady Street is within the agricultural moderate density overlay district. It's approximately 15 acres in size. We plan on developing the eastern portion of the site. This site has been historically developed. Currently there's an existing building at the front of the property with an associated barn. There's also some concrete block storage bins that were used for material storage and there's also a gravel drive that goes through most of the property. Another thing to note is that the majority of the property is within the Eversource easement, so we did have to submit an application with Eversource, and it has been approved and a license will be issued in the next two weeks. Next page please. The proposed facility consists of six storage buildings with an access drive coming from Cady Street wrapping around the proposed buildings. We are proposing two directional traffic. The existing building will be utilized as an office space. There are gonna be some parking spaces in the front outside of the gate, and then also on the side of the building as well. There's going to be a new fence that's going to connect into the existing fence to enhance security and provide fence around the entire perimeter of the facility. We are meeting all the dimensional requirements as shown in the zoning table in the top right hand corner including area, frontage, and setbacks. We also have the required parking per the zoning ordinance. Next page please. As far as the grading goes, it's going to resemble the existing topography to the extent practicable. The high point is along Cady Street and also along the north side of where the storage buildings are going to be. The kind of western side of this area, kind of all slopes towards one of the infiltration basins that you see here. And then the other portion of this site is graded towards the southern side where there's another infiltration basin. Next please. The new stormwater management system consists of the two infiltration basins, will be collecting the runoff via a couple low points throughout the site. There's one here along the access drive with a catch basin and water quality unit to treat the runoff prior to discharging into the infiltration basin. And then we've got a couple more low points, one right there, and then one at the end of the drive aisle there which convey the runoff towards the other infiltration basin. As far as utilities go, we will be installing a new water and sewer connection to the existing building, and electric will extend to the storage buildings to provide the required and necessary wall pack lighting around the perimeter of the buildings. Next please. As far as landscaping plan goes, we're kind of limited with how much landscaping we can do just because of the location and Eversource kind of restricting us to the height of different plants. So, we've got some nice inkberry shrubs along the frontage there and then we've got some arborvitaes right

here to kind of fill in that existing hedge grow that exists between the residential district and our district. I also want to note that there is existing tree line up to the western side of the property, so, and we're not developing up there, so, there's already vegetation that exists and we're not planning on doing anything with that. And that concludes the presentation of the plan set. As I mentioned, we have submitted an application with Eversource. It has been approved. We've incorporated their comments satisfactorily. We've also received comments from Engineering, Planning, the Building Department, the Fire Department, and having incorporated all of those comments and provided responses and dispositions. So, at this time, I'd be more than happy to answer any questions the Board may have.

Mr. Coelho: How would you characterize current drainage on the site as related to surface water and run off, currently as is…

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Ms. Li: Currently…

Mr. Coelho: …and compared to design, please.

Ms. Li: So currently, there's a low point right in here, so, you know, once it gets filled up, and there's no stormwater management on site currently, but there's a low point here, and once it accumulates, it goes towards this irrigation pond that you see on the eastern side of the property. And then, I think, starting, so this is a high point up in the top western side here, so it all either sheet flows here, or there's a break and it sheet flows to the back of the property.

Mr. Levesque: So, Mr. Chairman, I think we call it uncontrolled, I'm sorry Mr. Chairman.

Mr. Queiroga: Go ahead.

Mr. Levesque: It's currently uncontrolled, so we'll be providing a drainage system that meets the current DEP standards, meets all the stormwater events.

Mr. Coelho: That's great, but visually how would you expect stormwater to flow now with improvements on site?

Mr. Levesque: Maybe we can go, there's a topographic plan there. --- zoom out just a little on that one possibly?

Ms. Li: It would be helpful if I could point and also talk to them, ok.

Mr. Coelho: You can, just speak loud enough. Doug's got a mike right there.

Ms. Li: Ok, so, as I mentioned the high point is along Cady Street. So, from the high point here to the high point here, all that runoff is travelling down the access road to the low point where this catch basin is, and then that gets fed into the infiltration basin. All of the runoff from this area of the site, from here to here will go to this catch basin. There's another high point, I believe, right here, it'll go towards this catch basin, and everything else flows to the catch basin that's on the southern side before it goes to the infiltration basin. And then as far as, you know, this is, all of this is still gonna be tributary towards our new stormwater basin, so we had to incorporate, you know, our proposed development as well as the tributary area that already existed.

Mr. Coelho: So, your basins are calculated for that flow as well?

Ms. Li: Correct.

Mr. Coelho: Now, what's the fate of the current drainage pond? What are we calling that pond?

Ms. Li: It's an irrigation.

Mr. Coelho: Oh, that's --- using that for irrigation for their flowers and whatnot.

Ms. Li: Correct.

Mr. Coelho: That was manmade?

Ms. Li: Yes.

Mr. Coelho: Ok.

Mr. Levesque: But still regulated, so we'll have to ---…

Mr. Coelho: So, you can't touch it.

Mr. Levesque: …standards adjacent to it.

Ms. Li: And the Conservation Commission has already approved of, you know, how we're mitigating the new improvements.

Mr. Coelho: You don't want your wash water going into the controlled wetland, I guess. That's all I have for now.

Mr. Phoenix: You want to go through the comments?

Mr. Coelho: Did I skip the comments?

Mr. Queiroga: What?

Mr. Coelho: Did I jump the gun? Sorry.

Mr. Queiroga: That's alright. It's these, right?

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Mr. Phoenix: Well, that's the response to the comments. There should be a number of individual ones. I know there was a, in the file labeled comments that I have here, I see there's a complaint form. There's Doug's going over of the stuff. There's mention of the one waiver that's being requested. There's stuff from Fire, Board of Health.

Ms. Li: Our response letter includes the original comments as well as our response. Do you want me to just go through?

Mr. Phoenix: Well, normally we go through the actual comments and then we can go from there.

Ms. Li: Sure.

Mr. Queiroga: Ok, from Ludlow Planning Board, the building permit submittal package must include a fire code review in accordance with 780CMR, I think you already told us about, told me about it, as well as fire code performed by fire protection engineer licensed in the state of Mass. to include fire ratings. *Mr. Queiroga read the comments from the Fire Department (see file).* From Board of Health, no comments. *Mr. Queiroga read the comments from the Department of Public Works (see file).* Safety Committee, no comments. I think that's it. Ok, why don't you take it from there and give us anything you think we need to know in order to.

Ms. Li: So, we've submitted a response letter for all of those comments that you've gone through, but just to summarize, the main access road around the facility has a minimum width of the 20 feet. We've also provided a Swept Path Analysis demonstrating that the Ludlow Fire truck, which the specifications were sent directly to us, can accommodate all of the turns that it needs to. And then, as far as a Knox Box, we've made, put a note on drawing C4, the layout drawing, stating to add a Knox Box and coordinate with the Ludlow Fire Department. As far as the egress illumination, it will be provided in accordance with the state building code. And then as far as the sprinkler system requirements, that's for buildings that are in excess of 7,500 gross square feet, and all of our buildings are less than that, therefore no sprinkler system is required. So that's for the Fire Department comments. As far as the Engineering Division, we will be obtaining all required permits prior to construction. We will also be submitting the SWPPP and obtaining the Construction General Permit as required prior to construction. We have been in correspondence with the Springfield Water and Sewer Commission for any water connections and we've been talking to Marty Lobik about that. The monumentation at all property corners, we have added drawing, note to the drawing to install the pins that are missing. The required information in the zoning review table on drawing C3 has been added. Let's see, sewer lateral to be connected to the stub left on the property with cleanout, understood. The connection of the proposed sewer service has been revised to tie into sewer stub that is shown on our record plan. That was sent over to us by the engineer. On sheet D2, details typical building sewer connection detail, please change sewer laterals from four-inch PVC to six-inch PVC. That was a couple of the comments and we've done that, we've incorporated that. As far as the Planning comments go, we've added the circulation arrows. We've updated that table on C3 that I've mentioned. We do have proposed signage dimensions that I haven't sent over and I brought with me if that would interest the board in seeing. So, I can share those. We shifted the proposed ground sign ten feet from property line. I talked about landscaping and how we are limited due to being within the Eversource easement. And I believe I've captured most of them. Have I missed anything?

Mr. Queiroga: Before we put it out to the anybody in the audience, any comments from any other members of the Board, or questions?

Mr. Phoenix: I'm just trying to get to section eight here, I believe it is. I just wanted to look something up. So, waiver request letter. *Mr. Phoenix read the waiver request letter 7.1.5o Required Site Plan Contents Additional Requirements: Signage design with dimensions; Traffic study; Fees (see file).* So those are the three waivers. I think we're gonna have to discuss those a bit. But I think on the first one, since it's a moot point, just to get that out of the way, I'll make a **MOTION** to deny the waiver on the reason that it has been provided by the applicant.

SECOND Mr. Carpenter.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Mr. Phoenix: So, I'm interested in hearing from the public and anybody else on the Board before we start having that conversation about the waivers, but I just wanted to make sure that was in mind for everybody, that those two are still out there, the traffic study and the fee.

Mr. Queiroga: Ok.

Ms. Li: Thank you.

Mr. Queiroga: For anybody that wants to make comments, just identify yourself and where you live, and just ask the questions through the Chair.

Mr. Phoenix: I don't think I heard anybody chime in online either. I think it's still an empty room. Is that correct Doug? So, if there's nothing from that, I guess we might as well have the conversation about the two waivers. Mr. Chairman, do you have a preference of what order we look at those?

Mr. Queiroga: No.

Mr. Phoenix: So, just stick with the order that they are in the letter, I suppose. So that would be the traffic study. We require traffic studies on other storage facilities, but generally on busier streets than what we have over on Cady there. I think there's comments that could be made either way on it. I'm curious what the Board feels about the waiver on this particular site given its location in the total town and the existing traffic patterns around there.

Mr. Queiroga: Any comments on that particular issue.

Mr. Coelho: It's not gonna be like having a drive-thru restaurant as far as traffic generation goes. I have to assume that the first month or two will probably be pretty busy. That would probably be its busiest. How are you planning on operating the facility?

Mr. Alves: We'll have an automated gate with a keypad.

Mr. Coelho: 24/7?

Mr. Alves: As of right now, that's the plan.

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Mr. Levesque: If I could, through the Chair, something that might be helpful. We've done a number of these self-storage facilities. The industry standard typically for self-storage facility's national average is seven trips per day per 100 units. That's the calculation so as you can imagine per day it's typically or approximately less than 14 trips per day for a project that's 167 units. So, pretty minimal trip generation. Obviously not peak hour trips as you can imagine, it's throughout the day, often times on the weekends, those types of things.

Mr. Phoenix: Yeah, I would I think it's probably still somewhat peak-ish, 'cause it's probably people are dropping stuff off or picking stuff up on their way home from work, things like that.

So, I would think it's still probably stacks that way. I haven't seen the number myself, but I would assume during the workday that most people aren't doing a whole lot of trips there.

Mr. Levesque: Probably mornings are pretty heavy too, I would assume, yeah.

Mr. Phoenix: But I think even more so than drive time, it's probably a weekend thing more than anything else. When people have the time available, that's when they're gonna want to go and mess around with what they have in storage. So obviously, the seven trips, if those are spaced throughout the day evenly, that's essentially zero impact. If seven trips get added in all the same time, I still don't know that's it's a huge difference to what's going on in that area. I grew up right off of Cady Street, further down Cady Street, not that section, but there's definitely traffic there. My concern would be if anything, that traffic in that area is not, how I can I put this diplomatically, is not always driving at the appropriate speed. So, I think there's possibly a concern there, but I don't think that this really stacks into that issue the same way that it would if this was a more congested part of town where you'd normally have a lot of gridlock and things anyway. At least that's my thoughts on it. Anybody else?

Mr. Queiroga: Josh, you have anything? Ok.

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Mr. Phoenix: Hearing nothing else on that one, I'll make a **MOTION** to approve the waiver request for the traffic study based on the type of business, the location in the total town, and the expected traffic generation on site based on standards for similar businesses.
SECOND Mr. Carpenter.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Mr. Phoenix: So, that brings us to the fee, and because I touched the screen the wrong way, I have to scroll back down. Luckily that's fairly quick now that I know where I'm looking. So, the waiver of the fee to go into the full text of what was written in here, the applicant's requesting to reduce the Planning Board filing fee associated with the site plan approval and special permit submission. The applicant requests that the filing fee only include the acreage within the limit of work and waive the additional acreage of undisturbed area on the property. Further, the subject parcel totals approximately 15.07 acres, where only 3.83 acres is within the limit of work. The filing fee submitted to the Planning Board was calculated as follows: $250 per acre equals $250 x 15.07 would be $3,767.50 plus an additional .25 cents per square foot of the new building footprint which would equal out to $6,900, plus an additional $250 for the special permit which brings the whole fee as a summed $10.917.50. The reduced filing fee requested by the applicant is requested as follows: and that's still the $250 per acre but only to the 3.83 within the limit of work, so that's brings that portion down to $957.50. The square footage is still the same so that still works out to $6,900, the $250 for the special permit is still the same, so that's still $250. So, it's only really reducing on that acreage, and that brings the total from the $10,917.50, if we're looking at the whole thing, down to $8,107.50 just looking within that limit of work. So, that's a slight paraphrase, but that's what we have from the applicant on the waiver request. I have my thoughts on this one as well, but I'm usually not too quiet. So, I'm interested in what everybody else thinks.

Mr. Coelho: We've done this before where we've waived it down based on the size of the project compared to the actual footprint of the land. So, I don't have a problem with those

numbers. You know, we've done it for cell phone towers, we've done it for all kinds of projects, so it makes sense with what we've done in the past in my opinion.

Mr. Queiroga: The one that was really a large portion of that and that's the one thing we can't waive is the .25 cents per square foot, you know that.

Mr. Phoenix: I mean, we can waive anything we want to ---, but I think that's a sensible ask is on the acreage. And I think the other piece of that too, and it wasn't mentioned in the narrative, is if we're too aggressive on enforcing that particular portion of the fee, that encourages people to split the lot up, and then we have the two lots which might encourage additional building on the separate parcel. So, in the long run, it's probably more in the interest of the town, and the neighborhood in particular, to allow the reduced fee. Typically, you know, like you said, other times where we've done that, it's been on large parcels owned by utilities are being used by public utilities, but I think it does make sense in a case like this as well where it's, you know, we're talking about 15.07 acres and they're only using 3.83. We're not talking about, you know, a difference of, you know, a couple hundred square feet here, we're talking about a sizable amount that they're leaving as open space which is, again, another investment in the town keeping that as open space. That's kind of my thoughts on it. Unless anybody has anything else on it, I'll make a **MOTION** to…

Mr. Queiroga: ---?

Mr. Carpenter: No, I just, I've never seen a waiver on this, so. If we've done it in the past, I don't see why we couldn't do it again especially considering we're taking about 12 acres off of usable building space, so.

Mr. Phoenix: I mean, theoretically, they can still come in with another plan and do something with it, but then we'd be looking for the fee at that time anyway. So, I'll make a **MOTION** to approve the waiver for the fee from $10,917.50 down to $8,107.50 based on the reasoning in the letter from the applicant as well as the interest of the town in keeping the open space preserved and the interest of the town in keeping the parcel intact to try and preserve the neighborhood as much as we can.
SECOND Mr. Carpenter.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Mr. Queiroga: Ok, what do we got left?

Mr. Coelho: Mr. Chairman, I've got a couple of things.

Mr. Queiroga: Ok, go for it.

Mr. Coelho: Are we married to an 18-foot-tall sign and is this sign backlit?

Mr. Alves: No, that's just very generic.

Mr. Coelho: I think, you know, that sign would be effective if it was at an intersection closer to a highway or a busy street. I think maybe in a mixed-use area that's residential we might want to consider having maybe a ground-level sign lit up with lights.

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Mr. Alves: Yup, that's not a problem.

Mr. Coelho: You know, a little less Vegas looking.

Mr. Alves: Something will be submitted for ---

Mr. Coelho: That's what I'd like to see, you know, added on the special permit, and hours of operation. Again, 24/7 with automation is practical now-a-days, but I don't think it's reasonable. And I do understand people got storage units they can't get there during work because they're working. But I think a reasonable closing time to avoid any noise problems, would also be amendable to us from a neighborhood perspective. Reasonable closing time, you know, I think, I don't know if we have a noise ordinance, but generally it's 10:00.

Mr. Queiroga: 10:00, 11:00.

Mr. Coelho: We avoid banging at 10:00, I think would help the neighborhood. I don't know how that affects the business model, because anything going on after 10:00, 11:00 probably shouldn't be going on anyways. Nothing good happens after midnight. That's what I, those are the only two things that are going on in my head. Well, that's what my aunt always taught me. But those are the only two things sticking out to me to kind of keep this consistent with the area that it's in.

Mr. Queiroga: Do you have any problem with that Joe?

Mr. Alves: No, I think it's just, you know, agreeing to a time, an open and close time, I guess.

Mr. Phoenix: 7:00 to 10:00 would be reasonable?

Mr. Alves: I'd prefer 6:00 to 10:00, but.

Mr. Coelho: How loud are these doors?

Mr. Alves: The doors?

Mr. Coelho: Yeah. We don't know until they're in there.

Mr. Alves: Yeah, but they're pretty…

Mr. Coelho: I don't mind 6:00 to 10:00 as long as we're not getting complaints.

Mr. Alves: Yeah, and again, that's all an automated gate. So if, you know, at the time something comes up and it needs to be addressed, and we address it. It's just a computer system that, push of a button will allow that code to work and not work, so.

Mr. Coelho: Maybe even 6:00 on weekends a little early, maybe weekends 7:00 would be better, I don't know. But we don't want to make it too complicated either, you know.

Mr. Alves: That's not a problem.

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Mr. Coelho: Twenty-four hours in my opinion, I don't.

Mr. Phoenix: Well, I think maybe the 6:00 to 10:00 is a good opening. And like you said, if complaints start coming in, we're gonna end up hearing it either directly or through the Building Office, and at that time we can call them back in to talk about this in terms of the special permit and adjust those if that's needed to order to protect the neighborhood from any noise that's going on that's problematic. It's not like whatever we say on that special permit we're locked into tonight, that's where we're starting, and then we'll take action if we need to and hopefully, we don't need to. Hopefully the business runs a way that works well with the neighborhood and the people that are using the space from you all play nicely. But we can't necessarily know for sure until that's there, and if that happens, we deal with it.

Mr. Queiroga: So, we can say that we'll go 6:00 to 10:00. If we have any problems then we'll cross that bridge when we get to it with you guys, as long as you leave yourself open too, ok?

Mr. Alves: One other thing I'd like to know too is, the lighting on the buildings are wall packs. My theory was to set those on a timer to also eliminate them at the time that the gate is locked. So, if it's 10:00, those lights will also be down so that neighbors aren't seeing any lighting there throughout the night or anything like that.

Mr. Phoenix: From a security standpoint, the cameras are still gonna be able to pick up in the low light and everything?

Mr. Alves: We shouldn't have a problem, yeah, because the cameras itself will have the --- light will come on if it senses.

Mr. Phoenix: Like the IR stuff and all that.

Mr. Alves: Yup.

Mr. Coelho: And these advanced lighting systems now a days, you're not anticipating any bleed-over right?

Mr. Alves: No.

(multiple people talking)

Ms. Li: We provided a photometric plan.

Mr. Coelho: You did do a photometric plan?

Ms. Li: Yup.

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Mr. Phoenix: Unless somebody has anything else, I'm gonna open my mouth and make a motion. I'm gonna make a **MOTION** to grant the site plan and special permit in the standard form with the addition that the special permit will allow operating between 6:00am and 10:00pm, and that the sign will be reduced to something lower, perhaps internally lit, and that we will get a revised signage plan once that's been decided on for something that's more suitable for the neighborhood…

SECOND Ms. Houle.

Mr. Phoenix: …and to close the public hearing immediately thereafter.
SECOND Ms. Houle.
5-0 in Favor.
Roll call vote: Ms. Houle – yes; Mr. Coelho – yes; Mr. Phoenix – yes; Mr. Carpenter – yes; Mr. Queiroga – yes.

The public hearing closed at 7:41 p.m.

APPROVED:

Joseph Queiroga, Secretary

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Documents: Master application/Site Plan Approval & Special Permit Application (including master application & waiver request) Proposed Self-Storage Facility (January 17, 2023); Stormwater Drainage Report – Proposed Self-Storage Facility (December 8, 2022); Comments from town boards/departments; Dept. of Inspectional Services Complaint Form from Don Cameron; Response to review comments from R Levesque Associates, Inc. for Mr. Joe Alves (February 8, 2023) Site Plans – Proposed Self-Storage Facility – 279 Cady Street Ludlow, MA 01056 (Rev. 2/7/2023)

(Documents pertaining to this hearing are available for viewing in the Planning Board Office during regular business hours).

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TOWN OF LUDLOW PLANNING BOARD
PUBLIC HEARING – ZONE CHANGE
0 Russell Street – Manuel D. Silva & Joao Silva
(Residential B to Industrial A)
March 9, 2023

PLANNING BOARD MEMBERS

Joseph Queiroga – Chairman (Present)
Raymond Phoenix – Vice Chairman (Present)
Christopher Coelho (Present)
Kathleen Houle (Present)
Joshua Carpenter (Present)
Joel Silva, Associate Member (Present)

The hearing began at 7:46 p.m. in the Selectmen's Conference Room.

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In attendance: Manny Silva, attendees

Mr. Queiroga read the legal notice and gave the applicant a copy of the Turley Publications invoice. The legal notice included the description of: Zone Change Requested from Residential B to Industrial A. Reason for Requested Change: To allow for more suitable uses.

Mr. Queiroga read the letter of receipt of Zone Change from the Board of Selectmen (see file).

Mr. Queiroga: Ok, so tell us why you're requesting these.

Mr. Silva: Well, as you all know, what the parcel is, right now it's zone Residence B and it's not that suitable for it. I've tried to market it. We've tried to get investors, tried to do certain things with it and it's just a tough piece, it really is for that. And we personally believe that it would be a little more suitable for something business oriented that would generate, one, obviously some income to the town, and two, not have a lot of impact to the town where you put apartments. You're gonna have children, you're gonna add stuff to school systems and all that. So, in having the Mass Turnpike right behind it, several times we've had people there and it's pretty noisy. They, unfortunately, we tried to get them to continue the barriers, didn't work so good. So, now it's kind of open right to the Pike and it is a business, obviously wouldn't hurt it, so that's where we are.

Mr. Coelho: Is this on the corner of Russell and West?

Mr. Silva: --- side of Russell Street, almost the whole right side.

Mr. Coelho: Whole right side of Russell Street if we're going towards Chicopee?

Mr. Silva: Yes. ---

Ms. Houle: Ok.

Mr. Silva: Believe it or not we did get approval quite a few years ago for 15 units over there of apartments. It just didn't, it just, the economy just got a little crazy, the building got enormous, and it was just ---.

Mr. Coelho: And are there any other industrials adjacent to this site?

Mr. Silva: There is no industrial, no, other than if you're going to Springfield, not Springfield, Chicopee, goes right into Chicopee, and then you have, obviously, Westcom is there. And I believe the land going towards Ludlow has now been bought and it's gonna be also commercial, industrial, I guess.

Mr. Coelho: So, are there any industrial abutting the site?

Mr. Silva: No, other than the Turnpike, no.

Mr. Carpenter: So that one little lot on the Chicopee line is commercial right now?

Mr. Silva: That little, no that's probably, that's still Ludlow. That's the only part, that's the only piece that's still in Ludlow and then the line is right there in Chicopee. The other part of Chicopee, I believe, is. I didn't check into it, but.

Mr. Phoenix: I would say, first of all, as far as the barrier not being continued, that's probably both a curse and a blessing. My understanding is, you know, with the amount of traffic that's going down that street, the people on West that have had the barrier across from them, they get a lot of the bounce back from their own traffic. So, they don't get as much from the Turnpike, but they get louder from their own side. So, it's probably the same thing would probably end up happening there too.

Mr. Silva: Right.

Mr. Phoenix: The Turnpike certainly does have its own noise. I live right across the street from the Turnpike, so I'm used to it.

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Mr. Silva: Yeah, once you live there for quite a while...

Ms. Houle: You get used to it.

Mr. Silva: ...you get used to it.

Mr. Phoenix: Then you get the moments where there's nothing driving down, I'm like ok, everybody stop, we're gonna enjoy the silence for half a second.

Mr. Silva: And there is a couple houses, like on West, you know, going back a little bit, not West but actually Russell, then Shawinigan has a couple which I'm still kind of owner on one on Shawinigan, and those are kind of away from there too. I believe the last house is right at the fork there. So, it's really, you know, is it really detrimental to the residents? Not so much from what I see, but.

Mr. Phoenix: On a not exactly on point question, but just a personal curiosity one, the motor vehicle accident that kind of has a sort of shrine there, is there any idea what might be going on with that as this gets developed. Has that been taken into account at all?

Mr. Silva: No, it's an unfortunate thing and it's a very difficult and hard thing. They happen to be friends and it was not an easy accident as we all know, and I think that might have some impact on that property if you ask me. It's tough, you know?

Mr. Phoenix: My daughter was friends with Natalia, so it's…

Mr. Silva: Yeah, it's tough, and it is tough. And that shrine is on the fence where the culvert is and whatnot. And again, the parcel does have wetlands over there so that it's not gonna be the whole parcel that's gonna be developed into, it's gonna be one, most likely one building, one something or other that's gonna go there.

Mr. Queiroga: This is 2.7 right?

Mr. Silva: It's 2.7, but I got to say to you, it's probably down to usable, about an acre. That's about it.

Mr. Coelho: This is hilly too.

Mr. Silva: Yeah, it's got a hill up, so some of that's gonna be leveled for whoever constructs, gonna be leveled.

Mr. Queiroga: Have you got some trees and stuff between you and the Turnpike?

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Mr. Silva: Very little. It was, at one point it was cleared out. So, there is a couple trees way out back, but not major, right now just the growth probably.

Mr. Phoenix: And again, not completely on topic for the zone change specifically, but given that neighborhood and the traffic that goes through there, has there been any thought as far as, you know, mitigating the odds of somebody impacting whatever business is there, depending on what might be going in for parking, things like that, or is that still too far down the road at this point?

Mr. Silva: At this point it is, but I believe the, you know, the frontage is so big there that you probably could impact as little as possible by just moving it one way or the other. You know, so at this point, I don't foresee anything that's gonna really impact it. You practically could enter way down on the right side of it. And then you could enter, I believe the only portion to enter would probably be across the Shawinigan Drive entrance there because that's where the wetlands actually starts, so that you'd probably have to be right there and nothing to the right of it. I don't believe that any usable part of it is to the right, to the left of it I should say.

Mr. Phoenix: I think, like I said, it's not necessarily completely on topic for the zone change because a lot of the same stuff would be taken into consideration under the existing zoning, but, you know, I think there's, if you're thinking about housing, there's probably less likelihood of a parking lot or something being out front ---.

Mr. Silva: Yeah, 20 units, it was ---, if you really have interest in seeing how it was, I believe we probably still have plans on where the parking lot was going, 'cause we had full plans and everything to go ahead and do it. I think there was a couple driveways going in there and the parking was all the same way.

Mr. Phoenix: I think we all have the same kind of an idea.

Mr. Silva: --- you're good.

Mr. Phoenix: It's kind of like we were talking about Cady, this is even, that speeding problem amplified.

Mr. Stefancik: It just shows the, it does show the wetlands in the property where you can't really do anything on it.

Mr. Coelho: It's a tough property.

Mr. Phoenix: It is.

Mr. Coelho: You guys.

Mr. Phoenix: But, I mean, as far as the main question that we're here to be talking about the zoning issue, I think it's not a five-acre parcel which is usually what we look at for the size on a lot of these unless we ---.

Mr. Silva: God knows we do need that stuff. We need, I know, for the town's purposes, we need somewhere to get some funds where…

Mr. Coelho: Probably nice to have a business tax scale as well. We got all these zone changes coming in.

Mr. Queiroga: I'm guessing that your thinking was you haven't been able to find somebody who was the right person for that, but obviously, one commercial building is going to cause less of an influence on the neighborhood than ten apartments or twenty apartments.

Mr. Silva: Ten apartment buildings with two cars each, ten, no it's fifteen.

Mr. Queiroga: Fifteen?

Mr. Silva: Yeah. Fifteen, you're talking about two cars per unit, that's thirty, sorry.

Mr. Phoenix: So, you had everything up against the back edge. It's pretty much what I would have…

Mr. Silva: Imagined.

Mr. Phoenix: Yeah, it's crazy seeing that much stuff in there because when you drive by it, I don't think you normally ---.

Mr. Silva: Nobody does.

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Mr. Coelho: That's the thing.

Mr. Silva: Unless you stop there, and you walk it up, and I believe Joe one time was up there. Once you get up there it's a pretty sizable unit.

Mr. Coelho: I drive it every day.

Mr. Silva: Everybody says, what are you crazy?

(multiple people talking)

Mr. Coelho: I never thought it was land to be developable at all by any value.

Mr. Carpenter: I don't know how you would even think of selling it 'cause it doesn't seem like anything.

Mr. Silva: But you know what, the engineer actually was our, I think still, was Ron. You remember Ron? He was actually the engineer that did that, and he came back with him and said holy cow, are you kidding me? It was like, we were shocked. So, and it was pretty much approved. It's just the funding just got crazy the way interest is now and it's just impossible to do that.

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Mr. Joel Silva: How many entrances?

Mr. Queiroga: And it's ---.

Mr. Phoenix: This draft had the two in and out. But you know, whatever goes in there.

Mr. Silva: Right.

Mr. Phoenix: ...under the new zoning, who knows what that's gonna be.

Mr. Silva: And the reason for the way this is, the zoning board has the ultimate decision on where it's gonna be, how, so any plans that come through, you're gonna have the decision to decide whether or not it's gonna impact or not so.

Mr. Phoenix: I mean, to some degree, there's a lot of stuff to be able to go in there that's under site plan approval without special permit, so we don't have a whole lot that we can say as long as it meets the criteria in the bylaw. So, I mean, there's still an awful lot of that that falls on the applicant's decision making. If we see something that's glaring or we get feedback from Safety or something saying hey, can you nudge this ten feet that way. We can certainly say it and see where things go.

Mr. Silva: Yeah, most likely. I find most people are good at, you know, working with boards and doing the right thing, but you never know.

Mr. Phoenix: Are we going to the same meetings?

Mr. Silva: What?

Mr. Phoenix: I said, are we going to the same meetings?

Mr. Silva: Some of them anyway.

Ms. Houle: I'll take that Joe.

Mr. Queiroga: Alright, well. Alright gentlemen, what's your pleasure here?

Mr. Phoenix: Probably call for public comment, unless there's anything else from the Board?

Mr. Mosca: I'm here for public comment.

Mr. Queiroga: Please.

Mr. Mosca: I haven't heard anything mentioned about what the intended business use is.

Mr. Phoenix: First of all sir, can we get your name and address for the record please?

Mr. Mosca: My name is Guido Mosca, last name is spelled Mosca. May I sit at the table please?

Mr. Phoenix: As far as the answer to your question, the way that the zone change works, ultimately, we're not looking at a specific business proposal, we're looking at everything that could be there under the existing zoning versus everything that could be there under the proposed zoning. So, even if the applicant were to come in and say this is what I'm looking at today, after town meeting they could theoretically come in with a different plan and change what they're looking to do because they'd have that right after town meeting, five years down the road, ten years down the road, whenever that is. So, we need to be looking at all of those options not just any one proposal. That's why some of the questions that I asked, I commented weren't specifically on point for what we're talking about, they were just kind of curiosities.

Mr. Queiroga: Could I ask you your name?

Mr. Mosca: My name is Guido Mosca. I'm the owner of these two parcels here, 20A and 20B. -- this one and this one, I'm a direct abutter ---, and I am opposed to the plan. And if you'll permit me, I will set forth my argument. I printed these out from the zoning map and I counted from, let's see, this is where the proposed land is, this is where I am, and West Street goes this way all the way to the industrial zone all the way at the end. I counted approximately 49 parcels of residential real estate up to the next industrial usage which is down the road. I didn't measure the mileage, but it's got to be a couple of miles. The only business are these two yellow areas, a couple of lots here, otherwise it's 49 residential lots, properties, zoned properties. So, what I'm bringing to the attention of the board is this is clearly a residential area. This is, this piece of property does not abut another industrial area at all. The Mass highway is not part of the Town of Ludlow. It's not an industrial area. It's not within the zoning, and it is irrelevant. That's an issue of, well they're near the highway therefore we can make this into an industrial area. Now, when you have such a large amount of residential property and you have one individual who's --- and says I want to make a zone change from residential to industrial. And the zone change, it raises the issue of infamous spot zoning. And I've got a number of court cases here, which I would like to bring to your attention. I would like to read you the main points of each case. My argument against this is what is attempted here is impermissible spot zoning, creating an

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industrial area in the completely, without question, residential area, it's not even mixed use, it really isn't. Here are the arial photographs of Google Earth. You can see it even better. That's the industrial area at the end of West Street. This is their property, this is my property, and these are the properties in between all the way across. And this is the closest industrial area to that property. So, it's not a case of, well it's proximity and spillover, and there's an industrial area right next to it and we need to make it a little bigger to accommodate new industrial areas. Now I'd like to read some of the quotes that I have from some of the cases, if you'll bear with me.

Mr. Queiroga: Do you live at either one of those properties?

Mr. Mosca: No, that's just land. I live in Northampton. They're undeveloped, A and B are undeveloped. In my view, it's an attempt to create a new industrial area in a residential area in Ludlow where there is no industrial areas at all in that area. I'm gonna read you from some court cases if I may. Spot zoning is impermissible because it violates the uniformity principle in a course where there is "a singling out one lot for different treatment from that accorded to similar land indistinguishable in character or for the economic benefit of the owner of the lot". It's Whittemore vs Building Inspector Falmouth 313 Mass 248. Any zoning ordinance or bylaw which divides cities or towns into districts shall be uniform within the district for each class or kind of structures or uses permitted. Basic assumption underlines the division of the municipality of the zoning districts. In general, land use will have predictable character and that the uses of land can be sorted out in compatible groupings. Now, the land is uniformly residential as I pointed out in those three colored photocopies over there. Putting this in there, disrupts the uniformity of the area.

Mr. Queiroga: Is your land Residence B?

Mr. Silva: Yes, it's already --- spot zoning, you could actually consider that already spot zoned because it's a Residence B and it's not Residence A.

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Mr. Queiroga: So, it could be apartments?

Mr. Silva: There could be apartments.

Mr. Queiroga: ---

Mr. Silva: Which the residents still live there, but technically apartments now in this day and age is a business.

Mr. Phoenix: Well, what I was trying to look for…

Mr. Coelho: It's still a far cry from industrial though.

Mr. Phoenix: When I first, when I first got involved in the Planning Board back in the 90's, the guideline that we had was, in order to avoid spot zoning, you either needed to be contiguous or at least five acres. That was the standard that we had at that time. Somewhere along the way, and I'm not able to find it, spur of the moment searching my email, we had gotten guidance, I believe it was from town counsel, that there was a different way of reading the law that took out the five-acre piece on that noncontiguous. And we had the guidance that we shouldn't necessarily be looking at that, which is why I commented on, you know, we're a little over three, we're not at that traditional five that we used to look for. But it's certainly my understanding now, that based

on legal opinions that we've received, that that's not something that needs to be. Also, the stuff, as far as uniformity in the district, that would be that if, let's say, that we allow warehousing in industrial, we have to allow it all throughout the industrial district. We can't allow it in this neighborhood of industrial but not that neighborhood of industrial. That's uniform across the district, so that's the uses within the zoning, it isn't the zoning itself. So, that's a separate thing. It's just put together differently.

Mr. Silva: If I may, I just want to address one of the things he said. That necessarily you don't want to change it for the benefit of the land owner and for the economics, and I will say that by doing this, it doesn't increase the value of that property versus what the value is for the Residence B because that property could probably be split into three lots and make, you know, three duplexes if we decided not to go with the fifteen apartments and do smaller units. So, as far as the, ultimately, as far as it being much more valuable, it really is not the reason.

Mr. Coelho: Well, that's kind of contradictory to how you started off by saying because it was zoned residential you were having trouble developing it because of the economy and this will, in fact, spur development, the zone change will spur development of that.

Mr. Phoenix: I think that's the thing is, there's multiple factors here, there's what it can be split into and then those might sell for, versus is it saleable, and those are different questions. Ultimately, if we're looking at avoiding what's in the best interest of the property owner, if we say that, you know, we're not gonna entertain the zone change if it's in their best interest financially or otherwise, that would disqualify 99% of zone changes that come in here because there are very few that are not in some way financially beneficial for the person that's putting in the time and energy to do this.

Mr. Stefancik: --- uses too that are allowed in Industrial aren't allowed in say Business A or B. --- auto sales is only allowed in industrials --- to have auto sales on the property, it has to be Industrial or Industrial A or Industrial C.

Mr. Coelho: Now, as far as the spot zoning goes, the Attorney General is gonna review these regardless, correct?

Mr. Stefancik: Yes.

Mr. Phoenix: Yeah, after it goes through town meeting, the AG's Office would review.

Mr. Coelho: And if the AG determines it's spot zoning, it doesn't happen?

Mr. Phoenix: Yeah, I think they'd kick it back. I don't think we've ever had one kicked back. We've had ones, I'd say, at least this size or smaller. --- through, Doug?

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Mr. Stefancik: We've had across from Randall's, they rezoned that parcel Business B and that, I think, was under five acres.

Mr. Phoenix: Given how long I've been doing this and given the fact I was trained for the contiguous or five acres; it always makes me feel a little bit itchy when we're looking at one that's smaller and not contiguous. But that doesn't mean that it's not necessarily in keeping with current legal guidance.

Mr. Queiroga: Before we go on to more comments, I just want to read something which I forgot to read, and this is from the Board of Selectmen.

Mr. Phoenix: You read that one.

Ms. Houle: You read that one.

Mr. Queiroga: Oh, I read that one? I'm sorry. Go ahead.

Mr. Mosca: Ok, I have here a photocopy of an article that appeared on MassLive regarding the terrible accident that happened there, and apparently, it's not the only one because there were, I think it says six accidents in that area. I'd like to submit this article for your review. I'm, just looking for the number on…

Mr. Phoenix: I'm aware of both of the children that were in that accident.

Mr. Mosca: Right, that was the worst one, yeah.

Mr. Phoenix: And, you know, my family is well acquainted with that family. And like I said, my daughter was very good friends with the girl. And it's a rough corner, and I think the comments were made about the traffic there. A lot of it just has to do with people that are not following the rules of the road. Some of it probably has to do with when there's adverse weather conditions, things like that, which stack pretty horribly with excessive speed. And that's also why, again, not completely on topic for the zone change. I asked if there were already any potential plans being thought of to mitigate that as a potential hazard, and it sounds like at this time that's not something that's been decided because they don't know what's gonna be going in there, but when it does come in for site plan review, that's something that we would be looking at, at that time is making sure that it's a safe proposal.

Mr. Mosca: Yeah, my point being that a business is gonna have a lot more traffic in and out than two-family homes or three-family homes.

Mr. Phoenix: Depends on the, it depends on the type of business really.

Mr. Mosca: I mean, if it's a business, it wants to do business and people are gonna come and go. I mean…

Mr. Coelho: But again, we could be looking at businesses like we just had in front of us that are low impact…

Mr. Phoenix: Estimated seven trips per day.

Mr. Coelho: …versus three two-families which is, what's that, three times two is six, that's twelve cars, three trips a day, going to get milk, school, lunch. You're talking, could be upwards of sixty trips a day.

Mr. Silva: Yeah, and that's if we go to the two-families. If we go to fifteen units…

Mr. Coelho: Typically, residential does have a larger impact depending on what's being put there from an industrial perspective.

Mr. Phoenix: And honestly, if we're gonna be talking about a safety perspective if we're looking at having homes there that might potentially have small children living there that might want to walk down the corner and go over to Cumby's, that's an uncomfortable feeling for me, as opposed to having a business there where people aren't going to be doing that same thing.

Mr. Silva: I got to say that that's not gonna happen on that road, kids walking on that road. I don't know if you've been there. I stopped there several times with the perspective, people looking at it. I'm amazed at how fast they go on that road, it's amazing.

Mr. Coelho: I think if all this land around this was vacant now as opposed to before they did the change over there, that would probably be an industrial area to begin with if it was a blank slate. --- they knocked down a chicken coop when they redid that road, I worked on the chicken coop. When they redid that road, that changed the nature of the neighborhood as well, made it more into a freeway, before it was a not a very well-maintained road and it was very narrow and...

Mr. Phoenix: And at least it wasn't a straight shot across to West.

Mr. Coelho: Right, right. This is tough, it's tough.

Mr. Mosca: One or two other comments. I did some research on the internet, when the property was on sale, unless I'm mistaken, it was on sale as one entire parcel...

Mr. Silva: Yes.

Mr. Mosca: ...instead of breaking it up, you know, a lot for one two-family and another lot for another two-family and another lot for another two-family. So, you're not gonna have an individual that says I want to build my two family there and buy all the land and then get stuck with the rest, it's too high a purchase price. So, for marketability, I think if you divide it individually into lots, you can sell them as three two-family homes. It would be consistent with the residence, the residential nature of the area and in my view, I believe this is a case of spot zoning. I will take into consideration what you have indicated. I've done a lot of legal research in the last week on this. I've read a lot of cases and haven't heard anything about the five acres. I haven't seen that.

Mr. Phoenix: You probably haven't seen it because it's now an antique.

Mr. Mosca: Well, I read all cases new and old and I have not seen that, but what I've seen is that, you know, if it's contiguous to other industrial areas, then spillover is allowed, it's amenable. That's why I brought these. I mean, this is not contiguous in any way, shape, or form. It's all residential, and in my view it's inappropriate. It's an inappropriate request because spot zoning is not permissible. I've concluded my remarks, thank you.

Mr. Phoenix: Where we at, Joe?

Mr. Queiroga: Two good proposals. Which one do we?

Mr. Phoenix: Well, we have...

Mr. Coelho: Typically, it's town meeting that has this say with our recommendation.

(multiple people talking)

Mr. Phoenix: Our question is to recommend up or down to town meeting. The main difference that our recommendation has is if we recommend against and town meeting agrees with us, then it puts a freeze in place before it could come back again to be asked again.

Mr. Silva: A couple years, I believe.

Mr. Phoenix: Something like that. We haven't really come up against that very often. But I think that's the main impact of our decision other than it sometimes informs town meeting, sometimes they decide to go against us anyway, certainly wouldn't be the first time. But that's really what we're looking at tonight is what our recommendation to town meeting is.

Mr. Mosca: Could I make a suggestion? Could you refer to town counsel for an opinion on spot zoning?

Mr. Coelho: I was thinking the same thing.

Mr. Mosca: And I'd be happy to…

Mr. Coelho: And I'm the last person to say let's include counsel. You guys all know that.

Mr. Mosca: I'd be more than happy to submit a memorandum of law to town counsel. They could review it and formulate…

Mr. Coelho: Well, that's between you and them.

Mr. Mosca: …their own opinion and that would be an approach.

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Mr. Phoenix: We've got some time between now and town meeting. We're not up against a wall on the time. Honestly, based on prior advice that we've been given, I think we've already kind of gotten the answer to it, but if we want to get a refresher from town counsel, I'm certainly not opposed to that either.

Mr. Silva: I'm not either, I just, you know, being in a position that I'm in, I don't see town counsel needs to look at a decision like this and using town funds to look at this.

Mr. Coelho: That's the problem I have with this, but we have certain other offices in here that call town counsel to use the bathroom.

Mr. Silva: I know. ---

Mr. Coelho: But this here, we're talking about spot zoning might be an actual application of that.

Mr. Silva: And I don't have any, any, any…

Mr. Coelho: I'm the last person to say town counsel. We're here to make these decisions except in an instance like this.

Mr. Silva: I don't have anything against, except them reviewing it or looking at it. But it's, I don't know.

Ms. Houle: You've got the time, you do have the time until town meeting.

Mr. Phoenix: So, if that's the case, if we want to look at doing that, I wouldn't want to say let's continue to our next meeting because there's, that might put a bit of a crunch on town counsel to get things back in time. Do we want to continue for two meetings out and request the opinion of town counsel to speak to whether or not that we consider it to be spot zoning in a case of this piece of property that's noncontiguous at the size that it is. Is that what we're thinking? Two meetings, is that comfy for everybody?

Mr. Carpenter: That just puts us approval or denial, would be for October, correct?

Ms. Houle: Recommendation.

Mr. Phoenix: No, I think this is going to May, right?

Mr. Silva: Well.

Ms. Houle: Well, it's already on the warrant.

Mr. Carpenter: It's already on the warrant?

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Mr. Phoenix: That's why it's coming to us now. If it was October, we wouldn't be hearing it yet. So, if that's the case, if we're not looking to have it to town meeting until May, and we can get an opinion back from town counsel two meetings from now, it's gonna be early April, I think we're still in good shape there. I mean, if that's what people want.

Mr. Silva: Again, I don't have any opposition, this is just an idea that I had to come forth and try to get it just partial developed. If you feel more comfortable with it, by all means, I mean it's ultimately your decision.

Mr. Coelho: This is the only one I ever had that hasn't been contiguous ---.

Mr. Phoenix: It might be the only one that's come into mind, but I think you'd find that that's not completely true.

Mr. Coelho: No?

Mr. Carpenter: In my opinion, is it's that, hey it still has to get approval or denial at town meeting and then approval or denial from the Attorney General.

Mr. Silva: Yeah, and that's a good point. If it is spot zoning, then the Attorney General's gonna say hey fellas this is, and you're gonna get it kicked right back, so.

Mr. Stefancik: Town counsel reviews all the articles as well as the warrant articles.

Mr. Silva: Yeah, they review all of the warrant articles.

Mr. Stefancik: If you say something that you need to put a stop to this, then they can kill it before town meeting too.

Mr. Coelho: Well, I think we should send it up there to make sure he reviews it before that when he's not reviewing all of the other articles as well, and then we can take our vote on it.

Mr. Phoenix: Can I make a suggestion, Chris?

Mr. Coelho: Of course, you can, that's what we're here for.

Mr. Phoenix: Just so that we cover our bases, ask for opinion on this specific parcel, but also just ask for general guidelines to avoid spot zoning so that we're getting something out of it that the board can look at in the future without needing to phone a friend every time something comes in. I think we've gotten something similar before. I just, with two minutes of searching my email, I can't turn it up, given a little more time maybe I could. But, having that as an artifact for the board is probably not a bad idea. Does that make sense?

Mr. Coelho: Yup.

Mr. Queiroga: So, what would be the time for the structure here?

Mr. Phoenix: So, I'll make a **MOTION** to request an opinion from town counsel on whether this particular proposal meets the standard for spot zoning or is suitable as avoiding spot zoning, and further to ask town counsel for guidance as to what we should consider as constituting spot zoning when proposals come in front of the Planning Board for a zone change in the future.
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

Mr. Phoenix: Sue, what's the calendar looking like in a couple meetings?

Ms. Urban: April 13th.

Mr. Phoenix: April 13th, what do we have 7:00 free?

Ms. Urban: Yup.

Mr. Phoenix: I'll make a **MOTION** to continue until April 13th at 7:00 p.m.
SECOND Mr. Coelho.
5-0 in Favor.
Roll call vote: Mr. Carpenter – yes; Mr. Phoenix – yes; Mr. Coelho – yes; Ms. Houle – yes; Mr. Queiroga – yes.

The public hearing was continued until April 13, 2023 at 7:00 p.m.

APPROVED:

Joseph Queiroga, Secretary

su

Documents: Master application; Assessors' Map 1A; Letter from Marc Strange, Town Administrator re: receipt of petition for zone change (February 8, 2023)

(Documents pertaining to this hearing are available for viewing in the Planning Board Office during regular business hours).

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