BRISTOL PLANNING BOARD
SEPTEMBER 11, 2025 MINUTES

TOWN HALL
10 COURT ST.
BRISTOL, RI 02809
401-253-7000

Held: September 11, 2025 in person

Location: Bristol Town Hall, 10 Court Street, Bristol, RI

Present: Charles Millard, Chairman; Steve Katz, Secretary; Member Brian W. Clark, Member Richard Ruggiero; First Alternate Member Michael Sousa, and Second Alternate Member Jessalyn Jarest

Also Present: Diane Williamson, Director of Community Development, and Amy Goins, Esq., Assistant Town Solicitor

Not Present: Anthony D. Murgo, Vice Chairman

B. Approval of Minutes:

Regular Meeting - July 10, 2025

A motion was made by (Katz/Clark)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

Special Meeting - August 7, 2025

A motion was made by (Clark/Sousa)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

C. Agenda Items

C1. *Applicant has requested a continuance until October 9, 2025 Planning Board Meeting.*

Review of Master Plan phase for Major Land Development of the Comfort Inn and Suites – to build an 80 room hotel. Property on south side of Gooding Avenue approximately 50 feet east of the intersection of **Gooding Avenue and Broadcommon Road**, near utility pole #218. Owner: D & M Boca Development, LLC Zoned: GB. Assessor's Plat 111 Lot 1.

Member Katz stated that the applicant requested a continuance to the next meeting.

Attorney Goins stated that the application would be heard at the October 9, 2025 and the applicant agreed to extend the Board's deadline for decision as well.

A motion was made by (Katz/Sousa)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

C2. Public Hearing and Consider Action on Preliminary Application for Fair Winds Comprehensive Permit Application – Proposal to construct 17 residential units with 5 of these designated as low-moderate income residential units and 1,859 square feet of commercial use within an existing garage/barn to be used as the property management office and property owner equipment storage building. Property has an existing 3-family building which will be retained for a total of 20 dwelling units on the property. Property located at **206 Bayview Avenue**. Assessor's Plat 47, Lot 3. Owners: Fair Wind Properties, LLC. Zoned: R-10 Variances requested from the Zoning Ordinance for the following:

Section 28-282 (d) Standards for Multi-family buildings: Subsection 2 – distance between multifamily buildings on the same lot. Minimum required 25 feet and 10 feet provided; Subsection 3 – Distance between multi-family buildings and property line Minimum 50 feet from side and rear property lines and 32.1 feet minimum is provided; Subsection 8 – not more than four contiguous townhouses built in a row. Section 28-111 Table B – 80' of frontage required and existing frontage is 72.50; Section 28-363 (2)(a)(1)Residential Density allows 15 residential units and 20 units are provided with 3 existing and 17 new units; Section 28-3 and Section 28-82 multi-family dwellings are not allowed and multi-family dwellings are proposed; Section 28-252 – non-conforming structures – the existing garage/barn on the property will be used for property management storage and office; Section 28-251 – size of parking spaces and aisle width - parking spaces are to be 10' x 18' and proposed parking spaces are 9' x 18' and aisle widths are to be 24' wide and proposal is 20' wide. Waivers requested from the Subdivision and Development Review Regulations for the following: Appendix F.2 (f)(1) Sidewalks required on one side of street in multi-family developments and no sidewalk is proposed.

Member Katz then read the next application and the requested variances.

Matthew Landry, Esq. from the office of Blish & Cavanagh came forth to speak on behalf of the applicant, Fair Wind Properties, LLC, along with Daniel Ferreira, the owner of Fair Wind Properties, LLC. Also present were Thomas Principe, Civil Engineer from Principe Engineering, who prepared all of the site plans, James Houle, from Houle & Associates, the real estate expert who provided the Land Use Consistency Plan that was in the record. Joe Lombardo, who prepared the Physical Impact Study was to also be present but was unable to attend. Attorney Landry stated that Mr. Lombardo prepared a very comprehensive report regarding physical impacts and if additional information was needed from Mr. Lombardo, they were happy to supplement it. Jim Cronin from Crossman Engineering was also present to provide a traffic report. Attorney Landry stated that Mr. Cronin did traffic counts twice before school was in session and then again in spring when school was in session to ensure that the traffic counts were properly reflecting the student activity along Bay View. Also present was David Sisson, Architect, for the project. Attorney Landry stated that he was not going to have everyone testify at great length. He was going to introduce the project and then turn the presentation over to Mr. Principe and then would Mr. Ferreira speak on behalf of the applicant.

Attorney Landry stated that the project had been before the Planning Board before and been at TRC. He stated that the project had been around for a couple of years and many people in the Town were familiar with it. He stated that Mr. Principe would go through the details of the engineering plans and the drainage report and some updates with the Bristol County Water Authority matter concerning the water main that the Board may not have been aware of. Attorney Landry said that Mr. Ferreira was then going to introduce himself to the Board again and to the public and to provide some context on where the project has been and where it's going. He also stated that the entire team was available to respond to questions anyone may have. Attorney Landry stated that they relied on all of the facts and findings in the expert reports that were submitted into the record, but the experts would testify with regard to any reports if the public or the Board saw fit to do so.

Attorney Landry then went on to give a high-level overview of the project. He stated that this was a Comprehensive Permit Application under the State's Low and Modern Income Housing Act and that Act allowed the applicant to come before a single Planning Board for any and all zoning relief and planning relief that an applicant required and they could ask for any waivers that were required in the subdivision regulations or in the municipal zoning ordinances in connection with the project as sort of a 1 stop shop for all of the relief they would need. He stated that in exchange, the applicant was proposing at least 25% of the proposed units be deed restricted at least for 30 years for low to moderate income housing. He stated that this would be a rental community so under state guidelines the LMI threshold is up to 80% of area median income predefined by HUD and the RI Housing. He stated that there would be an independent monitoring agent that would review all of the applicants for eligibility ensuring they would meet those income requirements. Attorney Landry stated that during the Final Plan Review there would be land evidence documents and deed restrictions that would be reviewed by planning staff as well as legal counsel to ensure the deed restrictions remain in place.

Attorney Landry stated that with the project there existed a 3 unit in a multi-family structure on the property just over 2 acres in size. He stated that the existing structure was currently occupied and has been occupied for the last couple of years with annual rentals. Attorney Landry advised that there had been no purported violations or noise issues, anything associated with the existing operation and that he was going to have Mr. Ferreira speak to that in more detail. He went on to say that the project would modify the multi-family structure to maintain the 3 units in it, but with 1 unit being a 4 bed unit and the other 2 being 3 bed units and the remainder of the 17 units would be townhouse style construction in the rear of the site. He said that the site was fairly clear under the existing conditions and has significant vegetation around the perimeter and bordered some commercial and industrial uses, and along Holly Lane bordered 5-6 residential units. Attorney Landry stated that 5 of the units, which constituted 25%, would be deed restricted for LMIs. He stated that there was a breakdown of the units on the site plans and those units would be well integrated in accordance with State law with the market rate units. He said that they would be similar in size, material, and no one would be able to tell which units were the LMIs from the market rate units.

Attorney Landry stated that the 17 townhouse units that are to be constructed are 3 bed units roughly 1,600sqft in size with private patios and balconies and 2-car garages. He stated that there was an existing garage on the site that has been there for quite some time, probably for 100 years and it has been proposed to be repurposed for onsite maintenance and supplies and anything used in connection with property maintenance itself. He stated that there would be a property management office located above the existing garage structure on the second floor. That would be for traditional offices to operate as the front office for the property. He said that access would still be off of Bay View Avenue and the traffic report reflected that there would be minimal to no impact on traffic as a result of the development. Attorney Landry stated that it was in an R10 district which was a high-density residential zoning district. He said that by right, it's 12 units under traditional inclusionary zoning and under the new low to moderate income housing act there are density bonuses, minimum density bonuses that the State allocates to those types of projects particularly if there was sewer and water availability which exists here which gives up to 5 units an acre, so the density bonus would allow upwards of 16 units on site by right and they are proposing 17 newly constructed units with 3 existing units on site for a total of 20 so it's well within reason for what would be allowed under State law for minimum density guidelines. Attorney Landry stated that the Town of Bristol was at about 6% and the State law mandates that comp permits are a mechanism to increase the affordable housing stock and each Municipality was mandated to reach 10% affordable housing stock and the Town was still under that threshold and the project would be a welcomed addition to the Town and supply much needed affordable housing to the community. He stated that it was in an excellent location and was being developed by a developer who has a lot of experience in the field. He then introduced Daniel Ferreira and Thomas Principle to speak about the project.

Daniel Ferreira, owner of Fair Winds Properties, came up to speak about the project. He stated that they did a TRC meeting with the Board which went well, and he was happy to be in front of the Planning Board to present the final application. Mr. Ferreira stated that he has been in the real estate business since 2020 and now owns 7 units throughout Bristol and all without any noise or maintenance issues. He said they fully rehabilitated all of the properties prior to anyone occupying them in order to provide good clean housing for Bristol residents. Mr. Ferreira said that since he grew up in Bristol and has always lived in Bristol, he wanted to always make sure he maintains a good image in front of the Board and the Town. Mr. Ferreira stated that everything Fair Winds tries to do is quality work with quartz countertops, and stainless-steel appliances. He said that if they have a property that was older and didn't have fire alarms, they would install a wireless alarm system where the alarms could communicate with each other as if they were hard wired, as they always try to thing about safety and they tried to make sure they provide a nice place to live. He said that's why they decided to go with the townhouse style property versus a single or 2 bed unit having people stacked on top of each other in order to have something that felt more family oriented. He said that there will be a 2-car garage underneath each townhouse with plenty of storage, and that there will also be plenty of parking on site for guests. He feels that it's a wonderful project, and he's very proud of it. He stated that if there were any neighbors at the meeting with any issues, he would be happy to address them. He wanted to be accommodating. Mr. Ferreira said that he's been at many TRC meetings with Diane Williamson and Member Steven Katz to make sure that he was bringing something that the Town could be proud of and that he could be proud of that also makes financial sense as well.

Attorney Landry then asked Thomas Principe to step up to summarize site plans and engineering plans and thing of that nature. Thomas Principe then came up to discuss the plans of the project. Mr. Principe stated that so far during this meeting the Board had heard from Attorney Landry and Mr. Ferreira regarding the history of the project. He reiterated that the project has gone before multiple TRC meetings. Mr. Principe wanted to bring the Board and the public up to date that the project did have the RI DEM and stormwater permit in place. He said they had been working with Pare Engineering on multiple TRC meetings. He said that in regards to the site plans, there were some revisions that had been made and they were submitted back to the Board, Ms. Williamson, and to Pare to address some of the questions and concerns. He said that a lot of it had to do with drainage. Mr. Principe said that they had a State permit, but they were trying to make it better. He said that some of the storms have been a little more frequent and a little bit more extreme and it was one of those things that they wanted to above and beyond the DEM permit as much as they possibly could and that's what was actually in front of the Board this evening. He stated that they met with the sewer department on several of the smaller details. He said there were no big issues with the sewer department, but they met with them week just to go over some constructability to fine tune details on the final plans. Mr. Principe said that one of the underlying items that was more of a construction thing was the Bristol County water main. They have marginal water and they have had several meetings with Bristol County Water and the client agreed to bring in an 8 inch main off Metacom coming down past the Police Station to service the project in order to have ample flow and pressure. The Fire Chief didn't require a hydrant, but since they were bringing down an 8 inch water main, they are going to put in a hydrant and the Fire Chief was very happy about it. Mr. Principe stated they met with Bristol County water to go over the logistics and they reassured them there's water for the project. He said that the conversation right now in can the water main be put in the shoulder or does it have to be put in the street and replace the existing 2 inch line right now. He said that Bristol Water was leaving it up to them and the client to determine that and they were going to figure out how much ledge was there to see if it's a cost constraint for the client. Mr. Principe stated there's no issue with water. He asked if any of the Board members had questions. With no members of the Board having any questions, Chairman Millard turned the matter over to Diane Williamson. Diane Williamson stated that there was a staff memo in the packet and that she could comment on it after the public hearing was concluded. Chairman Millard asked Attorney Goins if they should open the public hearing and Attorney Goins advised they could if the applicant was done presenting.

Attorney Landry stated that concluded the extent of the testimony the team had, but he reserved the right to respond to any public comment or to give any additional information that was needed. He stated for the record that there was a traffic report that analyzed the site at 2 different time periods including student travel, and that the report concluded that there would be significant impacts as a result of the development. He stated that James Houle has extensive land use planning report that certified that the project was consistent with affordable housing elements of the comprehensive community plan and he set forth the grounds that are required for approval in that report. He also stated that there was a fiscal impact study and they stand by those reports and to the extent any additional testimony in support of those reports.

Member Clark made a motion to open the public hearing portion of the meeting

A motion was made by (Clark/Katz)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

Chairman Millard asked if there was anyone in the audience who would like come forward to speak for or against the project, or if they just had a question they could come up to speak as well.

Russ Sullivan who lives at 3 Holly Lane came up and stated that a letter was submitted to Diane Williamson. He stated that he had no objections to the project itself and that the letter to Ms. Williamson basically represented 3 of the neighbors from 3, 5, and 7 Holly Lane. He said they're main concern was the tree line on property line which had Black Locust trees. Member Clark asked if it was on the westerly side, and Mr. Sullivan said it was. He said that they would like those to remain and to create a sense of privacy for their back yards, they would like to have a fence or some sort of barrier there to keep the privacy level. He said other than that, they had no object to project itself. The thanked the Board for his chance to voice the concerns of his neighbors and himself.

Chairman Millard asked if there was anyone else. Brenda : anyone else?

Brenda Sweeney of 200 Bay View Avenue came up to speak. She stated that she wasn't sure if she was for or against the project just yet. Ms. Sweeney asked if it was going to impact the value of the properties around it and she had a question about the water as the water pressure hasn't always been the best in the area. She said she heard something said about the water but didn't really understand it.

Mr. Principe asked to comment on it and Attorney Goins stated to wait until after all of the members of the public put their questions to the Board and then the applicant could respond to everything. Member Clark did stated that the applicant was going to be replacing the 2 inch main with an 8 inch main and they will have more water. Diane Williamson said she didn't know if the water was going to be extending to Ms. Sweeney's house as it might just be going to the development.

Ms. Sweeney stated that her biggest concern was privacy and how it was going to affect the value of her home.

Chairman Millard asked if there was anyone else who wished to speak.

Denise Parente of 175 Bay View Avenue came forward. He was not opposed to the project, but rather the scale of the project. He stated that there was nothing similar on the street other than the Almeida apartment and the rest were mostly single or 2-family dwellings. Mr. Parente said that he noticed on the plans that it looked like there was only one access in and out of the property and not 2 ways and he asked if it was true. Member Clark stated that was correct. Mr. Parente asked if the Fire Department signed off on it. Member Katz stated he was on the TRC and the Fire Chief was very comfortable with plan and how the access was set up as a loop that goes around and then back out the same way on Bay View. Mr. Parente asked if there was an emergency at the main house that exists on the property now and the exit was blocked, would the other individuals in the complex be able to evacuate. Member Katz said that was a valid point, but the Fire Chief was comfortable with it. Mr. Parente also asked if the covenants were going to prohibit short-term rentals. He wanted to make sure that someone was not going to be able to rent a unit and then turn around and sublet it to someone else. Chairman Millard said that the owner should answer that question. Mr. Parente said that should be a major concern as it was one thing to provide housing for people and it's another thing for people to make money with short-term rentals in Bristol by doing an Airbnb.

Mr. Parente then went on to question the traffic study. He said the traffic counts at the am peak was 8 trips and the pm peak was 10 trips and assumed that meant per unit and feels that's ridiculous. He questioned how the study could say that a 17-unit subdivision was going to only have 8 trips as on average he makes 8 trips a day out of his own house. Mr. Parente stated with 17 units and each did 8 trips per unit, then it would be a total of 136 – 200 trips and, thus, questioned the traffic study. He also asked if the study looked at the traffic at the intersection of Mount and Bay View now as traffic coming from Police Station and are trying to make a left hand turn a person may have to wait 2-3 light changes before doing so. Mr. Parente questioned the integrity of the traffic study since he found the numbers to be so low. He said adding 100 cars or 100 trips there everyone should be prepared for a complete traffic jam. Mr. Parente then asked about the property next to police station as it has all been cleared as he was concerned that it was going to be another multi-unit development. Ms. Williamson stated that the property was owned by the Town and it was being prepared to be developed into a future police station project. Mr. Parente appreciated the fact that Mr. Ferreira was a resident of Bristol and his heart was in the right place, but felt that the project was totally out of scale for that piece of property and the neighborhood.

Chairman Millard asked Attorney Goins if the Board controls the number of units being placed. Attorney Goins said that under State law for comprehensive permits there was a mandatory density bonus and the Staff report indicates that the project was eligible for 15 units and they're requesting 20, and 3 of which were existing. She said obviously the Board has to find that the project satisfies all of the required findings, but the Board has some discretion in that 15-20 zone. Chairman Millard stated that they're asking for 20, but 3 already exist, so they were asking for 17, but they're allowed 15 in total. Attorney Goins said that was correct.

Mr. Parente came back up and asked for clarification. He said that when they mean that the applicant was allowed 15 units, that didn't mean they were entitled to 15 units, it meant that the applicant was asking for significant zoning changes. He said that it was only if the Board allowed the zoning changes and the applicant goes forward with the project that 15 would be the maximum number of units they would be allowed to build. Attorney Goins said that was correct, but it's not that the Board determines the zoning relief separately from the approval of the project, it's all wrapped up into one project and the Board has the required findings in the packet. She stated that if all of the required findings are met, that's the density the applicant was eligible for. Attorney Goins said they're asking for 20 when they're entitled to 15 as that's the Board's area of discretion. She said that if the project satisfies all of the findings, 15 was mandatory. Mr. Parente stated again that it required significant zoning changes and that at the moment the property was zoned where none of it could happen, so it's going to be the Planning Board or whoever makes the final decision allowing the project to go forward and then get into the idea that it's eligible for the additional units. He just was looking for clarification on it. He said that the property was not currently designed for the project. Ms. Williamson said that under the Comprehensive Permit law that the State has enacted, the Planning Board was the one stop shop and if the project goes forward, all of the zoning, waivers, and variances requested would be part of the Planning Board's approval and not anyone else's.

Member Ruggiero said he was still a little confused. He asked if the 15 units allowed only after the waivers and density was given. Attorney Goins said that they were allowed if the project satisfies the required findings for a comprehensive permit. She stated if the project was submitted as a conventional subdivision with no affordable units provided it certainly wouldn't be eligible for 15. She said the 15-unit mandatory density bonus was built into the Act. Member Ruggiero stated that it's only there because of the LMI. Attorney Goins said that was correct because the project was providing at least 25% affordable and that's what the State has done to incentivize developers to propose project to include LMIs. Member Ruggiero asked if the LMI was eliminated, would it give more leeway for the 15 units. Attorney Goins stated that the LMI couldn't be separated from the proposal so if the LMIs are taken out, it's no longer a comprehensive permit application so that's non-negotiable. Member Ruggiero said when Attorney Goins said "non-negotiable" that means the Board doesn't have the power to take it out. Attorney Goins stated that the application isn't before you if it doesn't include 25% LMI and that's the only reason why they're eligible for this type of application and they have their letter of eligibility from RI Housing because it's a comprehensive permit. She said there are findings related to the LMIs units that the Board has to make, but they're considering the project as a whole because it's a comprehensive permit application.

Chairman Millard asked if there was anyone else in the audience that wished to speak.

Tom Nichols of 208 Bay View Avenue and live on 2 lots. He said he and his wife were not opposed to the project but had some questions. He asked about the grading as they had issued with the water getting into their garage because of the way the pitch was, especially during the spring months when the snow melts. He asked if the grade was going to be lifted or kept the way it was now and if it was going to be kept that way, how was that going to be structure to support all that water because of the new construction of driveways. Mr. Nichols' other question was about the sewer system. He asked if there was going to be a septic system or were they going to tie into the Town sewer system as the line from the road to their house goes out of pitch downward and he suspects that the sewer line would go down. He asked because the amount of usage from the units was there going to be an influx tying into what there was now and cause a problem down the road and may affect the neighborhood in the long term.

Russ Sullivan came back up and said that Holly Lane did not have Town sewer and everyone had septic systems, and he didn't know why and thinks it has to do with ledge. He asked if the project had Town sewer and, if so, how were they able to get it but Holly Lane does not have it.

Chairman Millard asked if there was anyone else that wished to speak and with no one else coming forward, Chairman Millard turned the conversation back over to Attorney Landry.

Attorney Landry then addressed the concerns of the public. He thanked the public for their feedback and said it was very helpful. He said it was things that were considered as part of the design process by the staff and TRC. He stated that it was a well thought out designed and a well thought out project and that the professional would be responding to the more technical aspects of the project momentarily. Attorney Landry addressed the density LMI concept and how it works. He said the Planning Board was charged with weighing need for affordable housing in consideration of the waivers that were being requested. He stated that the density was very much in line with what the State minimum required under comprehensive permits. He said it was in line with the R10 zoning district and what could be done by right. He said those were minimums and not maximums. Attorney Landry stated that the Developer could ask for as many as he wanted. He thought it was important to note that there was a higher density originally proposed in the application when it first came in, that being 24 or 25 units, which has been reduced significantly since the original proposal. He reminded the Board that there were 3 existing units on the site and what was being requested was a unit or 2 more than what the minimum density was required under the application. Attorney Landry stated that density bonuses were intended to offset cost of the LMI units. He said that the State Legislature understood that developers were probably going to lose money on constructing LMI units, and the density bonuses were designed to give the developer additional market rate units to recoup those in exchange for provided LMIs. He stated that the Town was only at 6% and it was supposed to be 10% and the project would help further that goal. Attorney Landry said the Board needs to weigh the need for the LMIs in Town in exchange for the types of waivers that are being requested. He stated that most of the waivers that are being requested were related to the multi-family building separation, spacing, and things of that nature, so it was not overly excessive compared to other comprehensive permits that he had been involved in.

Attorney Landry then addressed the fence and trees along Holly Lane, on the west side. He stated that the applicant had gone through great lengths to ensure the project was designed with the neighbors concerns considered. He said there was an extensive amount of fencing that was being proposed along the eastern and southerly borders where most of the commercial properties were located. He stated that purpose for that was when a commercial business comes into Town, they have to have a buffer against residential properties and the applicant is essentially doing the reverse in this situation. He stated that the applicant wasn't adverse to shifting the fence from that side to the residential side as it was certainly in line, but to extend it around the whole perimeter of the property was substantial and costly. With respect to grading, Attorney Landry stated that the site was going to be fully graded and cleared for the project. He stated that the applicant was not intending to remove anything more than what was absolutely necessary to grade the site for sewer design, utilities, drainage basins, and things of that nature. Attorney Landry stated that the trees would remain and it was all set on the plans and that most of the area abutting Holly Lane would have trees planted there. He stated that grading was important for the runoff issue. He advised that the applicant is prohibited by DEM from increasing stormwater runoff pre and post-construction and they would have to treat and maintain stormwater runoff on site, they cannot increase the flow. Attorney Landry stated that there were calculations that Mr. Principe had prepared and DEM reviewed. He advised that all of the stormwater runoff would be treated on site and there would be no increase in stormwater runoff and the grading was an important part that to install the proper drainage features and make sure all of the systems work so there are no adverse issues, and DEM would monitor that independently from the Town.

Chairman Millard asked if the grading would be outside of the drip line of the Locust trees. Mr. Principe stated that they would have to locate that on their survey plan as they did not have the Locust trees located on the property. He stated that it was important to do so to ensure that it was avoided to maintain the health of the trees. Chairman Millard asked if they would be staying out of the drip line of the Locust trees as it was an important issue. Mr. Principe said he was not sure how big the trees were. Mr. Ferreira also stated that when the site was cleared, and he directed the Board to look at the first page of the application, it showed the trees on the site, the trees were not on the property itself. He stated that the Locust trees were not part of the property itself. Chairman Millard stated that it made the grading question even more critical because if they were to grade within the drip line of someone else's drip tree, they would kill it. Mr. Ferreira understood the Chairman's point, stated that any property that needed to be addressed for drainage and things of that nature would possibly affect other neighbor's trees. Alternate Member Jarest said that part of a project's responsibility was to maintain the grading, so it was not impacting the neighboring properties. She said that they're supposed to design a project that is not going to impact what was going to happen on someone else's property. Attorney Landry stated that the project was designed and reviewed not to impact other properties and Mr. Principe testified to that fact. He stated they would look at it and verify it through a landscape architect or other certifications to ensure that concern was met. Attorney Goins stated that it could be a condition of approval if the Board wanted. Chairman Millard agreed that it should definitely be a condition of approval that it will not affect the drip lines or the existing creek. Attorney Goins stated that there should be a report or a plan from a landscape architect.

Ms. Williamson wanted to clarify if the Board was asking the applicant to verify that the trees were not on their property or if they were on their property they should give them a plan as to how they could be protected and preserved. She stated that if the trees were on the applicant's property, she asked that the trees not be cleared away until the trees could be evaluated. Chairman Millard stated that Mr. Principe said that the trees were not on the property. Ms. Williamson said that Mr. Principe also stated that he wasn't sure. Attorney Landry said that there was a landscape plan that was included in the submittal, and it did include additional planting along the area, but with respect to those trees, they could certainly verify it to the Board's satisfaction. Alternate Member Jarest said that the additional planting on the westerly side was only 2 trees. Attorney Landry said there were 5 trees. She stated that on the westerly side there were only 2 trees shown and then there were 3 trees close to the units along the parking area and then 2 trees close to the neighbors, but with all of the grading taking place, it was not a cohesive screen of any kind between the neighbors and the units.

Member Clark said that there was a lot going on and there were 3 TRC during which none of this was mentioned regarding the trees, plantings, or anything else. Ms. Williamson said that's why there's a public hearing at the Planning Board. Chairman Millard said they needed to keep the meeting going because there was a lot to get through. Member Clark said the applicant probably was hoping to get the green light on the project that evening.

Attorney Landry said that there were several TRCs and they were not trying to be disingenuous with anyone's concerns. He stated that they would look into it as the project had gone through a number of iterations and the grading and design is tied together based on comments received by the staff. He said they would all work together as the project proceeds. Alternate Member Sousa stated that the drip line needed to be located on the plan and the grading needed to be modified outside of the drip lines.

Tom Nichols came back up to ask about the sewer line. Chairman Millard stated that they were going to address Mr. Nichols' concern from earlier in the meeting as it was on his list. Attorney Landry had Mr. Principe address the issue of the sewer concern that Mr. Nichols had. Mr. Principe stated that the property was lower than the street and based on the plans the whole project had a low pressure forced main line. He said there were going to be a few different size pumps that were going to be draining to and then it would be pressurized under a low-pressure sewer and then pumped into the street. Mr. Principe said there would be a new sewer manhole doghouse on top of the existing tenant sewer line. He said they'd gone over it with the Sewer Department and there were no issues. He said in regards to the neighbor next door, he did not know what was happening with their sewer line, but the project would not impact the neighbor's lines. Chairman Millard asked if it was going to be a 2-inch line and Mr., Principe said that it was actually an 1¼ inches, that it was a little bit smaller. He said they went over that and with next door regarding the individual septic systems, it's the same thing. He said Holly Lane goes down towards a dead end and those houses have individual systems. Mr. Principe was involved in talks about 2 years ago regarding those neighbors coming together and putting in a low-pressure system with the same design that this project was doing and they would have to put in pumps at each house or 1 bigger pump station for everyone to drain to and then that would pump up to Bay View and then into the gravity line itself. He stated that Holly Lane didn't have the pitch because they were lower than Bay View. They recognized that and design it accordingly. Chairman Millard stated it's essentially pumping sewage uphill. Member Katz asked about generator backups for the sewer pumps. Mr. Principe said they would.

Chairman Millard then inquired about the fence. Member Clark said that a fence was not required as there was nothing in the Ordinance that a fence was required and that the Board should not agree to just make someone put in 200ft of fence. Alternate Member Sousa stated that maintaining trees along the westerly property line would be more costly. Member Clark said they didn't know that yet. Alternate Member Sousa said that changing the grading alone is costly.

Member Clark stated that he had issues with the density of the project from the beginning but was not at the TRCs. He stated that the density bonus for LMI was to benefit others, but not to the detriment of others as well. He said that it should have been clearer before it reached this point.

Chairman Millard stated that one of the issues that was brought up earlier was the idea of short-term rental and hoped that it was a non-issue and, if not, it was an issue. Attorney Landry stated that Mr. Ferreira does not allow any short-term rentals to take place as his rentals operate on an annual lease basis and that's how he markets them. Member Clark asked if that was something he clearly stated in his leasing language that they cannot sublease on a short-term basis. Mr. Ferreira stated that he has an extensive lease with language stating that subletting was not allowed and there were strict rules and regulations regarding noise and other issues. He stated that the reason he does that is to keep a cohesive clean and quiet living environment for everyone there. He stated that there have never been any noise complaints, nor have the police ever been called to any of his properties. Mr. Ferreira stated that they do very extensive background checks with the tenants to make sure no one has any previous criminal history and things of that nature, but he does not discriminate against anyone. He stated that he did not do short-term rentals and did not plan on having anything like that. Attorney Goins said that if the Board wanted to impose as a condition of approval no short-term rentals were allowed, it would stay with the property in the event that the project ever changed hands in the future. Chairman Millard asked if she would put it in the decision for the Board and Attorney Goins stated she would do so.

Chairman Millard then went on to discuss the number of trips discussed in the traffic study. Attorney Goins stated that Rhode Island courts have stated that traffic studies are a domain of experts. She said that since there was 1 traffic expert present at the meeting and there was 1 expert report presented, and the Board didn't have any other expert present to contradict it, unless there was something really significant within the Board's personal knowledge the Board was constrained to accept that because the Courts have said that a lay person's opinion on traffic wasn't equivalent to an expert opinion. Chairman Millard stated that if he saw a traffic jam, but an expert said there was no traffic jam, that meant there was no traffic jam. Member Ruggiero respectfully disagree with that thought as well. Attorney Goins stated that she was just there to advise the Board. Member Ruggiero stated that he drove the roadway every day and was an expert as to what kind of problems there were at that intersection. Attorney Goins stated that as one of the neighbors had brought up earlier in the meeting, traffic was bad everywhere and traffic studies were designed to measure impact and not existing conditions. She said they study the impact while using the existing conditions as a baseline.

Mr. Parente then came back up to question the traffic study. He asked if the person who conducted the traffic study was present at the meeting. Jim Cronin stated that he was the one who did the study. Mr. Parente then addressed him directly. Alternate Member Sousa asked him to address his questions directly to the Board and not to Mr. Cronin. Mr. Parente stated that he didn't question Mr. Cronin's expertise as a traffic engineer, but rather the veracity of the report. He asked if the Board believed that 17 units were only going to generate 8 trips during peak time? He didn't feel that it was very intuitive. He said that if he was sitting on the Board and he didn't agree with the assumptions being used, he wouldn't accept them. Chairman Millard stated they wouldn't have a choice when someone's an expert. Alternate Member Sousa stated that he's known Mr. Cronin for many years and is an expert in his field and asked Mr. Cronin to step up and give an overview. Attorney Landry stated that Pare Engineering, the Town's independent peer review, had reviewed the traffic report and accepted the findings, so there was an independent analysis based on well accepted scientific practices.

James Cronin from Crossman Engineering, a registered professional engineer with the State of Rhode Island specializing in highway traffic engineering, came forward and spoke about the traffic study. He prepared the report, and it was reviewed by Pare Engineering who gave him comments, and he made revisions and then it was resubmitted without any further comments at that point. He said as far as vehicle trips, they were based on data from the Institute of Transportation Engineers which was data from similar studies for similar land uses. Mr. Cronin stated that it was a industry standard that cities and towns accepted and the 8 trips were during the morning peak hour. He said that there might be 20-30 trips during the whole morning, but they analyzed 1 hour which was approximately 7:15 – 8:15am which was the peak hour of the roadway. He stated that there might have been traffic before 7:15 or more traffic after 8:15, but during the peak hour there were 8 trips. Mr. Cronin said that during the afternoon peak hour they estimated 10 vehicle trips, again for 1 hour and not for the whole afternoon. He said that it was based on data they received from the Institute of Transportation Engineers. Mr. Cronin said that it was for the intersection of Metacom and Bay View. He was aware that there was a lot of traffic there and that the existing condition of the level of service there was Level Service E which was not good level of service. He said the level of services is rated from levels A – F and E was pretty bad. Mr. Cronin stated that the analysis was done with and without the traffic and there was no change, and it stayed at Level Service E. Chairman Millard said that basically traffic is so bad that traffic from the project wouldn't make a difference. Mr. Cronin stated there would be no impact to the existing traffic whether the Level Service was A, B, or E because of the low volume of traffic generated by the project. He gave another example, that being the 3-family currently existing on the property and the peak hours for the Almeida Apartments. He stated there was 1 trip leaving in the morning and 1 trip coming back in the afternoon for 3 units during the peak hours. Member Katz asked since RIDOT controlled the traffic signals if they adjusted the timing would it affect the traffic. Mr. Cronin stated that it could possibly be tweaked, but he did say that Metacom itself ran at a better level of service than Bay View did, which is what RIDOT wanted. He stated that RIDOT wants the main road to keep flowing as much as possible. Alternate Member Sousa stated that at previous hearings the Board was going to request that the applicant look at optimizing the traffic signal. He said that there was a request that Crossman Engineering take a look at optimizing the traffic signal. Mr. Cronin stated that the Town could request RIDOT to look into it by telling RIDOT that there is a problem.

Brenda Sweeney came back up and asked if there was going to be any sidewalk proposed since there would be an increase in residents, especially at the intersection that everyone was discussing. Alternate Member Sousa asked if she meant on Bay View. Ms. Sweeney stated where they were proposing to put in the units, especially for people trying to cross Bay View, it's not exactly safe. Member Clark stated that they couldn't make them as the frontage to that lot was narrow. Ms. Sweeney said that if they were going to increase the number of tenants on the street, they should consider it for safety reasons. Mr. Cronin stated that the roadway was 36ft wide so there was plenty of room since cars were able to park on both sides of the street.

Attorney Goins asked Attorney Landry to respond to the residents' concerns about property values. Attorney Landry stated that property values weren't necessarily criteria in the comprehensive permit regulations. He asked James Houle, who's a real estate appraiser, and who provided a land use report, to step up to comment on it.

James Houle, real estate appraisal and consulting in Portsmouth, stated that he frequently testified in these types of situations, and has been in practice since 1973. He said that the question about value was interesting because there were a number of factors involved. He said the density was not extreme at all since it was a multi-acre lot with 20 units. Mr. Houle stated that it was located in an R10 zone which was already a relatively dense type of zone, and this was a transition site with a police station on one side and an apartment complex, and further down on Bay View it was an R6 zone which was very dense with multi-family dwellings. He said it was not really overly dense, and it was not going to have an impact which would be really the reason why someone would expect it to have a negative impact to property values. Mr. Houle said that once the project was done, he could almost guaranty that it would not have a negative impact assuming that it was properly managed. He didn't see any factors that would impact negatively as it is a residential use in a residential zone, and it's only a minor increase over what the State mandate called for in LMIs. He stated that very typically those were placed in close proximity to other single-family detached residential developments and so far there haven't been any negative issues at all crop up in terms of the value. Mr. Cronin asked if there was a particular question or concern that anyone had that he could try to answer as to why it would have an impact. Alternate Member Sousa said that he answered everything.

Chairman Millard asked if someone wanted to make a motion to close the public hearing portion of the meeting for this particular application. Alternate Member Sousa made a motion to close the public hearing which was seconded by Member Clark.

A motion was made by (Sousa/Clark)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

Attorney Goins stated that the Board members had a copy of the required findings for comprehensive permit applications. She noted that this was the first comprehensive permit application that the Board had seen since the Statute was amended affected July 1st. She said that previously there were separate sets of required findings for approval and denial but now there was a single unified set of findings and there was a 2-page document with Roman Numerals I – VI. Attorney Goins stated that #I and #II related to consistency with the Comprehensive Plan and then the Zoning Ordinance.

Alternate Member Sousa asked how the Board and the Town were going to be assured that the permeable pavement was going to be maintained. Mr. Ferreira stated that there was a maintenance schedule in place. Alternate Member Sousa acknowledged the maintenance schedule that was provided in the packet and that the schedule but wanted to know how it was going to be enforced. Attorney Goins said that the Board could make it a condition of approval or to defer it to final which would be administrative and require a maintenance schedule and, if appropriate, a maintenance bond for the permeable pavement. Mr. Ferreira stated he does quarterly inspections on all of his properties. He checks for leaky drains, damage, and anything like that, and anything he does find is immediately remedied. He said he wants to maintain his properties, his value, and a clean and healthy living space for his tenants. He stated that power washing happens on a yearly basis to make sure the exteriors are always looking good and keeps up with weekly landscaping, which is contracted out, and the same thing would happen with the new project as well. Mr. Ferreira stated that he would have someone on contract that would maintain the permeable pavement to make sure it's always working at optimal levels. He doesn't want to run into problems down the road. He is willing to show that there's a plan in place and a contract in place proving there's maintenance being done.

Alternate Member Sousa stated that the Board was allowing 5 additional units and providing a lot of relief, what was the benefit to the Town. He understood that by providing 5 more units that what the Board needed to allow was giving the Town 5 LMIs, was there something else Mr. Ferreira was willing to do to benefit the Town, like a 6th unit? Mr. Ferreira stated that the LMIs usually were technically based on what was being built, but since there was an existing 3-unit structure there, the LMIs also take that into account in its ratio so he's already including an additional LMI unit because of it. He said he was already including an additional LMI unit because it's taking the entire 20 units, not just the 17 units, into account for what's going to be built, so technically he's supposed to provide 4.25 LMI units and he's providing 5. Alternate Member Sousa asked if the 5 LMI units would be part of the new construction. Mr. Ferreira said that the 5 LMIs would be new construction, which is even more costly to him. Alternate Member Sousa asked if 1 of the units in the 3-unit existing structure be an LMI as well. Mr. Ferreira stated that the existing units will be maintained at the market rates although he would have loved to do one of those as an LMI because it would have been cheaper. He stated the newer units will be rented for more because they will be 3 beds, 2½ bath, and 2 car garages. He said these will be for families who are in need of affordable housing as he sees it on Facebook and admits that he is part of the problem for coming in and buying older dilapidated multi-family homes in town. Chairman Millard asked if all 5 LMIs were going to be 3 bedrooms. Mr. Ferreira stated that all 5 LMIs were going to be 3 beds, 2½ bath, 2 car garages, quartz countertops, stainless steel appliances, and in-unit washer and dryers. He stated that this project was not going to be a low-end property. Alternate Member Sousa stated that since all 5 of the LMIs were going to be part of the new construction, he was good with it.

Ms. Williamson said that she wanted to highlight items from the staff memo, that being, drainage basin slopes. Alternate Member Sousa asked Mr. Principe about the difference in height regarding 2 to 1 and 3 to 1 from the bottom of the basin to the top. Mr. Principe said it was roughly 2ft. Alternate Member Sousa said that 2ft was nothing in a 2 to 1 verses 3 to 1. Ms. Williamson said that because they're privately owned, they would be maintained by the owners and would not be a Town maintenance obligation, but she wanted to make the Board aware of it because it was a point of discussion with the peer review engineer.

Alternate Member Jarest asked what was stabilizing the sides of slopes. Mr. Principe stated it was just loom and seed. Alternate Member Jarest asked where the planted area was, RG123, because she didn't see it on the plans, regarding the perennial plants. Mr. Principe asked if she was referring to the planting plans? Alternate Member Jarest said she assumed that it was part of the drainage basins. Mr. Principe stated there are multiple drainage basins, bioretention basins and 1 infiltration basin, and the infiltration basin is just grass and the 3 bioretention basins are all planted. He said there should be a plant schedule.

Ms. Williamson said the next thing was a service agreement that the Planning Board usually gets as a condition of approval that all of the services will be private, i.e., trash, recycling, snow removal, drainage, and maintenance of the permeable pavement. She stated that the Town wanted the owner to be aware, as noted earlier, the land to the east for a future police station, but there was no schedule as to when it was going to be built. She wanted the applicant to know that the police station can be a very active site running 24/7 essential use for the Town. Chairman Millard asked if there was going to be a gun range. Ms. Williamson stated that it would be inside the building. Mr. Ferreira said he was happy about that. He liked that the property was in close proximity to the police station as he wants the people to feel safe and that they're in a good place. He didn't see it being an impact and preferred it.

Ms. Williamson stated that she wanted to make sure that the issue of the sewers was written in as a condition. She said that the Planning Board Engineer had recommended that there be an onsite review of the subgrades prior to placement of the reservoir or filter course as he was concerned about the tight grades and permeable pavement. She stated that the Planning Board Engineer wanted to make sure that it was all inspected per his schedule when it needed to happen. Ms. Williamson said they're asking for a legally binding and enforceable maintenance agreement between the owner and the Town so something can be put in the Deed for that to be done.

Alternate Member Sousa said that the only thing that needed to be added was the drip line and maintaining the grade around the Locust trees on the western side of the property. Ms. Williamson said that at the current time the grading was shown as a straight line, but if the trees were impacted maybe the grading could meander through the trees somehow. Alternate Member Jarest suggested the possibility of installing tree wells to maintain the grade around the trees.

Alternate Member Sousa said that Mr. Principe was a good engineer and that Alternate Member Jarest may be right about the necessity of tree wells. Mr. Principe said that it would be determined with more information. Mr. Ferreira stated that he was going to have the property mowed down in the fall to keep the brush from getting out of hand. He said after that happened he would have Mr. Principe walk the property to evaluate it to avoid taking something down or interfering with something that's good as he likes trees. He doesn't want to get rid of them. Mr. Ferreira made the request to have replacement trees come in.

Ms. Williamson said that the Board also wanted no short-term rentals and a fence on the west side but wasn't sure if there was a consensus on the fence issue. Member Clark said no. Chairman Millard said that having Mr. Ferreira move the fence from the east side to the west side would be a hassle. Mr. Ferreira stated he was amicable to doing it. Member Clark stated that it was not within the Board's purview to make an applicant build a fence that was not required.

Member Ruggiero cautiously stated that he was not convinced, with no disrespect intended towards any experts present, that 20 units in the neighborhood was good. He said that the Board always tries to be so accommodating to the developer but yet forgets the property owners that are in the vicinity. His concern is the density allows for 15 units and that's what he believes should be put there. His concerns were water pressure, drainage, traffic, low pressure sewers being pumped to the streets, and with no disrespect to the traffic expert, with a development like this no one can predict what it would do to the property values in the neighborhood as they may go up, but in his opinion, they're going to go down. Member Ruggiero acknowledges that affordable housing is important to the Town but not at the expense of the existing property owners. He hopes the Board would consider 15 units only.

Attorney Goins stated that if the Board was ready for a motion they could review the required findings. She said that the motion should be to either approve or deny with a finding that the project ticks off all of the boxes that being findings 1 through 6 and then any conditions or if the motion is to deny, they need to set forth which finding or findings aren't satisfied and why.

Chairman Millard asked if there was a stipulation for the Black Locust trees. Attorney Goins stated that if the Board was inclined to approve, it could be a condition of approval along with the other conditions that were discussed. She further stated that Member Ruggiero's point regarding the impact on the neighbors was under finding #4 and in order to approve the application, the Board would have to find that it satisfies the standard of whether there would be a significant negative impact on the health and safety of current or future residents of the community and it lists specific areas. Attorney Goins stated it didn't need to be read verbatim but whoever made the motion should address the required findings.

Chairman Millard asked if someone wanted to make a motion.

Alternate Member Sousa stated that the neighbors voiced a lot of concerns at the meeting and all of them were addressed. He said that the Town was in need of LMIs and the fact that the 5 LMIs to be construction will be brand new is important to the Town.

Alternate Member Sousa made a motion to approve the application to include the following stipulations: locating the drip line and regrading outside of the drip line of the Black Locust trees along the west property line; that the Town is to have a maintenance agreement that is recorded as well as bond in place for said maintenance; the applicant is to agree that there will be no short-term Airbnb type rentals in any of the units; and all other recommendations listed in the Staff

Report. The motion was seconded by Member Katz. Member Ruggiero was opposed to the motion. The motion passed 4 to 1.

A motion was made by (Sousa/Katz)
In favor: Millard, Katz, Clark, and Sousa
Refrained: None
Opposed: Ruggiero

Attorney Landry thanked everyone. Mr. Ferreira told the neighbors that if they had any more concerns, they could stop by the site or call him and he would gladly speak with them and address their concerns.

C3. Public Hearing and Consider Action on Minor Land Development – Preliminary Phase/Unified Development - proposal for construction of a 3,500 square foot building for a contract construction use in a General Business Zoning District that also requires a Special Use Permit. Property located at 670-688 Metacom Avenue, Assessor's Plat 128, Lot 15 & 16, Zone: General Business and Metacom Overlay District. Owners/Applicants: David Ramos and Lionel Ramos.

Waiver requested for sidewalk requirement along Metacom Avenue in front of Lot 15 required per Section 2.8 of Appendix G in the Subdivision and Development Review Regulations.

Attorney Matthew Landry from Blish & Cavanagh appeared for the applicant, David Ramos, who was also present. Attorney Landry stated that they had previously appeared before the Board in July or August on a pre-application hearing and had 2 TRC meetings, 1 in June and 1 in late August. He advised that it was a unified plan review project which required a development plan review as commercial use for an existing site with a special use permit component to it and other unified development review regulations. He said that the Planning Board had the jurisdiction and the authority to grant any zoning relief that may be needed saving the applicant from having to go to multiple boards for the relief he was seeking. Attorney Landry said there was a lot of history behind the project. He said the applicant has made significant and substantive attempt to develop the site and go through the proper mechanism to do so. He stated that the existing landscaping business on Lot 15 off Metacom was used in connection with Mr. Ramos' landscaping operation. Attorney Landry advised that there was some existing concrete storage bins and other infrastructure on the site that was subject to be removed as a result of any approval of the development plan.

Attorney Landry advised the Board that as Mr. Ramos moved through the project, conferring with counsel and staff, there was a request to combine Lot 15 and Lot 16 on the development plan. He stated it was intentional because certain aspects of the operation were being conducted off of Lot 16 which was considered a contract services business, and it made a lot of sense to come before the Planning Board for approval that considered both Lots 15 and 16 to ensure everything was included. He advised the Board that their packet included materials and a memorandum from the former Zoning Official from 2022 regarding what the uses were on the property and what the classification was. He stated it was a general business zone and it was a lawful non-conforming and it does require a special use permit because there are modifications and changes being made to the use and to the site and that's where the special use component comes into play. Attorney Landry said that they were coming before the Board in consideration of the modification to the existing use.

Attorney Landry advised that there were some existing concrete storage bins used for materials and other items used in connection with the landscape business and the location of those existing bins was a lawful non-conforming use that has been in existence long before zoning regulated it. He said that those were proposed to remain in their current location. He stated there was a construction trailer on site as well as a canopy structure that covered a bay which has been subject to much dispute and during the pre-app there had been discussion about how to address that issue before proceeding. He advised the Board that Mr. Ramos had sought a temporary permit for the canopy enclosure which was opened on one end and not actively being used as there were 2 metal storage containers which housed most of the valuable equipment and materials. He said that it was suggested at the pre-app that Mr. Ramos seek some sort of temporary permit in connection with that structure and he did so, but it was denied immediately by Mr. Greenleaf without much discussion. Attorney Landry stated that the decision was appealed to the Building Board of Review a few weeks ago and had a hearing where there was an appeal of both the decision to deny and a denial of the request for a temporary permit. He noted that in conjunction with the appeal, Principe Engineering, through their structural engineer, certified that there was no public health or safety hazard with the way the structure was constructed as it was a temporary structure affixed to containers. Mr. Principe and his office certified that there's no public health or safety concerns contrary to what the findings of Mr. Greenleaf found. Attorney Landry advised that it was unanimously voted against even a temporary permit while it was being pursued. He stated that they intend to appeal it and asked for a stay of that proceeding and hoping that by the time it works itself out, they'll know where they stand in the current process. He said it was unfortunate they couldn't get it as it was not that big of an issue from a health and safety standpoint, but it's being addressed, and they will be appealing that to the State Building Official's office and exercising those rights that Mr. Ramos has. With that being said, Attorney Landry advised that those were all earmarked to be removed if and when the project is approved.

Attorney Landry went on to talk about the heart of application which was to maintain storage of materials as have previously existed on Lot 15 and for Lot 16 to be subject to a new 3,500sqft warehouse/garage building that will incorporate some of the equipment and materials that Mr. Ramos used in connection with his business as well as some small offices. He advised that it was not an operation where the public would generally come through the building as there was really no purpose for that. He stated the project was designed to conform to the rules and regulations of the Metacom Overlay District. He said that at the TRCs they heavily vetted what regulations applied and what waivers they may have needed. Attorney Landry advised that they eliminated most of the waiver they thought they needed and narrowed it down to just the sidewalk requirement. He said one of the regulations was that sidewalks be placed along Metacom Ave and then turn off to the rear access parking areas of the building. He said there was really no need for that because of the type of business that it is. He advised that they were also asking for a waiver to the extent that the regulations applied to Lot 15 which was pre-existing and no modifications or improvements were proposed for Lot 15 and it really didn't make any sense to include sidewalks along that lot and it was also discussed at TRC. He was respectfully asking for a waiver to the extent that it was applicable to Lot 15 that no sidewalks be required. He advised that all of the other waivers took care of themselves as they were deemed not necessary or required.

Attorney Landry stated that when they came for a pre-app between then and now, the building had been moved further away from the residential properties at the rear as it was a concern. He said that the Metacom Overlay District has a regulation that a building or structure should be no more that 50ft from Metacom and they almost maximized that before misunderstanding the intent of what that regulation was, but they still complied with it in the initial iteration of the plan, but they have since moved it 25ft closer to Metacom Ave and further away from the residences in the rear. He said they are compliant, and they did not need any relief from that stipulation. He stated that there was a concern about number of parking spaces that were required early on because of how the use was being classified whether it was a warehouse use or service commercial business, and they have since modified it to provide all of the appropriate parking and complied with the service commercial classification. He advised that the dumpster was relocated from rear property line to the southerly side of the building away from the residences as a concession to remove as much interference with the neighbors as possible. He stated there was a sidewalk on one end of building being proposed, but it was the northerly side that was being omitted from the project because of the type of business that it is.

Attorney Landry said there was 1 question in the peer review comments regarding a loading zone. He advised that this was not an operation that needed a loading zone although it may have been something that was required under the Town's Zoning Ordinance so there may be a waiver to the extent that's required. He said that most of the loading would be handled internally in the building as there were not regular deliveries and he just wanted to make the Board aware of that and that's why there was no loading zone marked on the plans.

With regard to standards for a special use permit and the criteria that's required for review of the zoning aspect, Attorney Landry stated those were articulated and drafted in a narrative that was attached to the application which explained that this was an authorized use which would have no impact to the neighbors. He stated that Tom Principe was present to discuss the site aspects to the extent that he hadn't covered it. He said that since this meeting was the first public hearing there had been a lot of comments and concerns from the abutters, and they welcome the comments and invited them to provide feedback. Attorney Landry stated that Mr. Ramos had considered landscaping in buffering and screening above and beyond what already existed to the rear properties, and it might be necessary to install some of the screening directly on neighbors' property if they would be agreeable to it. He said they were open to that discussion, and they have been pretty open about being amenable to that, but they have not had that open dialogue yet and tonight was the first opportunity to do so. Attorney Landry just wanted to note for the record that the applicant was considering that and was open to those suggestions to the extent buffering was needed. He advised that the grading was much higher to rear of his property so landscaping to the rear of Mr. Ramos' property might not make sense or be effective.

Chairman Millard stated that the Board was going to open the public hearing first before Tom Principe made his presentation. Attorney Goins said that it was typical for the applicant to present first, but that the Board could change the order if they wanted. Attorney Landry had no objection to it but reserved the right to make any comment or response as may be necessary.

Member Clark made a motion to open the public hearing for the application. The motion was seconded by Alternate Member Sousa.

A motion was made by (Clark/Sousa)

In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

Chairman Millard stated that the public hearing was now open and asked if there was anyone in the audience who wished to speak for or against the application.

Shannon Lagarto whose property abutted both Lot 15 and Lot 16 came forward. She wanted to speak about the property but had not seen any plans or had any discussion about it and was interested in hearing more details about it.

Chairman Millard asked if there was anyone else who wanted to speak.

Carol Fernandes who lives at 43 Lisa Lane which is directly behind Lot 15 came forward to speak. Her question for the Board was if they considered any open DEM investigation prior to approving it as the neighbors were told that there was one. Member Clark said that there was an open DEM investigation that she was aware of. Ms. Fernandes asked if the Board would consider that prior to making any decision. Alternate Member Sousa stated that they were not aware of any open investigation. Attorney Goins said that the Board could consider it to extent that it's relevant but it's a separate issue with a separate jurisdiction. She stated that the DEM investigation would be resolved by DEM. Ms. Fernandes said that the only reason she brought it up was because between the property lines exists wetlands and Mr. Ramos had containers containing fuel and it was a concern for her. She also said that being behind Mr. Ramos' property there's a lot of noise that occurs there especially, for example, that morning at 4:50 a.m. Mr. Ramos' dumpsters were being emptied with rocks and other large items which sounded like metal and it happens continuously on a weekly basis. She advised that she had made phone calls to the trash company asking them to please change the time of their route, so moving his dumpsters as part of his plan was only going to shift it from her back yard to the other neighbor's back yard. Ms. Fernandes said that Mr. Ramos has felt in the past that the neighbors had been bullying him which was not the case. She made it very clear that everyone have made multiple phone calls to Mr. Ramos directly asking him not to operate late at night or early in the mornings and Mr. Ramos was quite open to that on the telephone but then continued to run his business. She said the neighbors have been told by the Town to call the police department to make reports which was unfair to the neighbors. She was also interested in hearing about plans that Mr. Ramos had for the property and what he was going to do about the noise and any current investigations that may be open.

Chairman Millard asked if there was anyone else who wished to speak. Alternate Member Sousa was going to make a motion to close the public hearing and Attorney Goins said that he should wait to do so. Ms. Williamson said that one of the residents wanted to hear the presentation before posing their questions.

Tom Principe of Principe Engineering came up to present the plans. He said it was important for the public and the Board to understand that they'd been here before and this was their first time here with TRC. He said that Pare Engineering had reviewed the plan and addressed all of the comments. He stated that when the applicant first came to him saying that he wanted to put a larger building up, they whittled it down to 3,500sqft so it's a marginal building but big enough for Mr. Ramos to still continue to run his business. Mr. Principe stated that being in the Metacom Overlay District, again they knew they needed sidewalks and street trees. He stated that the building itself is 50ft from Metacom and is not set in the back. Regarding the comment about the dumpster, Mr. Principe stated that on the site plan it showed parking, the building location in the front, and the dumpster was also in the front. He said they were well aware of the neighborhood in the back towards the east. He reiterated what Attorney Landry about the neighbors being much higher in grade so it's like they're looking down on the property and, again, they're amenable to offer some additional screening up on their own property to screen against Mr. Ramos' property. Mr. Principe said that on the plans in front of the Board, there were wetlands that were flagged and a wetland system, an ASS stream in between a residential property and Mr. Ramos' property so by nature they have buffers, setbacks and the like by DEM. He said there was also a planted buffer that they were going to be proposing that's on the plan towards the back. He said that the plans were up at the State at DEM. He addressed the question regarding the violations that exist. He stated the violations would be reviewed, vetted, and inspected by all of the DEM staff before they issued any sort of permits. He stated that the previous violation was taken care of, but regardless they have the plans at DEM and they are being reviewed. Mr. Principe said that as far as drainage was concerned, they were able to pave the entire parking lot. He said that pavement was great for the business Mr. Ramos is in they were able to get the drains to work with asphalt. He said they have a full landscape plan for the Metacom Overlay District plantings and the plantings in the back.

Alternate Member Sousa said one issue was regarding the trash enclosure being further away from all residential areas. He said the enclosure was going to be towards the front of the building and the building was actually 25ft or so off, not 50ft, Metacom providing more of a buffer to the neighborhood behind it. He stated that the trash enclosure was now in front as well as being only 25ft from Metacom Ave and as far away from the neighbors as they could get. Attorney Landry wanted to note that the purpose of the building was to contain some of the activity to help resolve some of the current issues.

Shannon Lagarto came back up with a couple of questions. She wanted to know how the water retention pond behind her house was going to affect the drainage flowing to Metacom. She stated that all of Lisa Lane drains through her back yard through a retention pond that was engineered with wood walls with a big sump. She wanted to know how the pavement would affect it. She also wanted to know if the garage doors were facing the front or back of the building. Chairman Millard said that the garage doors were on the back of the building. Alternate Member Sousa said that since the building was so close to Metacom, there's not enough room to put them on the front. Ms. Lagarto also asked about the noise and hours of operation.

Mr. Principe stated that's part of the analysis when we looked at the wetlands, there's that stream that intersects the two properties in the back. He said it's identified on plan with setbacks and buffers. He stated that as far as the drainage was concerned, it's a bioretention system because they did some testing and it was all fill and a higher ground water table so they're doing a bioretention drainage system. Mr. Principe said that pavement was going to drain into the bioretention system itself. He said they had to stay away from any of the wetland setbacks and streams, so they did not anticipate negatively impacting or exacerbating any sort of situation on that basin towards Lisa Lane. Mr. Principe said that the geometry of the basin was like a U shape on the south, east, and west side of the project. He said it would get reviewed by DEM.

Alternate Member Sousa asked about the hours of operation. Dave Ramos who is the owner of the property came up to speak. He said the business has been on the two lots for decades in the family. He said the current hours of operation are 7am to 5pm Monday through Friday and 7am to 2pm on Saturday, and they are closed on Sundays and holidays. He said as far as the dumpsters were concerned, he would reach out to the company and see what they could do about getting them a later time slot for dumpster pick-up, but it was Holmes Disposal who did Dunkin Donuts and other commercial properties in the Town and he wasn't sure if it was something they would be amenable to but he would bring it up. Chairman Millard stated that the hours of operation did not include the timing of the dumpster removal. Mr. Ramos said that was correct as the business was not operating at that time. He stated that employees come and go on the property every morning to get to a job site by 7am so they might get in their trucks and leave, but they're not operating machines or dumping trucks or loading equipment. He said that was no different than leaving to go from a house to work. He stated there has been numerous complaints to the police department. Mr. Ramos said there have been decibel readings on the property, from the rear of the property, and from Metacom Ave, and no violations regarding noise have been found. He wants to work with the neighbors as far as the screening and buffering. He reiterated Attorney Landry's statement regarding plantings and buffering as he wanted to get as much as what the neighbors would allow on their property to get an instant buffer wall. He was going to plant 6 – 8 arborvitaes that grow 3ft a year but he's already 10ft below the neighbors and they would be waiting 15 or so years to get the full effect so that's one thing he wanted to bring up. Mr. Ramos stated that 90% of his work was performed off site as they are not manufacturing or working on site except for some office work or going out in the morning or coming back at the end of the day.

Chairman Millard stated that during the day there may be equipment working all of the time loading or unloading material. Mr. Ramos stated it depended on the day. He said some days would be busier than others. Chairman Millard meant every day since he was running a successful business, he must be bringing material in and out of the property every day. Mr. Ramos said some days yes and some days no as there are a lot of days that they work on site. He stated that a lot of the material comes from outside vendors as they do not make stone, gravel, or mulch. He said that other than storing or loading their own trucks to go to a site, it's not much. Chairman Millard stated that didn't happen before 7 or after 5. Mr. Ramos said that he could work after 5 as the Ordinance was until 9pm, but his business did close at 5 and if everything goes well on a day, he was home by 5pm. He said that some nights he was there working until 6:30 – 7pm. Chairman Millard asked if he was operating equipment. Mr. Ramos said that what people were having concerns with was if they done by 5pm but they were loading up for the next day or changing a tire on a truck or something along those lines. He said it was really a situation where if something needed to be fixed or something needed to be loaded. Chairman Millard asked if Mr. Ramos regularly loaded his equipment after 5pm to get ready for the next day. Mr. Ramos said that if everything went well they were already loaded up by 3:30 – 4pm and they go home by 5pm and a lot of what they're doing is get what's going on outside, any echoing noise, to be solidified in the warehouse building so that outside the neighbors won't see dust, just a nice paved parking lot and surrounding landscape that complies with the Town's regulations. He said that the property has been what the property has been for decades and at this point now he's just trying to get to a place where it's better for the Town and better for his business and for the neighbors. He said the way it has been going currently hasn't been feasible for the neighbors, himself, or the Town so what he has as a plan and what he laid out for the Board is a good plan to get it done.

Chairman Millard asked if there was anything else.

Shannon Lagarto said that she appreciated what Mr. Ramos was talking about. She did have a concern but was not against the building. Her concern was that Mr. Ramos had violations with the Town, continued continues to appeal with the Town, and now was going to the State to appeal things. She said that there had been things happening on that property that the Town had addressed with him, but he had not rectified. Her main concern was that he was going to continue running his business they way he wants to run his business and still not have any consequences for any of his actions and she just wanted to put it on the record. She had no issues with him putting up a building and it would actually make things a lot quieter, but to say that the dust would go away, he can't put dirt in a building. She stated the amount of dirt and rocks that gets dumped in the back of trucks cannot be done in a building. Ms. Lagarto said that even though he needs a building, he still will have vehicles on the outside of the building to do all of the work that he does, while the maintenance of vehicles with the air guns to take off tires and pressure washing the vehicles could probably be done inside, but most of it will be done outside.

Mr. Ramos said that according to the zoning certificate he currently has, what he's doing as far as storing aggregate, loading trucks, and dust, unfortunately is a grandfathered use of the lot. He said it's a conforming use and Attorney Landry would be able to tell everyone the correct terminology. He wanted to make sure that everyone was clear that the business being there and running the way was being run was not against the Town's code. He said aside from the tent structure. Chairman Millard said it was a non-conforming use, but it may not be up to the Town's code. Mr. Ramos said that he was referring to what Ms. Lagarto was referring to as far as the dust and rock issue, that's something that's been going on for decades. He said that's not what they were there to discuss at the meeting as it was more about if the building and the development allowed. He said as far as the noise ordinance and the noise complaints, he believed it was a police issue and it has been addressed as it has arisen, but he has no problem saying that the business hours are from this time to this time if that's the Town requires, but the Ordinance is a certain time and outside of those hours, he's not breaking the noise ordinance.

Chairman Millard stated that the noise and dust issue had been going on for years, but Mr. Ramos was asking the Board to give him permission to continue to do something that they don't have to give him permission for. He stated that it's not his right. Mr. Ramos said that it's his right to use the property the way he's using it, but what he's asking for was permission to develop and better the property. He stated that he has been using the property like that since 2022 and the Town had given him a zoning certificate stating that as long as he stayed within the limited disturbance, he could use the property to store aggregate, turn material piles, load his trucks, and the like. He wanted to be clear that what was in front of the Board was the approval for the development with this new building and new development plan verses what they've been looking at for the last 20 years as far as construction equipment and dust.

Attorney Goins stated that it was important to note that under State law the Board can have a discussion about the application and the project as a whole. She said it was a land development project and it required a special use permit, but when it comes time for the vote and making a motion, State law says that for projects that require unified development review they need to vote on the zoning aspect first. She advised that the first motion had to be on the special use permit portion of the application because what's required as a special use permit for a contract construction service business in the general business zone if the Board doesn't grant the special use permit, the 2nd motion is a lot easier because the Board can't approve a land development project that's not consistent with zoning and it's not consistent if the Board doesn't grant the relief. She said when it comes time, once the discussion has concluded, to make a motion, the first 1 should be to consider special use permit aspect of the application.

Member Clark ask Chairman Millard if the public hearing should be closed or remain open. He asked if there was anyone else who wanted to speak for or against the application. Member Clark made a motion to close the public hearing, and it was seconded by Member Ruggiero. Chairman Millard stated that the public hearing was now closed.

A motion was made by (Clark/Ruggiero)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

Attorney Goins stated that in the Board's packet there were 2 sets of findings. She said that the 1st stapled report from Ms. Williamson included the special use permit standards for the contract construction service with standards 1 – 6 and then general standards for a special use permit as well. She said that the Board hadn't seen too many unified development review applications and if they were making a motion to grant a special use permit, they could follow the template that was included and just explain why it met the finding. Attorney Goins advised that if the Board was making a motion to deny the special use permit, they needed to explain which standard or standards the application did not satisfy.

Ms. Williamson recommended as is common practice with the Zoning Board when they grant special use permits, they would put conditions on the hours of operation, restrictions against outside uses, and things of that nature. She also called to the Board's attention the peer review engineer was recommending that there be no outside vehicle service, maintenance, and equipment repair, no road salt storage, or vehicle fueling unless additional storm water management is implemented because there's a different level of criteria for those uses. Chairman Millard asked what equipment repair meant. Ms. Williamson stated that it was repairing equipment. Member Clark said that was a broad statement and if a tire on a trailer broke, they would have to tow it and it should be a little more specific. Attorney Goins said that as far as equipment repair would probably be permitted as accessory but if it rises to the level that it turns into a body shop or an equipment repair facility. She was not sure where the line would be, but there would be a line. Chairman Millard stated that there were 30 pieces of equipment there and all big ones and they weren't going to be serviced in the building, they would have to be serviced outside. Attorney Goins asked if this was the first special use permit the Board had seen. She knew the Board had considered dimensional variances as part of a unified development review which was a different thing than the special use permit. She said a variance was if the Zoning Ordinance said "X" and the applicant was asking for "Y". She stated that a special use permit is the Town Council in adopting the Zoning Use Table as it is had said this use is conditionally permitted in this general zoning district but the Board's review of the application was determining whether it's appropriate for the location and if it was, were there any reasonable conditions of approval that may be necessary for the benefit of the neighbors. Attorney Goins said that a special use permit wasn't seeking relief, it was the Board approving the use at the location.

Alternate Member Jarest asked if environmental implications were attached or if the Board didn't have purview over it. Attorney Goins said it was not a specific standard for this use as a contract construction service, and it was also not specifically mentioned in the general standards either. She said that long and short of it was environmental consideration were relevant to the extent the Board deems they're relevant but it's not a box that had to be checked off. She said it was a required finding for the minor land development aspect of the application, but the Board wasn't going to get to that until after the special use permit aspect.

Ms. Williamson said that it was important to note the neighbors' conflicts with the time of day operational noises and the like and the special use permit is sort of the mechanism to help control it a little bit if the Board is in support of granting the condition that there be stipulations on when things can be done outside and when they should be in the building. She said that if the hours of operation are 7 – 5 then anything before 7 or after 5 should not be done outside, they should be done in the building. Chairman Millard said that's not practical if Mr. Ramos had to load stuff for the next day and that brought the Board to the crux of the matter. He said that granting the special use permit would not alter the general character of the surrounding area. He thinks that this would greatly alter the character of the surrounding area because Mr. Ramos is turning something that was just storage before into a full blown business on a small lot. Chairman Millard was on the property that earlier in the morning and he said there was approximately 32 pieces of equipment scattered all around the lot and several of them were abandoned like a box truck and it looked like Jack's truck. Member Clark said that Mr. Ramos was trying to get it out of there. Chairman Millard said that in the southeast corner of the lot there was a box truck that may have been Lionel's from 40 years ago which was still there. Member Clark said there was stuff all over. Chairman Millard said that if Mr. Ramos was going to turn it into a very active construction site, then some consideration should be given to the neighbors. Member Clark said that he agreed. Chairman Millard said that the neighbors have been complaining about the noise and other issues, and they're ignoring the time and it's significant, and the Board has one chance to hold Mr. Ramos' feet to the fire because once it gets passed what are the neighbors supposed to do call the police every night? Member Clark said that people bought homes next to a commercial zone and there's a reality with it. Chairman Millard understood that but it wasn't at the level it is now when they purchased their homes back then. He said that they're greatly increasing the use there and it's a narrow lot. Member Clark said that he would hope that being on the upper grade, that the neighbors would work with Mr. Ramos to get the landscape buffer on their property since it would grow much higher and it would be more conducive. He said it's up to them and Mr. Ramos to figure it out. Chairman Millard said that it looks like Jack's Junkyard and it always looked like it.

Alternate Member Sousa believes it would be an improvement. He said the more business activities that could be brought inside of the building would be better for the neighbors and better for reducing noise and impact. He didn't see it as being that big of a building. He said that what Mr. Ramos has done in putting other shelters up that the building inspector said that it needed to be taken down, it was all because he needed a building to work from, and he thinks it's going to be an improvement for the neighbors and Mr. Ramos' operations. Chairman Millard stated that the building Mr. Ramos is proposing to put up was only 3,500sqft which was not going to be able to replace the building that was there currently which was a huge structure and the front-end loaders and backhoes were not going to be able to fit in the new building. Alternate Member Sousa agreed that those types of machines would still be outside loading and unloading outside, but Ms. Williamson's point was that the Board could limit the timing to something like 7am to 7pm to give Mr. Ramos some time in the evening because they didn't want him loading his trucks up at 6am so his trucks would be at the next job site by 7am, so it would be better off for everyone if Mr. Ramos could load up in the evenings. Chairman Millard said that extending the hours would be ridiculous because those types of equipment have safety backup beepers on them and at 7pm on a summer night the residents don't want to hear it. Alternate Member Sousa said that it would be better than 6 in the morning. Chairman Millard felt that it wasn't better than 6 in the morning. Member Clark said beyond the full scope of Mr. Ramos' operation, he also did emergency road service so if Mr. Ramos had to get one of his trucks out at 10 at night due to something like a water main break. Chairman Millard said that getting one of his trucks out was a lot different than one of Mr. Ramos' trucks backing up with the safety beeper and then loading materials at 6 in the morning or 7 at night. Alternate Member Sousa said it's challenging for Mr. Ramos. Chairman Millard agreed because it's a small lot.

Alternate Member Sousa asked Ms. Williamson about the recommendation in the staff memo about the 8ft fence. He thought it was a great idea but questioned how much of an effect it would have being that Mr. Ramos' property much lower than the residential area in the back. Ms. Williamson said that it would help with the visual and the noise. She stated that one of the findings that the Board has to make is outside storage of equipment, supplies, and materials associated with any of the normal operations must be adequately screened along the interior side yard, rear yard, and road frontage with natural vegetation, landscaping, fencing or as deemed appropriate by the Board. She said that the Board and also the zoning can allow fence height to be taller than 6ft and as part of their approval she was thinking of putting the fence around the activity happening on Lot 15 where the stockpile of materials is located where the loading and unloading would be occurring. She said that parking to the east of the new building would be primarily for employees because it was going to be striped with wheel stops and paved and she didn't see the backhoes using that for anything. Ms. Williamson said to put the fence around the work line on Lot 15 and have the large vehicle parking on that lot to the northwest corner although there's a conflict at the moment with the membrane structure still being there, but that will be removed, and the parking lot to the east to be for employee parking and screen it with the fencing which might help with aesthetics and noise but really more for the large vehicles and daily operations of Lot 15.

Attorney Goins said that it was common when special use permit applications come before the Zoning Board that Zoning Board members sometimes requested more information before they could make a decision. She said that the Planning Board's deadline for making a decision on the application was December, so if there was information the Board would like to see such as the fence or more information about the business operations, they could ask the applicant to return with that information to the extent it might help the Board get to a decision. Alternate Member Jarest said that went along with a point that she was looking at is that the limit of work line seemed incorrect to her from the scope in the narrative. She said that the limit of work line for Lot 15 was not accurate because they were going to the north of that line it said all components to be removed from site which to her meant that was also part of the limit of work removing components from the site which was the membrane structure and where the storage containers were located. She felt that the limit of work line should have been extended to incorporate all of the work that was about to happen on the site which also included removal. Chairman Millard and Member Katz agreed with her. Alternate Member Jarest said there was a lot happening outside of the limit of work that was not being talked about that was part of the project. She understood that the project was grandfathered in but the concrete storage bays were almost in the wetlands and asked if they were allowed to stay there. Member Clark said they were. Alternate Member Jarest said that the Board needs a better understanding of the phases of work which is removal and installation.

Member Katz stated that Alternate Member Jarest brought up a good point regarding the concrete bays. He stated that if the concrete bays were in or right up against the wetlands, why were they allowed to stay near or in the wetlands. Attorney Goins asked if the concrete bays were in the wetlands buffer. Ms. Williamson said that it was permit that was pending. Attorney Goins said that DEM has purview over the issue. Member Katz asked if DEM would resolve it and Attorney Goins said they will, but it may not be the way the Board would resolve it. She stated that if the Board wanted to impose as a condition of approval to have them relocate and see if that it something that was amenable to the applicant or impose a condition whether or not it was amenable. Alternate Member Jarest said that she wasn't sure if the bays were impacting anything, but noticed they were there and the limit of work should incorporate all of the work that was going to take place and not just the new parking and the building.

Attorney Goins said that as far as the proposed phasing and construction schedule, again that was something that the Board could frame as either a condition of approval to provide a phasing and a construction schedule to the Planning Director and Building Official or the Board could ask for that information before making the decision, it's really up to the Board as to how to handle it.

Alternate Member Sousa said that although he agreed with Alternate Member Jarest, a limited disturbance is only a limited disturbance for what the applicant is planning to do as far as construction. Alternate Member Jarest said that removal of the membrane structure and the storage containers is outside of the limited disturbance but should be a part of it because Mr. Ramos is supposed to take it down as part of the project. However, she said that the fact that he hadn't taken those down and they were deemed unsafe has been a concern of hers since the first meeting even though Mr. Ramos has been trying to build a business, but also the Board needs to be realistic about the entire amount of disturbance that's on the site which extends further north into Lot 15.

Alternate Member Sousa said that should be part of a stipulation that the limited disturbance gets extended to include all of the removal. Alternate Member Jarest asked what was happening with remainder of the site and what the proposal what because it was just empty. Alternate Member Sousa said at the TRC it was mentioned that Mr. Ramos is just maintaining the same operation that's there now. Alternate Member Jarest asked if that implied that Mr. Ramos was maintaining the membrane structure. Alternate Member Sousa said no, he was removing all of the components, but as far as the storage bins Mr. Ramos was going to keep those. Alternate Member Jarest said since the storage bins were being kept, they were going to be seen from Metacom. Ms. Williamson said that there was a large earthen berm along Metacom. Alternate Member Sousa said it was discussed at the TRC meeting and because of the berm they didn't feel there was a visual issue with it. Ms. Williamson said that the structure was noted to come down, but it didn't state when because Mr. Ramos was trying to appeal the decision so it may stay up. Member Katz said that the Board could make it a condition of the approval. Alternate Member Jarest asked why did Mr. Ramos get to break the rules and operate. Member Katz said that he didn't get to break the rules, and Alternate Member Jarest said that Mr. Ramos was breaking the rules. She said that she couldn't practice without a license and if she did she would be in trouble. Member Katz said that if he was inclined to approve it right now, which he was not inclined to do so, and, if fact, the more he listened to it, it strikes him as a square peg trying to fit in a round hole. He didn't think the operation should be there at all as it is disruptive to the neighborhood and an eyesore from Metacom. Member Clark said that Metacom was full of eyesores. Member Katz said that wasn't the issue.

Alternate Member Sousa understood what Member Katz was referring to but made the point that the operation had been going on there for decades. Chairman Millard agreed but said it was operating at a certain level. Member Katz said that Mr. Ramos needed to work with the Town. He said that one of the big concerns the Board kept hearing was the noise and that Chairman Millard brought up solid points about loading things up and whenever it makes noise and dust, the Board wanted to seek a plan on how Mr. Ramos was going to mitigate it. Member Katz said that was going to be part of the Board's approval.

Mr. Ramos came back up and said that he had no problem showing the Board a plan to mitigate any issues. He said that he was confused about the issue regarding the fence because dividing the two lots was not feasible. Mr. Ramos said that he was trying to work with the Town by spending money on lawyers, engineers, going to multiple meetings, and combining Lots 15 and 16 when he didn't need to legally show them on the same plan. He asked if there were any suggestions as to how he could manage the noise of loading trucks like setting hours for loading and unloading vehicles outside, then so be it. Mr. Ramos wanted to make a point that Member Katz felt that the operation shouldn't be there at all, but it's been there and that's one thing he was going to stick by. He was hopeful that everyone could work in the right direction to make it better for himself, the business, and the neighbors, but if he was to get denied, his operation as far as the storage of his equipment and materials as it would prolong the issue of that stuff because he was not going to just leave. Member Katz stated that he didn't think Mr. Ramos was going to get denied, but he didn't think he was going to get approved either. Mr. Ramos agreed and said that he believed it was going to go right to the end and appreciated the process and that this was a step in the right direction.

Chairman Millard stated that ever since the first TRC meeting, Mr. Ramos stated that he was willing to put trees on the neighbors' property and asked Mr. Ramos if he had any discussions with the neighbors about it. Mr. Ramos said that he had not because this was the first night of the public hearing. Chairman Millard said that he had talked about it for months and asked if he had gone to the neighbors to say he wanted to work with them to put trees on their properties and to see if they would be amenable to it. Mr. Ramos said that he wouldn't be planting any trees if he didn't get the plan approved so he didn't want to overpromise if it didn't get approved. Chairman Millard said that would have been an obvious point if the plan didn't get approved. Mr. Ramos said that he would talk to the neighbors as he's a landscaper and a nice person and if Ms. Lagarto wanted 30 arborvitaes in the back of her property, he would not have a problem figuring it out. He said that it's still at the phase where there's some unanswered questions and issues that the Board would like addressed. Chairman Millard said that's one of the issues. Mr. Ramos said it would be shown in the plan, and his idea was instead of what the plan regulates the buffers being on his side, he suggested putting the buffers on the neighbors' side so it would be an instant wall for them. Chairman Millard said it was a very generous thing to suggest but he hasn't spoken to them about it. Alternate Member Jarest said it would be goodwill to speak to them and find out what the neighbors need, it would show the Board good faith because he reached out to them and had a concrete plan. She stated that even if Mr. Ramos came to the Board and advised that he spoke to the neighbors and said he was going to put 5 trees on one, 3 trees on another, and a bunch of shrubs on the last one. Mr. Ramos said he didn't mind doing that, but he wanted to make sure he was at a point where it was going to get approved before doing so because it sounded like there were neighbors who didn't want the property there at all as they were complaining about noise and dust. He said those complaints had nothing to do with the approval of letting him get the property developed. He realizes that it's something that needs to be address, but it seemed like the path forward was trying to get the property developed and on the right track. Chairman Millard said if Mr. Ramos put arborvitaes on the neighbors' properties, he would create sound barriers and dust barriers and he would solve the problem with the neighbors.

Ms. Lagarto came back up and said that she had to do that when she built her house. She said that Lionel made her pay for arborvitaes to go on the property line in 2010, and since Mr. Ramos has moved in and relocated the dirt, they are all dead. Chairman Millard said that was just another nail in Mr. Ramos' coffin. Mr. Ramos said that Lionel still owned that piece of land and a lot of his equipment was still there and none of that was going to happen over there.

Chairman Millard ask if Mr. Ramos was purchasing the property once he obtained the approval. Mr. Ramos said that he already had a Purchase & Sales Agreement lined up to purchase it, but Lionel's name was still on the property, but Mr. Ramos owned Lot 16. Chairman Millard asked if there was anything in the Purchase & Sales Agreement that demands that Lionel removed all of his equipment once the deal closed. Mr. Ramos said that once he owned the property, he would have full say of what happened on the property. Chairman Millard asked if that included having Lionel remove the stuff. Mr. Ramos stated that the plan in front of the Board showed the removal of the existing trailer, and the structure on his side. Mr. Ramos said that the property would be completely cleaned and emptied to do the work. He said as far as the limited disturbance, there was currently limited disturbance on the northerly lot, but he was totally okay with including a new limited disturbance for the whole 2 lots to the landscaper's point on that. Alternate Member Jarest corrected Mr. Ramos and stated that she was a Landscape Architect, not a landscaper.

Chairman Millard said that Mr. Ramos had 1 neighbor and he needed to work a little harder to make Ms. Lagarto happy. Mr. Ramos agreed but said that the Board needed to see it from his point of view. He's trying to run a business and his focus needed to be on the legality of putting a building there and if he can, he would absolutely work with Ms. Lagarto. He believed that he really only had 1 neighbor that should be in the sight of what he's doing and he felt bad about it, but the house was put there and it probably shouldn't have been.

Alternate Member Sousa said that the Board needed to get back to what they think needed to happen. He agreed that Ms. Lagarto had the biggest issue. He saw on the plans a 15ft landscaping easement on Ms. Lagarto's property and at the TRC they talked to Mr. Ramos about meeting with the neighbors prior to the public hearing. Alternate Member Sousa said that it was very clear, for those Board members who were not at the meeting, the preference was because of the animosity with neighbors the Board preferred to address the neighbors' concerns at a public hearing and that's why it was not done ahead of time. He said if there is a 15ft landscape easement, according to plan, on all 3 structures, would Mr. Ramos be amenable to meet with Ms. Lagarto and come up with a landscaping plan. He said it would be better than an 8ft tall wooden fence or whatever she would agree to and that would help resolve all concerns and problems. Mr. Ramos said that was his plan as he wanted to get to this meeting and address the problems. He was not looking to have problems with the neighbors, so whatever they need him to do from a landscaping or buffer standpoint he would do.

Alternate Member Sousa asked Ms. Lagarto if she would be willing to meet with Mr. Ramos and whomever she wanted to accompany her including a Planning Board member so she would feel comfortable. Ms. Lagarto said she would absolutely be willing to meet with Mr. Ramos. Mr. Ramos asked if the Board would be looking for his plan to be updated to show those the plantings. Alternate Member Sousa said he would like to see the plan be updated that was to the neighbors' satisfaction, and that they were going to be very comfortable with your operation moving forward. He said that the Board did have to come to some conclusion of times of operation. He said that the underlying concern was the neighbors behind the property getting together with Mr. Ramos and working something out. Mr. Ramos said that he was going to try his best to only run the business from 7 – 5, but as the Board brought up there would be times when they come and go, but if the Board puts something in there that they are not to load trucks after 5pm that's something he's amenable to. Chairman Millard said that if Mr. Ramos puts arborvitae at top of hill, Ms. Lagarto wouldn't hear it. Alternate Member Sousa said it would solve a lot of his issues. Mr. Ramos said he was never planning on not doing so. Alternate Member Sousa stated that it would have been easier for the Board to grant Mr. Ramos an approval had he come in with it on his plan, but they have plenty of time to do so. He told Mr. Ramos to get together with the neighbors as they seemed very open and amenable to work with him. Alternate Member Sousa said to do something really good for them and he wouldn't have any more phone calls to the police.

Member Katz asked if there was a list of actions for Mr. Ramos to take care of. Alternate Member Sousa said that one of the actions was to increase the limited disturbance as Alternate Member Jarest had pointed out to include the structures and include whatever is there to come out, and it has to come out as part of the buildout, and that Mr. Ramos couldn't say that he was done with the building and the stuff was still there. Member Clark said that the Board needed a timeline or schedule. Mr. Ramos said they've gone over that and were going to wait until after the appeal period which would bring them until December 7th. He said that if they were to get approval, then they could get a foundation in, he should have an enclosed shell by next spring and hopefully by the same time next year the tent's down and the lot's cleared out and he's operating out of the new building. Mr. Ramos said he was okay with the CO being determined on the tent coming down on Lot 16. Member Katz said as well as arborvitaes being put up. Mr. Ramos said that was all part of the landscaping plan. Member Katz said that he agreed with Member Clark that the Board needed to see a plan stating days after approval or months after approval, whatever that is and Mr. Ramos needs to check off each thing.

Chairman Millard suggested a continuance of the application. Member Clark and Member Katz said that they were going to continue the matter.

Alternate Member Jarest asked why the Board was waving the sidewalk on Metacom Avenue. Alternate Member Sousa said that the Board was waving the installation of the sidewalk. Alternate Member Jarest asked why wouldn't the Board want to extend the sidewalk. Alternate Member Sousa said that the sidewalk would be going to nowhere. Alternate Member Jarest said that as a way to develop the Town is to have people put in sidewalks or infrastructure for people in the Town as they're building out their properties. Member Katz stated that it was in the Comprehensive Plan. Chairman Millard said that it's part of the Metacom Overlay. He said that there's always going to be sidewalks to nowhere if we don't put them it. Alternate Member Jarest said she would like to not waive that, but she agreed that the connection from Metacom into the property didn't make any sense for the type of building or use that it is as they didn't want people walking in off the street. Alternate Member Sousa said that the discussion at TRC was that Lot 15 was never part of the application although they had asked him to include Lot 15 because no improvements were going on Lot 15, but now since he included Lot 15 he's been told to put in a sidewalk. Alternate Member Jarest stated Lot 15 was being used by the membrane structure. Alternate Member Sousa said that the existing stuff was not changing, but Alternate Member Jarest made the point that Mr. Ramos was the one that put it up. Ms. Williamson stated that he put it up because the operation of the business was on both lots, but the development was really only on Lot 16. Mr. Ramos said that it's over $100,000 a sidewalk for that amount of frontage and he would have just applied for Lot 16 development of the building and it would have been obvious to everyone that he was using the other lot, but it was not required for him to show it in the plan, so he wouldn't want to have to go back and reapply without showing Lot 15, but that might be a financial decision he would have to make if the Board wanted him to put the sidewalk in. Chairman Millard said that he didn't think the Board could push the issue.

Chairman Millard asked where everything stood. Alternate Member Sousa made a motion to continue the public hearing until the applicant could return and address the concerns stated, specifically landscaping adjacent to the neighbors to the east, the limit disturbance, removal of the structures on Lot 15, and to have an agreement in place with the abutter. Attorney Goins said that the Board could certainly recommend it, but the applicant will use his best efforts but sometimes it's impossible for an applicant to reach an agreement with the neighbors. She said certainly the direction to the applicant to put his best efforts forward to reach an agreement should be in there. Ms. Williamson also said that the Board asked for a plan to mitigate the noise and the dust. Member Katz stated that included the arborvitaes. Alternate Member Jarest said that shouldn't just include arborvitaes as everyone always talks about arborvitaes, it should say robust plantings. Member Clark said that it was just a default blanket phrase to say arborvitaes because that's what everyone thinks of first. Mr. Ramos said although he wasn't a landscape architect, he would leave it up to the homeowners who would be receiving the plants and maybe get some guidance from the Board, and let them decide if they wanted western hemlocks, arborvitaes, or whatever they wanted. Alternate Member Sousa said for him to just reach an agreement with the neighbors and then go from there.

Attorney Goins said for the motion to continue should be for October 9th and if the applicant wasn't ready then, they could let the Board know in advance and they could be given another month. Alternate Member Sousa made a motion to continue the application to October 9th and it was seconded by Member Katz. Attorney Goins said that all of the members of the public will get another chance to comment on the new information that the Board receives.

A motion was made by (Sousa/Katz)
In favor: Millard, Katz, Clark, Ruggiero, and Sousa
Refrained: None
Opposed: None

C4. Public Hearing and Consider Action on Minor Land Development/Adaptive Re-Use/Unified Development Application Preliminary Plan Phase for John J. Marshall: to convert two historic manufacturing buildings at **18 Burnside Street & 1 Resolute Lane**, into seven (7) residential dwelling units. Variance required for residential density in the Manufacturing Zone which has an underlying residential density of 0 Assessor's Plat 16, Lot 48 & 39, Zone: Manufacturing and within the Historic District. Owner: Halsey C. Herreshoff Trustee/Applicant: John J. Marshall

Member Clark recused.

Attorney Alfred R. Rego, Jr. came up on behalf of the applicant. He stated it was an adaptive reuse and the first to come in under the new Statute in Rhode Island. He said that they have been to the Historic District Commission for their approval of the 7 units, 5 at Burnside and 2 at Resolute with parking on first floor of Resolute. Attorney Rego stated that access to the garage was one of the issues that was brought up at TRC which in the amended plan that the Board had shown the proposed easement which allowed access through Resolute Lane to the back of the building which would house 7 garage stalls that would allow for 7 spaces. He said that one of the requirements for the adaptive reuse was that there be at least 1 parking space per unit and they have a combination that would double that, so 14 spaces allowing tenants to park back-to-back under the building. Attorney Rego advised that there would be no LMI units being proposed. He said the configuration is Burnside would have two 2 or 3 beds on the 2nd floor and three 2 or 3 beds on the 3rd floor, which is the 5 there, and Resolute would have two units and there would be 1 unit on Resolute that would not have view of the Bay. Member Katz asked if they would be considered apartments or condominiums. Attorney Rego stated they were considered condominiums. He said there was no manufacturing there and it's mostly storage and it met the eligibility requirements.

With respect to the rear building, which is Resolute, Attorney Rego said that the open garage area is in disrepair but it's part of adaptive reuse they need to stay within the envelope of the building. He stated they're keeping the same roof lines as it will only be 2 units going in there. He stated that initially there was discussed of bringing a total of 11 units, but it wasn't going to work under the adaptive reuse statute because of the envelope concept. Attorney Rego said that what they see here other than it being administrative finalization of the plans, is the Board's determination of density. He said if the Board looked at the regulation on health and safety, there was water and sewer that could be brought in not through the existing lines on Resolute, but actually through new connections that would be occurring upon approval before Burnside Street is repaved where all of those new water and sewer lines would likely go through Burnside into Resolute. He said the 2 lots would actually be converted into 1 buildable lot and 18 Burnside would be the address of the project. Attorney Rego said that the company name was not detailed at this time. He said that they did try to address, and Tom Principe was present to get into the details, if necessary, the outdoor trash compactor and where it would be located which would be at the end of the easement location. He stated that the existing shrubs and overgrowth behind the building was coming down and permeable material like shells in that entire location would be placed. Attorney Rego then turned the presentation over to Tom Principe to explain the easement aspects and the turning radius of more than 21ft to get into the back area. He wasn't sure if there were other questions as there were some members at the TRC and there were questions regarding water, sewer, redefining the easement to make sure it was wide enough, and the outside storage bin.

Alternate Member Jarest asked where the easement was as it wasn't visible on the plan. Attorney Rego said he colored it better on the proposed agreement and easement. Diane Williamson said that copies the Board had didn't show the highlighting well. Attorney Rego showed Alternate Member Jarest where the easement was on the plan. He showed where the access doors to the garage were located. Alternate Member Jarest asked where the parking was going to be located, and Attorney Rego said it was located inside the building.

Member Katz asked what was going to happen to the boat that was on the property. Attorney Rego said that the Museum was going to relocate it as it was their land. He said there were other discussions with John Marshall and the Museum to further develop the site, but that was not part of their project. He said it has to do with the 20 car spaces on the lot where the boat was currently sitting and it was CRC application and coming before the Board and John Marshall was involved with it.

Chairman Millard asked if the email between John Marshall and Bill Lynn had been legally approved, is it real or just suggestions. Attorney Rego said he was trying to get something to present to the Board before the meeting, but this was the last email he received which was in August that the Museum approved of it. Chairman Millard said that it wasn't signed. Attorney Rego agreed that it was just an email and then he prepared documents and sent it to them. He said that anything that gets done will be subject to getting the appropriate easement. He stated that there were rights-of-way and other documents that allowed traffic, but they wanted to clean it up because it was a different use than manufacturing. Chairman Millard said that Attorney Rego the people he was representing had not approved it. Attorney Rego clarified that his clients had approved it, but he had not seen the Museum's approval other than Attorney Rego sending the proposed draft that the Board had in front of them. He called the Museum that morning, but no one had called him back, but according to Mr. Marshall, that is what was being proposed. Chairman Millard stated that it was all up in air. Attorney Rego said that he wasn't sure if it was up in the air, but that it just hadn't been signed yet. Chairman Millard asked if there was a verbal approval from the Museum. Attorney Rego said that they had the email indicating that they read the proposals and approved of it but have not seen a draft of the easement to be signed or the other agreement Mr. Marshall was to make other improvements on another project, which is the museum project. Chairman Millard said that it was all conjecture. Member Katz said that if the Board approved it, it could be conditional upon the Museum's approval. Attorney Rego said they're not going to give an easement unless it's required for this purpose.

Ms. Williamson stated there was some confusion with the plan as there was a new plan submitted that morning, but she felt it needed more information. She said the plan was still labeled as an existing conditions plan, so she dismissed it and said that it was the same existing conditions plan, and she needed a proposed conditions plan. She was informed tonight by Attorney Rego that there were edits made to that plan, and it was not retitled but it does have additional information. Ms. Williamson said that one of the questions that the TRC had was about the actual drive into the garage area from the easement driveway area, they wanted to make sure that cars could actually maneuver into the garage. She said there were some notes added which addressed some of the other things like the transformer location and the like. She stated since it came in that morning and was labeled incorrectly, she thought it was another submission on the existing conditions plan. She wanted to clarify that she was also under the impression that the stipulations in the email were requirements of the Museum to sign the easements and if there's an extra 20 parking spaces and the boat getting moved, and if those conditions had to be approved for the easement to be signed but those conditions are site improvements that she thought should be on plan because if those site improvements didn't get approved then the easement couldn't get signed. She said it sounded like the Museum had its wish list, which is a separate project from the adaptive reuse, but only in the sense that it doesn't sound like they would sign the easement unless those things are provided. She didn't know how to coordinate that. Attorney Goins suggested that if the Board approved the plan as presented then a condition of approval should be the administrative officer should review the impacts of the museum project on this plan. She said that the administrative officer could then determine whether the Board needed to see it again or if it was a minor change, it could require administrative sign off. Ms. Williamson said that 20 parking spaces was that's a lot.

Attorney Rego said that the project had absolutely nothing to do with what the Museum was proposing. He said they did indicate that the Museum's project would include the access easement for parking, but they're two separate projects. He said they had no control over the other project. Ms. Williamson said that if those weren't stipulations from the Museum subject to them signing the easement, why was it even submitted with package that morning because it felt like some of the things are connected to their approval of the easement and if they're not and they're totally unrelated, then why are they here because it makes it confusing. Attorney Rego said he submitted it merely because it did reference the parking easement that the project was dealing with as something the Museum had already reviewed.

Chairman Millard said it just added a level of confusion to the whole matter and asked why the Board couldn't just stipulate that the agreement had to be signed. Attorney Rego stated that if they did that then it wouldn't work because their project had absolutely nothing to do with the Museum's 20 parking lot project. He stated that the only reason the email was presented was to indicate that the Committee of the Museum had reviewed what they were looking for and their project was regarding the parking to the south for the Resolute building. Chairman Millard stated that it was for 2 things: 1) An access agreement, and 2) and an access agreement for parking. Attorney Rego stated that 1 was an agreement and the 1 was an easement. He said that the easement pertained to their project and the rest was background information as to how they got there. Member Katz said they needed the easement for the project. Attorney Rego stated that they needed the easement or a reconfiguration of where the parking would go. He said that the other way would go 7 parking spaces with access over Resolute rather than to the south using Resolute to go into it but that wasn't what Mr. Marshall was looking to accomplish.

Chairman Millard stated that signatures were needed on both agreements. Attorney Rego said that they were not going to get it until the project was approved because if it wasn't approved there was no easement. Chairman Millard said that they weren't going to approve it without signatures.

Attorney Rego's understanding of the evening's meeting was on density and whether or not the Board was willing to provide 7 residential units which was a permitted use under the adaptive use statute and under that criteria were 7 parking spaces, and they could provide 14 and access to that would be clarified with an easement. He said that access to the garage door has been going on for the last 100 years and the 1970s is when the building quit manufacturing. He stated that the Board had nothing to do with the fact that there's 20 parking spaces on the other lot. Chairman Millard asked Attorney Goins to opine on the matter.

Attorney Goins stated that legal documents, which the easement was a legal document, can be a condition of approval to be provided at final plan. She said what Attorney Rego was trying to focus the Board on, and she agreed, was density, which was the issue. She stated that the Town's

Zoning Ordinance reflected the 2024 version of the adaptive reuse law which was changed again in 2025 and density for their project was governed as follows:

> "...for projects with more than four (4) residential units, not less than ten percent (10%) of low- or moderate-income housing is provided, the local zoning ordinance shall not specify any maximum density of residential units. If less than ten percent (10%) of low- or moderate-income housing is provided, then the allowable maximum density shall be determined by the municipality." See Rhode Island General Laws §45-22-7 **Powers and Duties of a Planning Board or Commission**

Attorney Goins further stated that when the application came in, she and Ms. Williamson discussed how it should be processed given that zoning didn't reflect what had just passed so the Town's Zoning Ordinance said "0" is the permitted residential density in that zone because normally residential use wasn't permitted. She stated that it was only allowed as an adaptive reuse project which is what was being proposed as the agenda indicated "unified development review for a dimensional variance as to density". Attorney Goins said that with the last UDR application that was just done by the Board for Mr. Ramos and all future ones, the Board should consider the zoning belief aspect of the application before going onto the minor land development aspect. Alternate Member Jarest stated that they hadn't proposed any were LMI and Attorney Goins said that was correct and where State law said the allowable maximum density would be determined by the municipality, her advice density was a question mark and that was for the Planning Board to decide given the Town's zoning didn't allow for any residential density. It was Attorney Goins advice that the Board should process the application under the standards for a variance so the Board has to evaluation the proposed density and see whether it met the standards for a variance.

Alternate Member Jarest asked if any of the information that was in the email received that morning applicable in making a determination as she hadn't had a chance to review it. Attorney Goins said that Attorney Rego had provided a memo on the specific issue of density but it didn't address the recent amendments and that was the reason she brought up the 2025 statute changes, so the Board was aware of the correct legal standard.

Member Katz stated that the bottom line it's up to the Board. Attorney Goins said that it was up to the Board and in terms of guidance, most projects were eligible for extra density where LMI is provided, so the Board should think about whether LMI is appropriate for the site or not. She stated that the Oliver School was the last adaptive reuse project the Board has seen, and the law had changed. Attorney Goins said that the 2024 version of law was more of a math problem that the 2025 version, and now the Legislature has left it up to the boards to determine the maximum density.

Member Katz said the Board should hear from the public to see what they thought. Chairman Millard asked for a motion. Member Katz made a motion to open the public hearing, and it was seconded by Alternate Member Sousa.

A motion was made by (Katz/Sousa)
In favor: Millard, Katz, Ruggiero, Sousa, and Jarest
Refrained: Clark
Opposed: None

Chairman Millard asked if there was anyone in the audience who would like to speak for or against the project to come forward.

Millie Barlow of 140 Hope Street came up to speak. She stated that her driveway abuts the project. She asked where the trash receptacle was going to be located, where was all of the parking going to be, and since she had a right-of-way from her driveway to Burnside Street, how would it be affected. Chairman Millard asked Attorney Rego to show Ms. Barlow the plan. Ms. Williamson asked for Ms. Barlow's address.

Attorney Rego said that all of the properties on the plan referenced Resolute and the access through Resolute so there was no exclusive access. He said that Resolute was a public road and anyone could use it, so it would have no effect on her right-of-way. He advised Ms. Barlow that there was no parking allowed on Resolute, and all of the parking was located underneath the building at 1 Resolute. Ms. Barlow said there was only 7 spaces. Attorney Rego advised that there was going to be room for 14 cars and showed the plan to Ms. Barlow as to how the parking was set up for 14 cars to park. Ms. Barlow asked about the trash receptacle. Attorney Rego showed Ms. Barlow the area on the plan where the trash would be placed.

Alternate Member Jarest and Alternate Member Sousa asked Attorney Rego if he could show the Board the site plan and indicate where the trash would be located. Ms. Williamson passed out copies of the site plan to the Board.

Alternate Member Sousa stated that 140 Hope Street was not visible on the plan and it would help if it was known. Attorney Rego showed the Board where it was located and stated that Ms. Barlow was utilizing Resolute to gain access to the back. Alternate Member Jarest said that it looked like the dumpster was on Ms. Barlow's property on the plan. Ms. Barlow said that's what she was trying to understand as well. Alternate Member Jarest made a suggestion to have the plan show where the abutters and the easements that each abutter had through Resolute so the Board had a better understanding in the complex. Attorney Rego explained the site plan layout to Alternate Member Jarest.

Chairman Millard stated that the Board needed a plan that showed were everyone was located.

Alternate Member Sousa said that since Ms. Barlow has an easement, it should be identified on the plan as the Board didn't want to make a decision that would jeopardize or interfere with Ms. Barlow's right to utilize the easement. Attorney Rego stated that all of the deeds identified the access on Resolute. Alternate Member Sousa stated that the Board was finding all of it out for the first time. Alternate Member Jarest said that the easements were not shown on any drawing that they had so far.

Member Katz said that he was leaning heavily towards continuing the matter until the Board received a proper plan. Alternate Member Sousa agreed with Member Katz but wanted to be clear as to what the Board was looking for. Ms. Williamson suggested that the Board finish the public hearing first.

Ms. Barlow stated that she was the only abutter to the project. She said her house was a Herreshoff house at one time, along with the barn in the back yard, all of the Herreshoff manufacturing building around, and the boat yard as well. Ms. Barlow was curious as to what was going to be on the left of her backyard when she looked, a giant dumpster or something else. Chairman Millard said her point was well taken.

Member Katz asked if there was anyone else who wanted to speak.

William Campbell of 186 Hope Street came up to speak, his home is on the north side across Burton Street from the Museum. He stated that when he left his home that evening, there wasn't a parking place to be found as High Street, Burton, and Burnside were all full as there was an event going on at the Museum. Mr. Campbell said that he heard there were 2 versions of the a plan, 1 was for 7 parking spaces for 7 3-bed units and 1 was for 14 parking spaces but they're stacked inside underneath, but it was a maybe given the fact that it was understood as to how the access was going to be to it. He said that parking was going to be a major concern for him, as well as density. He asked about the square footage of the property. Ms. Williamson said that 1 lot was 3,649sqft and the other lot was 4,651sqft for a total of approximately 8,000sqft. Mr. Campbell said his lot was just under 10,000sqft for 1 house and his lot was just slightly larger than many in his neighborhood and this project seemed to be 10 times denser than the neighbors that he had. He said it would increase the density of the area significantly. Mr. Campbell said that further up the road on Burnside there were other properties similar to the Herreshoff property that he believed were repurposed as housing and this project would be more in line with the density there but there's already a neighborhood where parking is nearly impossible. He said the combination of density and the density's effect on parking would be his concerns.

Chairman Millard asked if there was anyone else who wished to speak.

Joanne Fantini of 25 Burnside Street came up to speak. She said that parking was definitely an issue. Ms. Fantini said that she was sort of part owner of 18 Burnside. She stated it was an active working space for manufacturing, boat building, and designing. Ms. Fantini said she was occupying it at the request of Halsey in exchange to fix his marine engines from October 4 to June 2025. She said that many others in the area were developing marine technology, and the Museum had a grant to put in a crane at the waterfront to sustain the Town's growing ocean tech hub that's taking place and new technology companies were applying to be in the Town. Ms. Fantini said that at night there was plenty of parking, but during the day it's very active working place where tractor trailers go by to make deliveries, UPS, and the like. She was unsure if having it as a living area was a great use of the space. Ms. Fantini said that it should be a mixed-use space to bring in the new technology that's happening like the technology at Unity Park.

Chairman Millard asked if there was anyone else who wished to speak.

Attorney John Rego of 443 Hope Street came up to speak, representing the owners of the property at 18 Burnside Street owned by the Halsey Herreshoff Revocable Trust, and 1 Resolute Lane, owners Halsey Herreshoff (50%), Nathaniel Herreshoff (40%), Halsey Herreshoff, II (2.5%), and Tom Herreshoff (7.5%). He stated that Halsey Herreshoff had been the manager of the property for the 4 owners since 1985. Attorney Rego said that as far as the use of property, it was their opinion that manufacturing was no longer viable for that property, and it has sat vacant for 4 years with no one interested in it. He stated there was no off street parking and the proposal had parking inside the building just like American Tourister in Warren to alleviate. He invited Mr. Herreshoff to come forward and speak.

Halsey Herreshoff came up to speak. Attorney Rego asked for his opinion of the proposed project. Mr. Herreshoff said it was quite workable and a more modest proposal than the previous one. He believed in his own analysis of it. Attorney Rego asked Mr. Herreshoff if it was a good fit for a waterfront property. Mr. Herreshoff said that it fit there and the whole area was busy, but didn't think the new proposal would change the situation in any way to be of a concern to anyone. Attorney Rego asked if Mr. Herreshoff though the building would be more attractive as a residential unit than commercial. Mr. Herreshoff said whatever could be done to make it a friendly residential unit was better. Attorney Rego asked Mr. Herreshoff how many years has the building been vacant. Mr. Herreshoff said it has been vacant for 4-5 years and to his knowledge no one was interested in using it. Attorney Rego asked Mr. Herreshoff if he had any other comments and Mr. Herreshoff said he had nothing more to add except to say he was hopeful that they could proceed with intentions than had been expressed and that they will try to be considerate to the neighbors.

Chairman Millard asked if there was anyone who wished to speak for or against the application. He asked for a motion to close the public hearing. Member Katz made a motion to close the public hearing, and it was seconded by Alternate Member Sousa. Chairman Millard stated the public hearing portion of the meeting was now closed.

A motion was made by (Katz/Sousa)
In favor: Millard, Katz, Ruggiero, Sousa, and Jarest
Refrained: Clark
Opposed: None

Chairman Millard stated that before the Board could vote they needed a site plan that showed the neighbors, the easements, and delineated the parking on it. Alternate Member Sousa agreed that the site plan need to include the paving improvements for the access to the garage, and where the neighbors were located to make sure the dumpster was not being placed right in the middle of Ms. Barlow's access. He said that it should also include where the first garage door on the south side of the Resolute building is going to be as it was going to be a tough turn. Alternate Member Sousa said that Mr. Principe should put a turning template on the plan to show how a car would to access the first garage door as it needed to be disclosed.

Member Katz said that he would like to know about drainage. He said that if they're going to pave the parking area on the outside or the road, he wanted to see it. Attorney Rego stated that it was addressed on the plan somewhere in the margin and it said crushed shells. Member Katz was pleased that it was permeable material. Alternate Member Sousa said that it was good of Attorney Rego for pointing it out on the plan but said having a plan that has it actually drawn out would be very helpful. Attorney Rego understood the need but said that is what was presented to him with the notes in the margin which dealt with the removal of the shrubs and overgrowth, the access to the garage doors since they hadn't been used in a long time, the permeable material, the trash bin to be located in the southwest corner of the property, and references to the right-of-way known as Resolute Lane, so anyone that's utilizing Resolute that's where their access is on Resolute. He said if the Board looked at the plan there was a building that is where the radius turn would be and he believed that's their property and it presented a problem. Alternate Member Sousa said that the property line should be shown on the plan, because it said "142 Hope Street now formerly the Herreshoff Marine Museum" but nothing that related to Ms. Barlow. Ms. Williamson asked if the Board could see 140 Hope on the plan and no one on the Board could locate it. Alternate Member Sousa said that was very important and it needed to be on the plan.

Member Katz said to Chairman Millard that he was not opposed to the project but felt that there was not enough information to vote on it.

Attorney Rego said that his understand of the adaptive reuse was that a lot of it became administrative if the Board were to direct except for the ration and density aspects and if that's given to us, we can then proceed and dot the I's and cross the T's and provide a final set of plans that addressed the different issues.

Member Katz asked Attorney Goins for her advice on the matter.

Attorney Goins stated that it was up to the Board to decide whether they had enough information in front of them to: 1) make the findings on the zoning aspect, and 2) make the findings on the land development project aspect. She stated that adaptive reuse law just defined the limit of the Board's discretion on the project, but it didn't necessarily state that everything other than density was automatically administrative as it was up to the Board.

Chairman Millard stated the Board was not going to approve anything administratively. Member Katz stated he wanted to have more information.

Attorney Goins said it was more for the Board and not just for this particular application. She said that once they go through the process which would take a few months that the Planning Board would be involved with, updating the Town's Zoning Ordinance again to reflect that maximum density would be determined by the municipalities, it may be in 6 months a similar project would be eligible for administrative approval if the Zoning Ordinance said a density of 6 units may be permitted in a particular zoning district, and then it would be something that potentially could be eligible for administrative sign-off but the Town doesn't have it now. She stated that's why it was her advice when she and Ms. Williamson conferred as to how the project should be processed and that's why it came before the Planning Board.

Alternate Member Sousa stated that clarity was needed on the variance that was being requested. Attorney Goins said the adaptive reuse law stated that adaptive reuse was permitted by right for adaptive reuse projects but in this particular zoning district it was normally not permitted. She said some adaptive reuse projects are in residential zoning districts where there would be a maximum density. She said that not having very clear guidance from the law on how a project like the one presented at the meeting should be processed, she believed some variance is allowed because the Board doesn't have the discretion to deny the project stating that residential wasn't appropriate. She said they had a right to do a residential project, but the question was what density was appropriate for the site. She said it was up to the Board to determine it based on the review of the information before the Board.

Member Katz said item that wasn't brought up at all was, is there a requirement to get HDC approval. Attorney Rego stated that they have received approval from the HDC.

Alternate Member Jarest stated that seeing a site plan showing how the parking is going to work and understanding the easements would allow the Board to understand how many units could be viable in the location.

A member of the audience wanted to ask a question, but Member Katz stated that the public hearing was closed. Attorney Goins said that the Board could reopen the public hearing or if the Board was going to continue the application and ask for more information, the public hearing would have to be reopened next time, but it was up to the Board. Chairman Millard stated that it was going to be continued.

Member Ruggiero asked if the Board was supposed to determine the number of units. Attorney Goins said yes. She stated that the Board the applicant requested 7 and the Board needed to consider their request against the dimensional variance standards, but knowing the Board had to allow at least 1 unit but the applicant requested 7 units. Chairman Millard stated that the applicant originally asked for 11 units and are now only requesting 7.

Member Ruggiero asked if the applicant was now requesting 7, is the Board supposed to decide whether that was enough, too many, or too little. Attorney Goins stated the Board was to look at the proposal which was 7 and see whether it met the standards for a variance; that being, that it wouldn't change the character of the surrounding area, being consistent with the Comprehensive Plan, and other standards that the Board can review. She stated that the Board's task is to review the proposal and see whether it meets the standards. Member Ruggiero said that from what he heard those two buildings were there doing nothing but deteriorating. Attorney Goins said that it sounded like part of a finding that there's a hardship which was one of the findings that the Board would need to make. Member Ruggiero said that doing something would be better than just leaving it there, but he would need to see it and asked where Resolute Lane was located.

Chairman Millard asked if Bill Campbell could ask his question. Attorney Goins said to reopen the public hearing. Chairman Millard made a motion to reopen the public hearing and it was seconded by Member Katz.

A motion was made by (Millard/Katz)
In favor: Millard, Katz, Ruggiero, Sousa, and Jarest
Refrained: Clark
Opposed: None

William Campbell of 186 Hope Street came up. Mr. Campbell asked what did zoning say about Airbnb use. Attorney Goins said that the Board didn't have any specific regulations about short-term rental and there was nothing specific on the adaptive reuse law. She stated there was something specific for ADUs as State law said no ADUs for short-term rental. Attorney Goins said that the Board could impose as a condition of approval no short-term rental she thinks they could, but they could be seeing that question a lot and at some point the Board may have to consider whether or not it might make sense to the Council to enact an broader regulation. Chairman Millard said that could be something for the Council to consider, but for now the Board could definitely put something in regarding no short-term rentals. Mr. Campbell said the reason he asked was because the Museum is an event venue and the Herreshoff Museum creates business and wedding events and the like. Chairman Millard said that they would address that at a later date.

Member Katz made a motion to close the public hearing portion of the meeting and it was seconded by Alternate Member Sousa.

A motion was made by (Katz/Sousa)
In favor: Millard, Katz, Ruggiero, Sousa, and Jarest
Refrained: Clark
Opposed: None

Attorney Rego said that there were practical sides to the issue in that for a developer to continue was the premise that the Board may allow more than 1 unit on site and without it there's no need to go forward. He said that they need to have some understanding of the issue of density. He said the proposal to fit the concept of the outlooks of the buildings was reviewed by the Historic District Commission and they were sticklers on all of the criteria. He said the original proposal was to go for additional units on Resolute going up another 2 stories and the decision with the Historic District was to maintain the envelope, so they went back to the 1 story. Attorney Rego said there was a lot of expense going into potential as it is open-ended as the Board is considering the density.

Attorney Goins suggested Chairman Millard to poll the Board generally on how the Board felt about 7 units to give the applicant some comfort.

Chairman Millard stated that the applicant went from 11 units to 7 units and he didn't have a problem with 7. Member Katz said he didn't necessarily have an issue with 7 either, but wanted to see the plans with the parking, garage door, and drainage as it could be an issue. Alternate Member Jarest said it was about health, safety, and welfare that they needed to know more about parking and drainage. Alternate Member Sousa said to allow Mr. Principe to do what he does best and the applicant would be all set.

Member Katz made a motion to continue the application to the October 9th meeting, and it was seconded by Alternate Member Sousa.

A motion was made by (Katz/Sousa)
In favor: Millard, Katz, Ruggiero, Sousa, and Jarest
Refrained: Clark
Opposed: None

D. Correspondence

D1. Roger Williams University Master Plan and Campus Update, Summer 2025

Member Katz recused.

Motion was made by Clark to receive and file the correspondence from Roger Williams University, and it was seconded by Sousa.

In favor: Millard, Clark, Ruggiero, Sousa, and Jarest
Refrained: Katz
Opposed: None

E. Adjournment

Meeting adjourned at 10:40pm by Sousa

Respectfully submitted by Kathleen M. Maynard, Recording Secretary

Date Approved: 23 October 2025 Planning Board: [signature]