

HAMILTON PLANNING BOARD – PUBLIC MEETING MINUTES

Date: August 30, 2022  
 Location: Memorial Room for Planning Board Members and the Planning Director, all other Participants via Meeting held remotely via Zoom  
 Members Present: Rick Mitchell, Richard Boroff, Marnie Crouch (Chair), Emil Dahlquist (Clerk), Jonathan Poore, William Wheaton, Pat Norton (Associate),  
 Members Absent: Corey Beaulieu, Beth Herr  
 Others Present: Patrick Reffett, Director of Planning and Inspections

A full recording of the Hamilton Planning Board meeting is available at <https://www.youtube.com/watch?v=UA7XQ9xEyBg>

**Call to Order:** Marnie Crouch called the meeting to order at and took roll call attendance.

**Roll Call:** Rick Mitchell – present, Richard Boroff – present, Jonathan Poore – present, Emil Dahlquist – present, William Wheaton – present, Pat Norton – present, Marnie Crouch – present

Senior Housing Special Permit and Stormwater Permit Board Deliberations - Continued. The Hamilton Planning Board will continue its deliberations on the application of Chebacco Hill Capital Partners LLC in accordance with the following described applications for the development of the property located at 133 Essex Street, Hamilton, MA, and shown on the Town Assessor’s Map as Parcel ID No. 65-000-0001: (1) Senior Housing Special Permit pursuant to §8.2 of the Town of Hamilton Zoning Bylaw, to develop the Property as a fifty (50) unit age-restricted condominium development; and (2) Stormwater Management Permit pursuant to Chapter XXIX of the Town of Hamilton Bylaws, dated April 2, 2016.

Meeting Content:

1. Board deliberation regarding 133 Essex Street Senior Housing Special Permit and stormwater management permit application materials.
2. The Board will discuss its agenda for the September 8, 2022 meeting.

Ms. Crouch called the meeting to order at 7:00 pm. She observed that the Board members entitled to vote on the Special Permit Application and the Stormwater Management Permit application were Rick Mitchell, Richard Boroff, Jonathan Poore, Emil Dahlquist, Bill Wheaton, Pat Norton, and Marnie Crouch.

Ms. Crouch stated that at the last meeting, the Planning Board reviewed pertinent Town documents including the 2004 Master Plan, the 2009 Open Space and Recreation Plan, the 2019 Housing Production Plan, and the Open Space Residential Development or Conservation Subdivision Modeled Bylaw which formed the basis of the Town’s Open Space and Farmland Preservation Development Bylaw. She indicated that, at the last meeting, the Board endeavored to parse out the relationship of the development to the natural environment with the goal of resolving one important question: whether this project is ecologically responsible. She added that the Board also debated whether this project is integrated with the site or imposed upon it.

She stated that the Board referred to the Stormwater Management Plan and that precipitated a discussion of the role of peer reviewers. Ms. Crouch stated that the Board must rely on peer reviewers when those peer reviewers opine on subjects that are well outside of the Board's area of expertise. Further, Ms. Crouch stated, peer reviewers can inform our decisions, but they cannot dictate them because the job as members of the Planning Board is to review the project in very broad terms holistically.

Ms. Crouch also stated that the Board has to be careful to differentiate between the Stormwater Permit application, which has one set of standards, and Section 8.2.20. Ms. Crouch read section 8.2.20, because that is again a part of the Senior Housing Bylaw of which the Board needs to be mindful. That particular provision provides the following:

*The peak rate of stormwater runoff from a senior housing development shall comply with Department of Environmental Protection Stormwater Management Policy and the provisions of General Bylaw XXIX, General soil erosion of the proposed development site shall be minimized by integrating the development into the existing terrain and by reasonably retaining natural grades and soil cover. During grading and construction of all improvements, including all Structures and infrastructure improvements, erosion of soil shall be minimized using best management practices.*

She stated that the Board will review the remaining two broad categories that were outlined in the memorandum that the Board received prior to the last meeting, namely:

1. the relationship of the development to the site, and
2. the relationship of the development to the neighborhood and community.

Ms. Crouch also identified several sections of the Senior Housing Bylaw that are not considered to be outcome determinative. These will be briefly outlined and if there are disagreements with this list, the Board will discuss this and advance any subsection of the Senior Housing Bylaw forward to have a more detailed discussion.

Ms. Crouch then outlined items that are not subject to dispute. One of these is the payment of \$2,174,000 to the Affordable Housing Trust, as well as some of the other provisions of the bylaws such as the distance from other senior housing projects. They are just not in dispute and wouldn't impact decision making.

1. The relationship of the development to the site

The Board identified several topics. An overriding question, Ms. Crouch stated, that the Board did not have to answer prior to discussion, but should be keep in mind, is whether the applicant's plans reflect consideration of site conditions for the intended use of the site for senior housing. For the edification of all participants, the Senior Housing Bylaw defines elderly as 55+. The question, Ms. Crouch stated, is what amenities are provided by this development for both social interaction and active and passive recreation.

Mr. Dahlquist stated that this goes back to the basic question regarding what behavior the site plan supports, and in this case, it is senior housing. The word amenities came up in one of the bylaws and the question is where on the site plan is there space to support life in this particular

village. Mr. Dahlquist continued that, while the following are not required, they would be positive elements to incorporate and would enhance life in this particular place and reflect the kinds of amenities most often seen in senior housing:

- Spaces for the elderly to socialize either indoors or outdoors, such as a plaza, a pavilion, or a gazebo.
- Benches along the walkways or sidewalks where people could stop and socialize.
- Benches next to scenic views, again where people could stop, rest, and socialize.
- Handrails along the sidewalks especially those that exceed ADA standards, going down at a one in ten pitch. Even if these ramps do not exceed ADA standards, handrails would reflect concern for safety issues.
- Community garden. This is generally another place where people could gather socially and also plant for the season.

Mr. Dahlquist acknowledged that the site is crowded so some of these amenities might come at the expense of something else. Right now, he stated, the site plan is indistinguishable from a standard subdivision site. These things can be added and there might be things that the applicant want instead. Typically, he continued, in a 55 plus community there is some kind of area, a community room of sorts, a place for residents to gather and make decisions. Again, it is not required, but it would be a good thing to have. The town is not obligated to provide funding for this as it's a private development so it would be basically up to the seniors once they get there to decide what they want.

Mr. Boroff stated that the areas outlined by Mr. Dahlquist are not set in stone for a senior housing complex and indeed, the builders might decide that there are other things they want instead. Mr. Boroff asked if there was a plan for a senior association of any kind or a community room of sorts for the seniors to congregate. Mr. Dahlquist said that that's the sort of thing that he was considering. Mr. Boroff asked if the Town would be responsible for providing funding for some of this. Mr. Dahlquist said the Town would not be obligated as the project is a private development. Mr. Boroff then stated that it would be up to the seniors once they get there to decide what they want.

Ms. Crouch then asked the following question: do the roadways and sidewalks allow for convenient and safe circulation by the residents in all seasons. Ms. Crouch stated that the attorney for the applicant noted that this development is pitched toward a younger population of 55 plus. In other senior housing establishments, seniors are defined as 62 plus or 65 plus. However, the attorney also indicated that this development is designed for people to age in place. Thus, she continued, the question about convenient and safe circulation by residents in all seasons is an important one. For example, there are portions of the roadways that are at a 10% grade. Our peer reviewer did note this, and the applicant is certainly within its rights not to make any alterations, but the question is, is this conducive to aging in place. Ten percent is a one-foot rise over a 10-foot distance.

Mr. Boroff asked how significant 1 foot in 10 is. Mr. Dahlquist responded that ADA standards for a ramp is 1 foot in 12 so that is approximately 8% as opposed to the 10% currently proposed for the site plan. ADA also requires handrails on both sides of the walk. The government gives an allowable 30-foot length to the walkway before there must be a flat landing of 5 feet square

and then another ramp would be started. Mr. Dahlquist noted that ADA walkways are a series of intervals of ramps at 12% or one in 12.

Ms. Crouch then asked if there are barrier-free free places for people who are in fact aging in place. She stated that certainly the interior of the homes can be modified but if someone is in a wheelchair that would involve enlarging the frame of the door. Mr. Boroff asked if the developer, when he is building these places, provides doorways wide enough for wheelchairs? Mr. Dahlquist responded that he reviewed the drawings and right now, you cannot get into the building without going up steps. There are provisions on the drawings for a potential ramp that could be installed up to the landing at the front of the door, but, Mr. Dahlquist continued, people would still have to navigate 12 inches. When he asked the architect, he said that they would just raise up the six inches to get people to the door. The front door is 3 feet wide and that is a requirement by code. That's fine for a wheelchair, but, once someone is inside, the other doors do not comply. Mr. Dahlquist pointed out that there is an issue of getting to the bathroom and operating other critical activities that is sort of out of our realm. He asked if this really is barrier free for people aging in place. After all, he noted, as people age, they do get frail and may require wheelchairs or other devices. He further stated that he checked the door widths and clearances off the latch side of the doorways, and the door widths and clearances off the latch side of the door are all coded—if the door opens toward you, you need 18 inches off the latch side of the door. Mr. Smith said they can always make changes in the future but some of the changes require widening the hallways to get the proper dimension off the latch side of the door. Mr. Boroff stated that it is just easier to do it at the beginning of the project. Mr. Dahlquist agreed.

Mr. Dahlquist then pointed out a bigger issue of safety on the property is the steep slopes around and behind the buildings and especially on the lawn. He stated that this can be pretty dangerous for those who are not sure footed. The 2 to 1 slopes are steeper than required for lawns. Mr. Boroff stated that a lot of people would not go outside because it is too steep. Mr. Mitchell stated that these points are kind of subjective standards that are not in the bylaw and suggested that the discussion was getting into subject areas outside the bylaw. Ms. Crouch responded, noting that Planning Board's Rules and Regulations, which she observed are not easy to find on the web page and were last amended in 2009, provide that access to open spaces should be barrier free to serve physically handicapped and the elderly. That's not a mandate, she stated, but it's something that is encouraged by in our Rules and Regulations.

One amenity on this property that the applicant, Ms. Crouch continued, has touted is the access to trails. The main access to the trail system would be close to Chebacco Road. Mr. Dahlquist noted that a couple of units have access but they are down steep slopes. He also made a point about the lawns; the number of the units that have steep slopes separating the front yard from the backyard so if one needed to walk from the front yard to the backyard, one would have to navigate a 2 to 1 slope or go indoors and then back outdoors. A 2 to 1 slope on a lawn with the tiniest bit of snow or a little bit of ice or wet leaves is not safe even for able bodied folks.

Ms. Crouch suggested the Board move onto Smart Growth principles. She stated that this is set forth in one of the purposes of the Senior Housing bylaw so it's important that the Board consider

Smart Growth principles. The Commonwealth of Massachusetts has set forth Smart Growth principles as has the Planning Board in its Rules and Regulations in Appendix A.

Ms. Crouch stated she would read the Smart Growth principles laid out by the Commonwealth and by the Planning Board. The Board can then discuss which Smart Growth principles members felt would apply to this project.

Ms. Crouch Rules and Regulations set forth by the Planning Board in terms of Smart Growth principles:

*Concentrate development and mixed uses; advanced equity; make efficient decisions; protect land and ecosystems; use natural resources wisely; expand housing opportunities; provide transportation choice; increase jobs and business opportunities; promote clean energy; and plan regionally.*

She noted other formulations:

*Mix land uses; take advantage of compact building design, create a range of housing opportunities and choices, create walkable neighborhoods, foster distinctive attractive communities with a strong sense of place, preserve open space, farmland, natural beauty and critical environmental areas, encourage development in pre-existing sites rather than green fields, provide a variety of transportation choices, make development decisions predictable, fair and cost effective, encourage community and shareholder collaboration in development decisions.*

Ms. Crouch stated that the applicant has indicated that it will provide a conservation restriction for open space and farmland and critical environmental areas. She then invited Board members to discuss how these smart growth principles apply to this project.

Mr. Mitchell said if one reads the senior housing purposes, item 3--*to encourage the implementation of smart growth techniques, to reduce land consumption and sprawl, provide for open space preservation, expand housing options and encourage the reuse of existing structures*--it pretty much meets three of the four criteria that are listed here. Ms. Crouch responded that in terms of transportation, the location of this development is such that if the residents wish to travel into Boston, buy groceries or visit friends, they must get in a car and drive. This is one element of this project that challenges at least a couple of Smart Growth principles. We've already discussed the walkability of this site.

Mr. Dahlquist stated that, considering the idea of sprawl as mentioned in Section 8.12.13, this is really an auto centric development. Almost 100% of those who are going to leave are going to leave by automobile. The idea of sprawl is to get people living closer to where they actually work. He said the project is located in a remote part of Hamilton, fairly close to Route 128, but still built on undeveloped land. This is another principle in Smart Growth which says don't build on raw or undeveloped land, build on previously developed areas so you're not taking up new unused land. So, in both cases, Mr. Dahlquist further stated, it doesn't pass in terms of developing in pre-existing sites and providing a variety of transportation choices. It also doesn't meet the principle of creating a range of housing opportunities and choices, such as buying/renting a condo or a free-standing house. There is one type of house on this site; it's

really one model that's being repeated 50 times so it doesn't really comply with that particular section. Mr. Boroff (30:08) asked if this was different from models in other parts of town. Mr. Dahlquist asked Mr. Boroff to hold his question as the Board will address senior housing elsewhere in Town later in the evening. Mr. Mitchell stated that the genesis of the principal to create a range of housing opportunities and choices, was a desire to get away from just single-family housing which was the only option available at the time that the bylaw was created and that's what it meant by expanding options, as opposed to single family housing. He also stated that the desire to have such housing near transportation centers or commercial centers would be wonderful except there's no land available to do that kind of development downtown.

Mr. Dahlquist stated there is a question of whether you can use the term smart growth on this project. If you go item to item, we would find that the most of this project does not comply with the Smart Growth techniques. Mr. Dahlquist said that while it's true that our open land is limited and this project is primarily outside of our transportation corridor, we do have to evaluate this in terms of Smart Growth principles. Mr. Mitchell then stated that this project clearly doesn't meet a lot of the smart growth principles because it can't meet those principles and it wouldn't meet those principles anywhere in town unless you placed it in the commercial district.

Mr. Reffett stated that CATA, the Cape Area Transportation Authority, does serve the Council on Aging here in Hamilton so they are likely to be requested to provide services. If there is sufficient demand within this senior housing project, he said he suspected that CATA would provide services there. Mr. Reffett confirmed that this service is not income dependent.

Ms. Crouch then stated that one of the topics the Board needs to consider is clusters and villages. She explained this has been referred to as a cluster development, and the applicant has pointed to both the reduced demand on the septic system from the senior housing, as well as the preservation of farmland and significant open space through the conservation restriction, to satisfy section 8.2.1.5 of our Senior Housing Bylaw, which references cluster development. The real question is what is a cluster subdivision? Is it the same as just dense housing or housing that takes up a small portion of a site that's surrounded by open space? Mr. Mitchell said that this project involves building on 16 acres and preserving 44. Thus 50 units on 16 acres certainly meets the intent of this bylaw.

Mr. Dahlquist stated that the origin of the phrase, cluster housing, is from Randall ArendtHarrington, who did a lot of work on conservation subdivision design work, and he is the one who coined that phrase. Citing APA Standards, he then said that cluster subdivision has two characteristics that distinguish it from suburban development of the past decades. The first is a design principle in which small groups of houses are set off from one another by intervening space. The second is the common ownership of the space between the groups. The space is a central feature that is accessible by all residents. Mr. Dahlquist added that the cluster subdivision has morphed into something that can be abused. If you had 50 units, Mr. Dahlquist continued, you could group units separated by open space, similar to what was done Mr. Smith at Magnolia Shores. The idea of the cluster is that open space is really the design that determines everything around the open space. Here we have something quite different and to bring in an analogy of this, we can imagine a donut that has a hole in the center. We can look at the cluster as the donut around a hole, the hole being the open space so that all the housing could take

advantage of the open space. It's in close proximity to all the buildings. Or we could do the reverse and put all the houses in the middle, in the hole in this case, and that is the sort of model that they have here where there are 50 units in the middle surrounded by open space. That is much more of an urban form; it's much more dense, much more tightly composed and more of an urban form in a rural part of Hamilton. Mr. Ahlquist concluded that the Magnolia model would have been a better one to use.

Ms. Crouch asked a following up question: is the open space meaningful to the people who will be living in this project; is it even that accessible? She noted that the Board had talked about the trails but the only way the residents could access the open space is through the trails and this requires them to walk down slopes. Mr. Poore said that, generally, a cluster development has meaningful open spaces between the units, but in this particular case, the spaces between the units are distinctly unusable. You can barely stand on them because they are all 2 to 1 slopes. It is really a series of platforms with houses on them connected by 2 to 1 slopes. There's really no meaningful open space within the development area. According to Mr. Poore, this is the distinguishing characteristic between the true meaning of cluster development and what's being proposed here

Ms. Crouch then asked the Planning Board to turn to landscape buffering. To refresh everyone's recollection about the buffering requirements and our bylaw, she read the provisions of Section 8.2.22:

*Building setbacks shall remain vegetated and undisturbed to the extent possible in order to maintain the existing natural features. The Planning Board may require designated "No Cut Zones" in order to minimize disturbance and impacts to abutting properties. Buffering from the street and abutting properties in order to minimize visibility is desirable. A landscape buffer shall be provided along the perimeter of the property. For said landscape buffer natural vegetation shall be supplemented with planting of evergreen trees and shrubs. A landscape plan shall be required.*

She then asked the Board if the landscape buffering in the proposal maintains existing natural features and provides buffering along the perimeter of the project.

Mr. Poore spoke to this question and with the proviso that if it was confusing he could supply slides from the applicant's drawings. He stated that along the frontage of Chebacco Road previously there was 300 linear feet of disturbance. Now it's been reduced to 230 linear feet by taking a couple of the units out of there, so that's a large number of linear feet for just a curb cut. He added that's clear cut, blasted altered grades, 230 linear feet along Chebacco Road. He continued by noting that on the southeast slope, near units 24 through 27, there is another 180 linear feet of disturbance in the 20-foot required buffer area. On the east slope there's another 350 linear feet of disturbance where it's clear cut right to the to the lot line. That's a grand total of 760 linear feet of disturbance and clear cutting and scraping of materials from the area that should, according to the bylaw, remain vegetated and undisturbed with supplemental vegetation added if required. The Planning Board can designate no cut zones and that's quite a bit of disturbance to the 20-foot buffer. Chebacco Road is a small neighborhood, it's a scenic road, and it has particular characteristics talked about in previous meetings.

Mr. Poore stated that it is useful to look at what's been put back in place of those 230 linear feet of disturbance. Starting on the east side or left side of Chebacco Road, there's 25 to 30 feet of clear cutting and regrading on top of the sheer ledge cut (on top of the cliff) and that really hasn't been dealt with in the landscape plan. The landscape plan does not really show it as being disturbed. All of the other engineering drawings show it being disturbed and regraded. The specifications show it being replanted with slope mix and there's no specifications about how they are going to maintain that slope mix, whether that's going to be mowed twice a year like a meadow or highway embankments. It's not reforested and it's not reserved and it's not replanted. That first 20 to 25 feet on top of the sheer ledge is disturbed and then there's a fence up there, set back about 20 feet from the edge. Then we come down the vertical blasted face and that lands in a swale which is a 4-foot depth and it's right against the blasted face and right against the sidewalk. The sidewalk comes right along that swale and then there's trees sort of squeezed in there so the tree canopies, once they get to a certain size, are going to be hard against the ledge face.

Mr. Poore continued with his observations, noting that the next thing is coming out of that swale is almost a raised roadbed with a sidewalk next to it. The grade drops down on the other side into the gravel four bay, which is a little bigger than a 2-car garage, right near the entrance and that's never been indicated in the drawings in terms of the representation of the project as it appears. It shows in the engineering plans, but it's never been demonstrated three dimensionally or in the in the perspectives. So, the road in that area is coming down at a 10% slope right below the cliff and is basically like a raised, narrow, elevated causeway and again that's never been shown accurately in the drawings. But if you study the site contours, that's how it's set up.

Mr. Poore added that there is a pretty good thicket on a 2 to 1 slope facing out to Chebacco Road that is heavily planted and would block the view of the project if you're standing in front of it. But that's only 70 feet of the 230 feet, so looking up the road there would be quite a bit of the project to see. He continued that if you walk to the right further out towards Essex Avenue, past that 2 to 1 slope with the nursery stock, you would be into the undisturbed tree canopy. If you stand on Chebacco Road and look up the slope, you can see the edge of disturbance stakes in the summertime with full foliage. Mr. Poore asked rhetorically, if you can see those stakes, then what you could see up there is the new disturbance which is characterized by rip rap, which starts immediately as soon as one gets past and around the rain garden. So, from Chebacco Road, you would see a ribbon of rip rap, sometimes 18 feet tall, and it's a continuous surface so that it's uniform whether it's a grass bank or rip rap. Mr. Poore stated that essentially when you put together all those pieces you can look up the road and see a lot of the units and the steep slopes around the units because it's sort of like stadium seating climbing up the slope. This is what some of the peer reviewers mentioned when commenting on the perspective. He stated that the question is whether, with that amount of disturbance and what's being put back, which is certainly not natural topography and certainly not going to screen all those elements, this project really in character with Chebacco Road.

Mr. Wheaton expressed concern about any landscaping on the site that is installed. The 10 or so acres are going to be clear cut, stripped, blasted, and then essentially rebuilt in the form of on-site stone crushing. This could be anywhere from a couple of feet to even 10 to 15 feet of depth and then some amount of topsoil will be put back on top to provide a foundation for both the houses and for landscaping. A foot of topsoil is fine for a small bushes and grass and flowers, but the



notion that we could plant significant large trees or have large trees successfully grow on any area that was clear cut and then rebuilt with all this gravel would seem quite problematic. He stated that the developer is going to put four feet of topsoil on top of the gravel. Mr. Wheaton observed that the gravel is used to level things on solid granite, and he said he is just very skeptical about what level of landscaping will in fact survive on this site. Again, he stated that grass and small bushes could be planted, but it's difficult to imagine any kind of deep-rooted trees ever taking hold on any of the land where the original trees have been cut. The developer provided an aerial image of the 9 acres surrounded by mature trees. Some of those mature trees are going to be new; their survival is questionable unless the topsoil is of sufficient depth. This combined with the discussion of the linear feet of disturbance and the view of the rip rap could mean that 10 years from now, standing on Essex Street, we would look up and see maybe a few trees but mostly rip rap and the development.

Mr. Reffett stated that the landscape technique, when you build in an area that has had some work the way this is being proposed involves building what's known as a tree pit. A tree pit has a certain amount of soil that goes underneath the root ball of the tree, typically a foot to 18 inches. It also goes laterally to provide more soil out from the tree ball, probably a foot or 18 inches. This provides soil and nutrients and stability. That's the landscape architectural treatment one typically needs to do in an urban environment or location where you've had a lot of site prep like this.

Ms. Crouch said that we do have to take note of the prevalence of drought not just in this country but worldwide, coupled with torrential rains. She noted that trees she planted two or three years ago are in distress and with the current water ban, it's important to note that there are these and other constraints with respect to maintaining landscapes in circumstances where we have a water ban.

Ms. Crouch then stated there was one more item in this second category regarding the practicalities of maintaining this site. How much resiliency, she asked, is built into the development to allow for inevitable challenges associated with unanticipated events such as climate change, or lapses in maintenance by the homeowners' association--not necessarily in a year or two or three, but maybe 10 or 12 years down the line. Ms. Crouch invited comments from the Board.

Mr. Norton stated that the goal of any engineer is to design something that is easy to maintain because then it can be maintained. He added that if a project involves an overelaborate, expensive and difficult elements, these are the things that get deferred and overtime have issues. He said he was trying to pick out any specifics to this project where there is a general concern. He felt it was the scope of the job that was creating the issues, not necessarily how the applicant approached the design and the maintenance of the site.

Mr. Norton acknowledged that Granite Engineering did an outstanding job in designing the system for this very difficult site. The question, he stated, is what choices were made and might there have been alternatives that wouldn't have necessitated such a reliance on structural systems as opposed to more natural systems to handle water and erosion and that type of thing.

Mr. Wheaton stated that anytime you have 50 units clustered as close as these, it's almost like a high rise where everybody is going to expect the condominium association, or whoever the governing body is, to do all the work. To the extent, he said, that the condominium association is on top of things and assessments go through, maybe it will work. But the systems that have been designed are very complex and they're subject to failure if they're not maintained. Mr. Wheaton suggested the Town might require the condominium association to make an annual fee to the town which would be returned as long as everything is done according to plan.

Mr. Boroff noted that this might require an inspector, not quite a full-time inspector, but someone dedicating many hours in a month or a couple of weeks to make sure everything's being done. Mr. Wheaton asked if this requirement could be written that into a set of conditions such as Mr. Reffett has started to create?

Mr. Norton stated that there is a phase one and phase two to construction. Sometimes there's a condition around the timing of one phase to evaluate how the sites performing, how it's being maintained, how well it's being constructed, etc. He suggested that if there was a concern on the scale of it and how it's maintained or the impact on the environment along the way, we could limit the construction of phase one for a set time period before they are able to proceed to phase two.

Mr. Boroff worried that that would interfere with the developer's economic necessities. Ms. Crouch said it would because of the way the units are being constructed, noting that the developer would begin phase two after 12 units are constructed in phase one and 50% of the units in phase one are sold so there is an overlap between phase one and two. Mr. Boroff stated that the developer was basically using the construction in phase one to pay later construction.

Ms. Crouch suggested the Board move onto the next discussion. If necessary, she stated, the Board could reopen the discussion about resiliency.

Mr. Dahlquist had some final points to make about resiliency. In structural engineering, he stated, they used to refer to resiliency as an ignorance factor. There might be unanticipated loads on a beam, for example, so the beam would be designed to design strength and then something is added to it in the event of some unanticipated challenge. In stormwater management, in terms of resiliency, we would want to use natural hydrology wherever possible, ideally as much as 50%, so we wouldn't have full reliance on a structured system for all of the runoff. It goes back to if this is designed well. Mr. Dahlquist stated that the Board could condition a certain reporting schedule, observing that Mr. Emery said that the Town should hire somebody to do the monitoring, adding that Mr. Emery stated in his last report that the Board would be well advised not rely on the condominium association. As part of any design, Mr. Dahlquist continued, resiliency is built in so that unanticipated factors can be absorbed. But with this project there seems to be high maintenance with a low level of resiliency. Everything is being pushed to the extreme, for example construction right down to the buffer area on 2 to 1 slopes. Every single corner on this project is at a stress point. We need to be sure that during the life of the project everything is maintained from beginning to end, otherwise we're going to get flooding across Chebacco Road. Mr. Dahlquist stated that, if one really studied the drawings, one would realize what could potentially happen here. He suggested that some cases were never brought to light

during the course of the presentations and again reiterated that it's the resiliency that's being pushed to the limits.

Mr. Poore stated that he would like to clarify some of Mr. Dahlquist's remarks. He stated that there are two elements here: one is design and one is engineering. Mr. Poore indicated that the bylaws separate the process into design decisions/site design decisions, and then engineering. There are two steps, and they are really two different processes, and engineering has nothing to do with the initial design decisions. Those are independent of the engineering. The Board, he said, will agree that the engineering was fully vetted. The resiliency issues are in the design component not the engineering component. The design component encompasses the configuration of the buildings on this hillside, what's disturbed, what isn't disturbed, what slopes are created.

Mr. Poore offered as an example of a situation where he was designing a building and would typically hire a structural engineer. The structural engineer comes in and does the structural analysis of the building and he would get a report at the end and it checks out and the structural engineer has done everything perfectly. But this isn't the same, he continued, as determining whether the building is successful - - does the building function, does the building meet its purpose. These are questions that the engineers are not asked to solve because it's out of their lane and they're not going venture into design aspects unless they're asked to.

Mr. Poore stated that his firm does stormwater design and it starts the process with a very careful environmentally sensitive site design, basically following all the principles that have been mentioned. The engineers don't come in until the very end of that process. They do the analysis and calculations based on design strategies that his firm has set forth.

Mr. Mitchell said the concerns seem to be centered on the maintenance of systems to make sure this project operates as designed. He said that concern could be addressed by having conditions to ensure that the maintenance is done on a regular basis. It's a minimum of an annual inspection or a semiannual inspection of the stormwater system and maintenance. It's a concern, he continued, and should be dealt with and included in some kind of conditions. He added that the Board needed to be careful in reaching a decision because its decision needs to be based on objective criteria. He expressed the view that members were speculating and the Board's role is to make sure that the Board follows the engineering and deal with concerns through conditions.

Mr. Poore stated that the design components are not just germane to the maintenance and resilience of the project, they're also germane to the safety concerns that have been talked about, as well as buffer concerns. Basically, he continued, virtually all of the concerns that have been brought up around this project emanate from those initial decisions about not engaging in environmentally sensitive site design, which is what the bylaws request as a first step. There are many themes that grow out of that that heavily lean on engineering in this proposal, rather than environmentally sensitive site design. It is not just resiliency, it is safety, it is the character of the neighborhood. Is it the right thing in the right place?

Mr. Wheaton stated that he would like to play on this idea of environmentally sensitive site design. He said he could imagine a project like this in a dozen other locations in Hamilton

where, admittedly, there isn't any land for sale and this project would fit right in. It wouldn't create any the concerns such as we have with this site. Instead, he stated that this project proposes to basically wipe out the natural landscape, to blow it all up, cart it away, crush what's left and then build on scrap on top of it. He said he could not think of a type of project that would be more environmentally unsensitized than this one. It is like clear cutting a forest; it just has absolutely no environmental sensitivity. He added that he thinks the concept of the plan is terrific and a great use for the town. We need senior housing, but we can't possibly consider this project to be in any way environmentally sensitive to the site. It is exactly the opposite; it basically takes whatever is there and blows it up, levels it, crushes it and starts completely from scratch.

Mr. Boroff then asked what the Board should do; should we ask the developer to come back with a whole new plan.

Mr. Wheaton replied that it is not our purview to ask the developer to come back with a whole new plan. Our purview is to determine whether as our bylaws suggest whether there is environmental sensitivity - an important part of getting a special permit. H stated that this project is just not environmentally sensitive. It is, he continued, sensitive as Mr. Poore pointed out, in an engineering sense. They are kind of bending over backwards. Once the developer has blown everything up and started from scratch, it is then trying very hard to make sure that the drainage and everything works. But that's not what the term environmental sensitivity means. It means, he said, that you're leaving all the natural resources, or as many as possible, on the site and blending the project in. If this project can't be blended in, then it shouldn't be built. He stated that he could not assemble a group of architects or planners or any professionals, show them what's proposed for the site and ask them if the site plan for this site that was environmentally sensitive. They would all say," no."

Mr. Boroff asked what the Board has as a recourse at this point, what can we do? Ms. Crouch responded that the Board should return to this discussion once they have completed other deliberations. Ms. Crouch stated each Board member can assess all the different purposes and specific findings that the Board has to make under Section 10.5.2. The Board was instructed to weigh various considerations in making our decision.

Ms. Crouch suggested the Board move on to considering the relationship of the project to the neighborhood and the community. She stated that the Board needs to consider is the compatibility of this development with the adjacent land use, as well as the neighborhood character. Ms. Crouch continued that in our bylaws there are references to rural New England character. She asked the Board: how would we describe rural New England character and also, in this context, what is the neighborhood character? Ms. Crouch cited The Boulders, which used rural vernacular New England architecture and integrated it into the site. She noted the front porches facing the street and garages that are offset from the open space, which is in the center of the development.

Mr. Dahlquist stated that a lot of towns struggle with this. What is happening in construction and to communities, he continued, is the building of what would be referred to as generic housing.

This could fit in Hamilton MA or in Peoria IL. It is not meant to offend. It is a type of development that because it belongs everywhere it belongs nowhere.

Mr. Mitchell observed that this project is not standard housing type. He said if you look at Patton Ridge and Canterbrook, it is 4 units per acre or three units per acre and that doesn't fit within the standard of any kind of development in Hamilton.

Mr. Dahlquist referenced a book by Fred Heyer on preserving rural character and a major aspect he outlined in the book is to "*minimize visual impact of the development.*" So, structures should not be placed on ridge lines, trees on ridges should not be removed, woodland features should be retained, stone rows and tree lines should be preserved, tree areas between the principal structures and the roadway should be retained, and the creation of extensive lawn areas should be discouraged. Mr. Dahlquist added that all of us have travelled down Chebacco Road and elements he just mentioned were honored, but none exists on this particular site. So, if we can say that this description from Fred Heyer's book kind of fits the rural character of Chebacco Road and there is this dramatic change in form and character, that again goes back to environmentally sensitive design. He continued that the more natural features that are retained on the site establishes a stronger connection to the neighborhood. If everything is taken down and started from scratch, then more care must be taken in building in order to preserve the character. This seems to be a very strong point in all the regulations - - character is mentioned a number of times in the bylaws. It goes to the distinction between imposing the development on the site and integrating the development into the site.

Ms. Crouch said this the fundamental question, whether this development preserves this rural New England character and how it relates to the neighborhood.

Mr. Poore said that discussing or dictating an architectural style is a slippery slope, and he tries to avoid it. However, he continued, what is not a slippery slope is having whatever you designed respond to the site. He said that, if you were to ask him to define rural New England character, he would say it would be to respond to your unique site. He would not define it by architectural style. Again he suggested when you look at the characteristics of Chebacco Road, this proposal doesn't seem to follow any of those characteristics. Mr. Poore then stated that if you were to ask him about preserving rural New England character it would be to respond to the site, not by architectural style.

Mr. Wheaton said it goes to the distinction between imposing the development on the site or integrating it into the site.

Mr. Poore read the definition of low impact development in the Town of Hamilton's stormwater management bylaw, which is required, where applicable, to the Senior Housing Bylaw pursuant to Section 8.2.13, namely a set of strategies that seek to maintain natural systems during the development process. Mr. Poore stated the idea is to create homes and businesses that are integrated into the landscape not imposed on it."

Ms. Crouch suggested the Board turn to a variety of building types, which is one of the bylaw provisions that the Board must consider. Referencing Section 8.2.16.3, she asked: does this

development provide seniors with a variety of building types, as well as size--small medium and large, at a range of price levels?

Mr. Wheaton stated that the developer did make a little progress in that direction in that there were some smaller units, adding that he would not mind uniformity of a development if the development had five or 10 units, but this has 50 units. It's more than all the other senior housing projects the Town. He suggested that if the Town is going to approve building that many units, he thought a little more variety would be important.

Ms. Crouch examined the applicant's Exhibit 6. She stated she can advise the Board that there are 24 units that have 2,105 square feet, 20 units that have 1,953 square feet, 3 units with 1,778 square feet, and 3 units that have 1,455 square feet. In her opinion, she stated, forty-four of the units are roughly 2,000 square feet and the remainder are modestly smaller, but essentially almost the same size.

Mr. Poore stated that instead of just focusing on square footage, it's also useful to look at the price point. The price points are going to be all relatively high and relatively similar so that is another piece to consider. Another factor to think about is the percentage of the allotment of total senior housing that this is using up and to compare that to what's been developed so far. When looking at the big picture, he wondered how much variety there would be and how much room does it leave in the remainder of the allotment for additional variety.

Ms. Couch responded that by her calculation there would be 17 senior housing units that could be built, if this project were to be approved. She noted that Patton Ridge has 10 senior housing units; Canterbrook has 23. This current development would have 50 so that is a total of 83 in Hamilton. Thus, 83% of that total senior housing would have a price point, by the time construction is finished, well in excess of \$800,000.

Mr. Michell responded that Ms. Crouch's points are well taken about the price point. The price point, he stated, must pay for the cost of development but that's true all over Hamilton. When one is paying \$400,000 an acre, the concept of affordable housing in Hamilton, is a wonderful idea and one that he has certainly worked very hard to try and accomplish. While this is a goal that everyone supports, he continued, it is difficult to accomplish because it's driven by density and the only way to bring down prices at this site is by increasing density. Housing costs have substantially increased since the Senior Housing bylaw was adopted, and the economics would dictate another approach here unless we are going to increase density. He added affordability is a subjective factor. It's not going to be economic to have the kinds of different sizes and types of housing originally outlined in the bylaw.

Ms. Crouch responded that she agreed with Mr. Mitchell. However, she stated, this site is also unique in the challenges it presents in terms of blasting and rock removal. The costs associated with site preparation are probably higher than those faced by the builders of Patton Ridge and Canterbrook. There are enormous costs associated with this project that are greater than probably any development on the other side of town.

Mr. Mitchell stated that it's interesting to note that in Patton Ridge, which was a relatively easy site to develop because it's flat, and in Canterbrook, those units up for resale are listed at over \$1,000,000 and these are two-bedroom units.

Ms. Crouch asked the Board to turn to the fiscal aspects of this project to the community. She stated that there is a \$350,000 one-time payment permitting fee. The applicant estimates \$750,000 per year for all 50 units in estimated real estate tax payments, adding that if the price point goes beyond \$800,000 per unit, real estate taxes may increase. She noted that there is a payment to the affordable Housing Trust of \$2,174,000 and that there would be no impact on the school system and no cost associated with road maintenance.

Mr. Wheaton stated that it's important to remember that these fiscal benefits are definitely true and definitely real, but they are true and real for any senior housing project and are not unique to the site.

Mr. Mitchell replied, well yes and no. It's really about availability. He stated, this site is available and the question is will any other sites be available. He said he was hoping the Master Plan could answer what's left to develop in the Town of Hamilton. One estimate out of the 9,500 acres within the Town is that it's probably less than 10% once you eliminate all land that is built, all the protected land and all land Hamilton that cannot built on that's under the control of various nonprofits.

Ms. Crouch stated that she believed it was the consensus of the Master Plan Steering Committee that the only large potential development sites, and there are problems associated with both, are the Gordon Conwell Theological Seminary and the Winthrop School site. Mr. Mitchell noted the 17 great estates that comprise 500 plus acres of land, but, Ms. Couch pointed out, a lot of that land may be subject to conservation restrictions.

Mr. Poore pointed out that the potential of form-based code being applied to the downtown commercial district has tremendous potential to create housing.

Ms. Crouch stated that the question here is how should the Planning Board weigh the short- and long-term fiscal benefits against other costs, some of which can be anticipated and some of which might not be. Some of those costs might be associated with the construction, i.e., the heavy traffic on roads that the Town would have to maintain. In addition, she said, if the project were to go forward, the Town would more than likely have to employ either consultants or someone with the DPW to actually monitor the compliance of the homeowners' association with respect to their obligations to maintain the stormwater management system.

Mr. Poore said he wished to point out a small but important detail that arose during his research that surprised him. Even though, for example, the truck route is on numbered roads, roads which are officially state roads, those state roads are maintained by the Town of Hamilton, and not by the state. So, the maintenance costs associated with those roads are Hamilton's not the state's responsibility. He noted that Route 22 is a state road that is maintained by Hamilton, adding, actually, the maintenance would be the responsibility of Beverly and Wenham.

Mr. Michell stated that this is a much larger question and that it would have been great to have the Finance Committee or the Capital Committee talking to the Planning Board before it closed the hearings because we are skirting on overrides coming in the future and these are permanent increases to our tax rate. Mr. Mitchell observed that once the Town hits a tax rate of \$25 per thousand, and it is at \$18, almost \$19, then the state steps in. You cannot raise your tax rate above \$25 per thousand. The department of Revenue steps in and starts a remedial program. It's tangential to this project but it's something that Planning Board needs to think about, not only with this project but future projects such as the Gordon Conwell Theological Seminary. We are also considering rebuilding the elementary school and freeing up the Winthrop site. The cost of a new elementary school would be a minimum of \$80 to \$90 million, so there are some big, embedded costs that are coming, and the Board needs to be really cognizant of them as we make these kinds of decisions.

M's. Crouch asked the Board to return briefly to the obligations of the homeowners' association and the potential responsibilities on the part of the Town. Given the site's complexities and the reliance on structured systems, is it unrealistic to conclude that the condominium association would maintain the site's operational performance in perpetuity to avoid irreversible environmental damage to the community? This is really a question about the long term, she stated. It may be in the early years of occupancy; oversight of maintenance will not be a problem but this may become a problem as the occupants age in place and the buildings and systems reflect their age overtime. How, she asked, does the Town ensure that the maintenance of the stormwater systems and other systems is done?

Mr. Mitchell asked a question of Mr. Reffett regarding other projects in the community given that there are two senior housing projects. He said that this is a real question that this Board and other Boards would have to struggle with and that is how do you ensure that the maintenance of the stormwater systems and other systems is actually done?

Mr. Reffett replied that the condominium associations provide the Town with reports and those reports address who lives there, meaning are they 55 and older, what was maintained, and how it was maintained, and is it meeting the permits that had been issued to that project. Currently such reports from Patton Ridge and Canterbrook go to the director of the DPW. Mr. Reffett assured the Board that these reports are coming in and have been seen by him. He assured the Board that it can be comfortable knowing that that is going to happen. We can make these reports mandatory and require that they come to this Board. He said the Town can ask that they be more detailed in a way that makes the Board more comfortable with the outcomes.

Mr. Mitchell stated such reports might also go to the Conservation Commission, which might be interested in those reports. The Conservation Commission may require annual or semiannual reporting.

Mr. Norton asked if there was a possibility of an oversight committee option for a development like this, where you would have representatives from the neighborhood, the Town, and the developer, adding that they might meet on some annual periodic basis. He noted that the community is usually the entity with the most attention and concern since maintenance elements are happening in their backyards.



Mr. Reffett said that in terms of setting regulatory demands relative to maintenance of the project hereafter, the Planning Board has the full ability to set those kinds of requirements. For example, in Natick, Mathworks did a large expansion to their property which abutted residential property on three sides and the Town created a review committee to work through all of the concerns. It was largely landscaped and landscape maintenance over time was what people were most concerned about, but the drainage was also part of that. So, he suggested, the Board could condition permits as inclusive as we want and as public as we want.

Ms. Crouch stated that the Board should remember that with every 2 1/2 inches of rainfall, the rain gardens must be inspected. It might be that a yearly report would be a little late. She noted that the Board might have to factor in ongoing maintenance and the necessity of making sure it's done in a timely fashion.

Ms. Crouch suggested the Board turn to the issue of lighting. The applicant, in compliance with the Planning Board rules and regulations and the bylaws, has submitted lighting plans, referencing Section 8.2.17 of the bylaws. She asked if anyone have any issues with the lighting plans as they are presented because the amount of light coming from this site has the potential to negatively impact the abutters.

Mr. Dahlquist said the applicant did submit a photometric chart of the ground lighting based strictly on the street lighting and that certainly meets the standards of no trespass. There are zero-foot candles at the property lines. He added that that is only one aspect of lighting. Glare is another one. Referencing the street lights that are being used, he stated that this was a small thing, but the rules and procedures recommend that the street lights be no greater than 15. That would be a better height; it is more residential than 16-foot poles, which are more like parking lot lights. He added that another problem with the street lights, according to the manufacturer of these luminaires, is that they are all LED lights which are pretty bright. He said he talked with a representative of the company and the LED light is on the bottom of the luminaire, the luminaries are a 1/2 round globe on top. The cutoff on these, again according to the manufacturer, is 85 or 90 degrees and the Board would want 45 degrees at least. A down cutoff usually has a shield that prevents light from going out at a particular angle and usually anything beyond 45 degrees is not a cutoff light. Another issue with a 16-foot lamp and a luminaire up 16 feet is that when going up that access road, people will be looking at the underside of every single light pole. They are going to see that LED light on the bottom of that luminaire, which, of course, means that the people who live across the street are also going to see into the bottom of that light. While the photometric chart is not in dispute, the light that will be seen is a different light from what's on the ground. Another issue is there is really no idea what individual houses will do for exterior lighting. Will people have floodlights to light up their whole front lawn in terms of safety. So that is another potential for glare off of the site.

Mr. Mitchell indicated that lighting issues could be addressed through conditions.

Mr. Poore stated that another concern is during winter, many of the trees are deciduous trees and where the property is clear cut on the top of the hill, it's quite an elevation and, while there won't be foot candles bleeding off the site, there will be glare most likely even visible from Essex

Street. Most of the trees are concentrated down at the foot of the slope near Chebacco Road for screening and it gets sparser up top. People in that neighborhood will be very aware of that compound in the winter and probably aware of it during the summer as well. It may not be as bothersome during the summer, but it would still be visible because it's up so high and there's very little tree canopy left when you look at the site sections that were provided by the applicant. Mr. Poore noted another potential concern is what might happen to the trees left at the edge. These trees have lost their neighbors so to speak, so they've lost the nutrients and the benefit of a community of trees. What tends to happen to such trees within the first three to six years after clear cutting, is that they begin to show signs of stress. They might drop their leaves, they might thin out, and they might even die. And these trees are the most important trees for screening from Chebacco Road and Essex Street, especially as you get further away from the property.

Mr. Dahlquist observed that lighting issues are a concern owing to Section 8.2.17.

Ms. Crouch then asked the Board to consider mitigating impacts to abutters and the community. She asked: does the construction management plan, the rock handling plan, and the SWPPP protect the environment and mitigate impacts to the abutters and the surrounding community? With respect to these plans, she stated that the Board would also have to consider noise pollution, the impact of dust, and whether the SWPPP will be effective in catching any runoff. The applicant has indicated that the crushing machine will be hosed down to prevent dust, but this means there'll be water flowing from that as a result. Also, the rock handling plan calls for watering the crushed rock before it would be transferred to another portion of the site. She indicated that the Board only has a draft of the SWPPP which is a document that is not normally presented until the contract is executed between the developer and the contractor, but the Board would have to rely on that SWPPP to protect the environment from these kinds of watering situations.

Mr. Boroff observed that that Ms. Crouch did not mention fumes and odors from the trucks. He asked how many trucks a day are they talking about.

Ms. Crouch stated the estimate was 4,700 and said she could find out the exact figure, but she thought approximately 4,700 adding that that number would have to be doubled

Mr. Wheaton noted the estimate was a truck every 10 minutes.

Ms. Crouch said that this was the total number Bentley Warren, 18-wheelers over the period, that was Phase 1 and Phase 2.

Mr. Mitchell indicated that it would be 6 trucks an hour and 48 truck trips a day. And there will be other truck traffic going in and out of the site.

Ms. Crouch stated that, by the applicant's estimate, the total number of trucks would be 4,324 and you would have to double that number because every truck that goes out comes right back, so in terms of total truck passages, we have to consider both the journey out and the journey back. That is the total number of trucks exporting rock from the site. She also talked about the discrepancy in these truck passages between what the applicant estimated and what Ransom

Consulting's engineer estimate. Ms. Crouch stated her recollection was that Ransom estimated 10,000 passages, but this had more to do with the weight of the trucks itself and how much space there would be between the rocks.

After discussion, rather than debating the numbers, the Board decided to accept the applicant's number.

Mr. Poore said the Board should ask if this is a high maintenance, low resilience construction process. Is there any forgiveness in the construction process from the staging, to the weather, to all the different components that go into it from washing rock, to managing sound, to managing the traffic. He stated that he lives in the world of construction, and the one thing that he counsels people on is the thing construction has the least control of and that's time. The construction sequence is complicated and unpredictable. He characterized it as a kind of preindustrial revolution process or a non-factory controlled, non-standardized process that involves many different unrelated businesses and individuals. The question is, as it unfolds, is there enough forgiveness and resilience in the process for it to be reasonable for the neighborhood to sustain.

Ms. Crouch said that in this regard, everyone, including the applicant's council, at one point or another got seriously confused about phase one and phase two, and phase a and phase b within phase one. The best-case scenario for the duration of this project is four years and within those four years, there is going to be an incredible amount of truck traffic. There will be truck traffic for the construction of the septic system, there will be truck traffic related to the road construction and pavement as well as the buildings. Currently, she noted that the Board does not have an estimate on the number of workers that will be involved. The applicant has indicated that no trucks will queue on Chebacco Road, but it is conceivable that there would be 30 or 40 vehicles on this road used by the construction workers who are involved on the site.

Mr. Boroff stated that this is a concern that's completely different than how many truckloads can we expect to go back and forth carrying loads away from the project.

Ms. Couch said we have the estimate from the applicant on the number of truckloads we expect to go back and forth carrying loads away from the project. That number is 8,648 and that includes a truckload out and an empty truck coming back with the Bentley Warren 18-wheelers. That is the estimate to carry out the unprocessed ledge and of course the amount of ledge being removed also is an estimate. Ms. Crouch stated that these large trucks have the most potential to damage the road, adding that these are the trucks that the town of Ipswich refused to allow to use the Choate Bridge in downtown Ipswich. The point is we really have no clear understanding of how much other truck traffic will be involved. Ms. Crouch recalled reading that there would likely be 400 truck trips to build the septic system, and she acknowledged that she would have to corroborate this from her notes. The amount of traffic on Chebacco Road, Essex Street, and Woodbury Street is a real concern for the abutters. While there are other concerns related to phase a of phase one, which is where there is clear cutting and the creation of a temporary road, workers will have no place to park for a period of time.

Mr. Boroff observed that this truck traffic will be minimal compared to the gross amount of truck traffic that will occur from transporting the material out and bringing those transport trucks back in.

Mr. Wheaton pointed out that Maine Drilling and Blasting brought up at some meeting, with some pride, the fact that they had a project in Woburn from two or three years ago where it was removing a similar amount of ledge from a huge hill right next to downtown Woburn-1420 Main Street. He stated that there is some excellent news coverage about what was done to downtown Woburn and how people feel about it. This is not comparable, but Maine Drilling and Blasting brought it up and said we can do this. However, if you look at this site and watch some of the YouTube videos, you will be wondering about the cost to the neighborhood. It's quite disruptive.

Mr. Dahlquist stated the Board will never get an answer to the number of trucks for the duration of the project, but the Board did know it's going to be an awful lot of trucks in every aspect of the project. There is just going to be traffic going and coming and that's part of normal construction but again, he said, the issue is the impact on this particular neighborhood. We all understand that construction requires traffic but there is also a safety issue. How safe, he asked, are the conditions going to be? He further stated that there is still a lack of clarity in the construction management plan regarding how the applicant is going to handle the hill, what's going to happen in between phase one and phase two to the existing site. He did not think the applicant knows. He stated he thinks the applicant can probably guess certainly the amount of rock being removed, but impacts on the neighborhood must be borne by the people who live there. He then said noise is one issue and he wondered if anybody has any idea how the applicant was going to mitigate that noise.

Ms. Crouch stated she investigated this because on July 26th this was an issue for the abutters. The presentation about these mitigation measures took place on April 21st. The Planning Board is hampered by the absence of minutes, but she gleaned the following from watching the YouTube video. She said the applicant stated that it would place the rock crusher at the lowest point of the development portion of the property. When she looked at the construction management plan the rock crusher, while it was lower than some portions of the site, was higher than others. She was not sure to what extent placing the rock crusher where it was will serve any significant purpose. John Durkin admitted he was not an expert in noise and there was a reference to building berms but those were statements by the applicant's attorney. We have no idea where those berms would be placed and how they would work. With respect to the rock hammer, there is a dampening enclosure over the rock hammer but noise from the rock crusher was not addressed at all.

Ms. Crouch stated that there are regulations governing the amount of noise that can emanate from a site. Mr. Dahlquist stated that it is 10 decibels above the ambient noise on the street. It is at the property line and at the nearest house. Ms. Crouch referenced 310 CMR 7.10. To perform these assessments requires expertise and the applicant stated is that it would comply with all regulations. She asked whether the Board was comfortable with that representation. Does the Board have any concerns with regard to the effect of noise from the construction, all aspects of the construction.

Mr. Mitchell asked if this was an enforceable regulation. Ms. Crouch stated it was. Mr. Mithcell stated that the Board could make it a condition and stated that the project could be shut down if the condition was not satisfied. Ms. Crouch asked if this was a condition the applicant could even satisfy?

Mr. Wheaton said that a worst-case scenario would be that they strip clear part of the hill and do something else and then they find out there is a violation of the noise ordinance and the project sits for six months and nothing' is done. It might be technically impossible to do 10 decibels, which is not a lot of noise, and you have a half-completed project.

Mr. Dahlquist stated that the ambient noise level, because this is a quiet street, might be between 55 and 60 decibels. Rock crushers operate in 90 to 100 decibels. He added that decibels are not linear, it's a logarithmic relationship. So, every increase in 10 decibels is 100 times louder. Thus, 100 decibels are pretty loud. Also, some of these trucks, these 18 wheel trucks, operate at 85 to 90 decibels each coming in and out so when these are operating on the site, how can they get anywhere near the standard of 10.

Mr. Wheaton noted that these are only two sources of noise. Mr. Poore commented that there are many other sources of noise coming from a construction site such as this, e.g., scooping rock up out of the muck pile and the sound of hardened bucket teeth scraping over granite. He stated that this is a thousand times worse than fingers on chalkboards, and the noise travels a long distance. Chippers have an incredible long distance to their noise disruption. He observed that given the construction top of a hill, and despite berms and noise-reduction strategies, noise will carry and carry for long distances before it drops off. Sound does drop, but in this case, it has quite an opportunity to run a long distance before it drops.

Mr. Boroff asked if this means it's impossible to enforce the sound regulations. Ms. Crouch said if the applicant exceeded the decibel levels, it can be enforced, but as Mr. Wheaton pointed out, you would shut the project down. We are, she said, between a rock and a hard place. It is possible we won't know how far they will exceed the decibel levels until they start the work.

Mr. Boroff said that the developer at this point should have a pretty good idea of how noisy it is going to be, and should have an idea of what the regulations are. He stated that the developer should know whether the regulations could be met. His guess is the developer is not going be able to meet the regulations because, if you drop a rock in a wheelbarrow, it makes noise and the applicant is going to be dropping a lot of rocks.

Mr. Norton pointed out that there is an acoustical study that can be done where nose could be monitored, including the ambient noise for a period of a week while the applicant simulated the noise of the activities that are planned. This is done quite often in development where there is a regulation. The study is done and there is acoustical engineers and analysis that gets done. This would give us a sense of the scale of the project. It is not reality but it would give us some sense of what might happen once the project gets launched.

Mr. Boroff said that we know there is going to be a lot of noise. Do we accept it? He wondered if the applicant can realistically mitigate it. He pointed out that an explosion from dynamite makes a certain amount of noise.

Ms. Crouch stated that when the Board finally go to vote on the different findings, each member of the Board will have to make their own independent determination as to whether the applicant has satisfied the findings or whether they have not. So, we will go through each one and that will determine the outcome of our vote. If you were to look at 8.2.31.1-7, along with 10.5.2, these will shape the Board's discussion of this application and whether the construction plan is realistic. The Board has discussed the construction management plan, not so much the rock handling plan, and Ms. Crouch thought it came down to several questions that the Board must ask. One is whether the duration of the project, which by her calculation is approximately 4 years, is realistic given all we know about the schedule. She mentioned the supply chain issues and whether the construction management plan is realistic. For example, she stated, when it comes to drilling and the paving of the road, there were time elements built in for weather. But in no other aspect of the construction management plan is there any wiggle room for bad weather. For the Board's purposes, it should accept what's given but with some level of skepticism because it is an ambitious schedule. Also, given the proposed duration and scale of this project, the abutters will be affected. She stated to Mr. Mitchell that of course it is subjective. How seriously the abutters are affected will depend on whether the Board accept the applicant's statements as to its mitigation efforts and give them full credence. When assessing the positives and negatives of the project, she stated, the question is how much weight do we give the competing elements, such as the fiscal impacts, the benefits of the annual tax revenues, the project duration, the impacts on abutters from traffic noise and dust as well as the effect on the natural environment? How we balance all that is the question. There is also the consideration of project completion and how that will look compared to what it looks like now and how it will affect the neighborhood and the community at large. Ms. Crouch then asked if any Board member had anything to add regarding the SWPPP or the rock handling plan or the construction management plan.

Mr. Norton stated that he had seen a site establishment plan or a site works plan, we had not seen a final construction logistics plan that went through all the elements of, for example, the rock removal, all the earthwork, and everything. He said that he did not recall seeing what he would consider to be a complete construction logistics plan that takes into consideration the whole scope of the job period.

Ms. Crouch said that the construction management plan that she saw was a series of maps.

Mr. N=Mitchell agreed and said that the applicant indicated that the construction management plan would come together when and if the project is permitted. At that point, it will know all the conditions that have been put in place for the project. There was a lot of discussion about it not being complete. There was pushback from the applicant that that was typically done after a project was permitted.

Ms. Crouch stated that the SWPPP is completed after the project is permitted but the construction plan that Mr. Norton was referring to could have been completed.

Mr. Norton stated that the applicant probably has a guesstimate of how many people would be working the site, how much parking it would need to create, how much lumber it would need, etc. Ms. Crouch said the board has not seen anything like that at this point.

Mr. Wheaton asked Ms. Crouch if she would provide the 10-decibel Town ordinance. Ms. Crouch said it was 310 CMR 7:10, Code of Massachusetts Regulations.

Mr. Norton said that the Board is being asked to weigh the impacts of the project against the economic advantage for the Town. He wondered if the Board had enough information to understand what the economic advantage would be. He asked where the Town is financially. He said he understands that we get the report card at the end of the year but he worries that he personally might not understand and assess completely the financial benefit to the Town.

Mr. Mithcell indicated that the Town's budget is close to \$30 million. Mr. Wheaton said that \$750,000, let's just say this was free money, there's no cost of services, would lower the tax rate by 140<sup>th</sup>, so, 2%.

Mr. Mitchell said that this really would not lower the tax rate, it would mitigate it. Mr. Wheaton agreed, saying this would allow that much extra extended expenditure. He also stated that would have been great to have John Prulege or the Chair of the FinComm [Finance and Advisory Committee] earlier in the discussion but unfortunately the Board cannot take anymore testimony.

Ms. Crouch said that the Board has not concluded its deliberations. She affirmed that the Board had completed its discussion regarding the relationship of the development to the site and the relationship of the development to the neighborhood and community. Ms. Couch then invited discussions and questions, acknowledging that there are knowns and there are unknowns. At this point, she said, the Board cannot go outside and seek more information. The question is, is the Board satisfied with all the information we have seen and do we have any outstanding questions. If there are information holes, she stated, we should bring these up. Obviously, these would go to the findings.

Mr. Wheaton asked if the Board could bring up new information. Mr. Mitchell stated no. He further stated that the only way it would work is to ask if somebody else has information that was that provided in in the testimony that we need.

Ms. Crouch stated that the Board never had a hydrogeological study and that is really a point of contention between the applicant and Save Chebacco Trails and Watershed. Our peer reviewer and Rick Frappa both indicated that this would be a waste of time and that it was completely unnecessary. They said you would only do this if it was a Superfund site and that, because of the fissures in the granite, there would be de minimis run off. They also indicated there would never be any impact on Beck Pond under any circumstances. There was disagreement as to that and everyone here can make their own assessment about that. My particular question about the hydrogeological study was that it was mentioned at the pre-application conference. Ms. Crouch said that she had asked Elizabeth Ransom how much such a study would it cost and how long would it take. Ms. Ransom stated it would cost \$150,000, and it would have taken less than nine

months. Ms. Crouch indicated that she had thought to herself that's short money to get one big headache out of the way. It would have answered the questions and taken any issues as to impacts on the water resources off the table. She said it occurred to her that the efforts to denigrate the need for a hydrogeological study probably cost more than the hydrogeological study itself. She said that that there is an inference to be drawn from the absence of such a study and so that in a sense is one of her unknowns, adding that that did not mean she did not accept the peer reviewer's view that that the potential risk is very small.

Mr. Boroff stated that if the hydrogeological study were done, it would take nine months, and this would mean the construction couldn't begin until that nine month is ended. Ms. Crouch stated that the hydrogeological study could have been done at the inception of this project. She said it has been on the table since the pre-application conference. There is not going to be a hydrogeological study now because Jamie Emery and Rick Frappa said it was unnecessary and they are experts in this field. There is absolutely no doubt that the risk of harm to the aquifer and to Beck Pond is de minimis. Does the Board accept that knowing that there was a possibility of getting a better answer with more certainty than that. She then stated everyone has to answer that question for themselves.

Mr. Wheaton indicated that the absence of such a study was an unknown for him. He also noted test well and what the wells would show. The applicant is willing to create test wells and the engineers suspect that there is not going to be any change to the groundwater from the blasting and from contaminants. However, with the level of blasting, its impact on groundwater is unknown. There could be, for example, enough blasting to release other minerals or other elements that are buried in the soil that are not part of the aquifer. This could result in the wells not working and then we are left with the question of what we do about it.

Mr. Mitchell said that that's why the test wells are there, to determine or to catch any contamination to the groundwater. As he remembered from the testimony, construction would then be shut down as the applicant tried to figure out what was going on.

Mr. Wheaton then indicated that stated that then we're back in between a rock and a hard place where we have 1/2 done project which is causing problems. This is another unknown.

Mr. Dahlquist indicated that the wells are short term, not long term which was an issue for Ransom Consulting, leaving any future impacts on groundwater as an unknown at this point.

Mr. Poore stated that generally the peer reviewers focused on the construction process, but they did not really look at the long term life cycle of the property as it would be in normal use and normal maintenance. That was part of the impetus for doing the hydrogeological study and longer monitoring of the test wells. He thought they should be monitored on an ongoing basis for 10 years. Mr. Mitchell indicated that that could be a condition.

Mr. Dahlquist said he was looking at the rules and regulations for Senior Housing Bylaw and in item #2, it says:



*Analysis of Environmental Impacts: the applicant shall submit an analysis of existing and expected post development environmental conditions, including but not limited to the use of best practices proposed to prevent pollution of surface and groundwater, erosion of soil, excessive runoff of precipitation, excessive raising or lowering of the water table or flooding of other properties, measures to protect air quality, conserve water, minimize noise levels, prevent harmful or noxious emissions and damage or threat to wetlands and floodplain and the visual environment.*

He then stated there's a lot in that in that sentence and it sounded to him like this is an authorization for a hydrogeological study. He indicated that he was not saying the Board should go back at this stage, but what the regulation meant.

Mr. Poore stated that the other half of the sentence talks about the visual environment. He reminded the Board that it had asked several times that the project be presented accurately in three dimensions. He said that the Board has heard him several times say that it has not been presented clearly or accurately as far as its three-dimensional impact both visually and behaviorally on the site, even though that was requested. So, the hydrogeological study was requested and refused, the accurate description of this project in 3D form was asked and not delivered.

Mr. Mitchell wondered, since it was getting late, if it would be helpful for each individual member to list their unknowns or their concerns regarding unknown information.

Ms. Crouch stated she had the hydrogeological study and the 3D description of this project as designed beyond abstract contour lines, rip rap, and site plans.

The Board discussed the following concerns or unknowns:

- Hydrogeological study.
- 3D depiction of this project as designed beyond abstract contour lines, rip rap, and site plans.
- Groundwater contamination.
- Visual Impact. The regulation references the visual environment, and this Board has asked a number of times that the project be presented accurately in three dimensions. Thus far it has not been presented clearly or accurately so this again is an unknown.
- Light Pollution. Another example of an unknown is the long-term damage to the trees at the edge of the disturbed area and this would affect light pollution.
- Noise Pollution. We don't have a good sense or understanding of the level of noise that's going to emanate from this site. We did discuss the possibility of an acoustical analysis.
- Conserving water. The construction plan outlines directing the roof runoff into a rain garden but its capture was unknown.
- Signs. We had a sign and the Board rejected it and a new one has not been presented.

Mr. Poore stated that the word "shall" in the Regulations is included in the development standards under the senior housing by law. "A standard expressed as shall is a requirement for

any senior housing development unless the applicant demonstrates to the satisfaction of the Planning Board that strict compliance would render the development unfeasible.” That differentiates between “should” and “shall” and indicates that the applicant is expected to meet a local priority through all commercially reasonable efforts.

Ms. Crouch suggested, given the time, that she present the list of the bylaws that are either not applicable or outcome determinative because they are not in dispute. She stated that in discussion is whether, in fact, these provisions do not need to concern us in our deliberations. Going sequentially from 8.2.1, these would not be an issue:

- Eligible locations
- Administration
- Age restrictions
- Limitations on the development
- Permitted uses
- Developable acres
- Housing Density
- 8.2.10
- 8.2.11
- 8.2.14 Exemptions
- 8.2.21 (Parking)
- 8.2.25
- 8.2.26
- 8.2.27
- 8.2.30

The Board agreed with this list.

Ms. Crouch then suggested continuing deliberations on September 8th where the Board would have to turn to the purposes of the Senior Housing Bylaw and evaluate them, and then turn to both Section 8.2.31 and Section 10.5.2. In thinking about the structure of the September 8th meeting, she asked Board members how they would like to structure this last stage of deliberations. The Board agreed to the following as agenda items for September 8:

1. Review of the unknowns and conditions;
2. Joint discussion on purposes;
3. Individual review on findings in 8.2.31 and 10.5. 10.5.2 covers the special permit process and provides, as Mr. Poore read:

*Special permits shall be granted by the SPGA unless otherwise specified herein only upon its written determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the town or neighborhood in view of the particular characteristics of the site and of the proposal in relation to that site in addition to any specific requirements and factors that may be set forth in this bylaw.”*

Ms. Crouch indicated that Section 10.5.2 essentially asks the Board to weight criteria: does the good outweigh the bad, do the benefits outweigh the adverse impacts. It's only necessary for Board members to weigh the 6 criteria and vote one way or another.

4. Vote on the Senior Housing Bylaw Special Permit.
5. Vote on the Stormwater Management Application for a Permit.

Ms. Crouch pointed out that the evidence for the stormwater permit application was closed on July 26<sup>th</sup>, and 90 days following that the permit would be automatically granted so the Planning Board has to vote on this application one way or another. She acknowledged the Board has not gone through the stormwater management bylaw to the extent it has the Senior Housing Bylaw. The chair suggested we put it on the agenda and depending on the length of time item number 3 takes, it is possible to move on to Stormwater Management Permit at the September 8th meeting. Ms. Crouch reminded the Board that we need to allow enough time for the decision to be written and reviewed by the Board prior to its filing. It is in this review that any omissions or errors would be identified, and the Board would ensure that the document accurately reflects the Board's deliberations. Following this, it would get filed with the clerk. The draft decision must be filed by October 24.

Mr. Wheaton pointed out that the first sentence of 8.2.31 references section 8.25.2 which takes you back to 8.1, the Open Space and Farmland Preservation Development Bylaw. After discussion, the Board decided that this only refers to the pre-application conference and special permit design process.

Because of Board members' schedules, the Board discussed moving the September 8th meeting to September 13th. Also, discussed was moving the October 4th meeting to the 11th of October. If the Board did vote on the 13th regarding the stormwater management application, then the meeting on September 20th could involve other Board business. The Board would then have a draft decision in hand by October 11th in time to finalize the decision and file it by October 24th. The draft, of course, would be distributed to the Board in advance of the October 11th meeting.

The schedule of Board meetings would then be September 8th and 20th, and October 4th and 18th.

Board moved to continue deliberations on September 13th at 7:00 PM. The Board will meet in person in the Memorial Room and the public is invited to view deliberations via zoom. The motion was seconded and Board members voted as follows:

Rick Mitchell	aye
Richard Boruff	aye
Jonathan Poore	aye
Emil Dahlquist	aye
Bill Wheaton	aye
Pat Norton	aye
Marnie Crouch	aye

The chair asked for a motion to adjourn; motion was made and seconded. Board members voted as follows:

Rick Mitchell	aye
Richard Boruff	aye
Jonathan Poore	aye
Emil Dahlquist	aye
Bill Wheaton	aye
Marnie Crouch	aye

Meeting adjourned at 3:20:07.

Next meeting: September 13, 2022, at 7:00 p.m.

Action Steps:

1. Each Board member needs to
  - Assess the list of unknowns outlined in these minutes to determine what is still needed in order to remove that particular unknown from the list.
  - Review the findings in sections 8.2.31 and 10.5.2
  - Review as much of the record as possible in order to be conversant with all relevant facts
  - Review closing statements that were submitted
  - Review available minutes
2. The Board unanimously approved moving the September 8th meeting to September 13th, and moving the October 4th meeting to October 11th.
3. Patrick Reffitt will provide a list of conditions to the Board in advance of the September 8th meeting
4. The Board approved the list of bylaws presented by the Chair that were determined to be not applicable or deterministic to the special permit application of Chebacco Hill Capital Partners LLC

