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1. Amesbury Planning Board Meeting Minutes

2. In Person Meeting – September 23, 2024, at 7:04 PM

3. Chairman Pascal Rettig called the September 23, 2024, Planning Board meeting to order at 7:04 PM.
4. *To submit a public comment ahead of time email Becky Frey at freyr@amesburyma.gov. To speak live at the meeting fill out a public comment form and turn it into Becky Frey. There will be a public comment portion of each public hearing discussed tonight.*

5. *The Chairman notes that tonight's Planning Board meeting is being recorded by Amesbury Public Access Television; this legal step has been taken but does not act as the official record. The written meeting minutes by the Recording Secretary is the official record.*

6. Pascal Rettig initiated roll call –
7. Keith Ratner – YES
8. Joel Nice – YES
9. Lorri Krebs- NO
10. Michael Jewell – YES
11. Tracey Chalifour - YES
12. David Frick – YES
13. Pascal Rettig - YES
14. Also: Nipun Jain (Planning Director) and Becky Frey (Community Development Coordinator)

15. **Minutes – 7-22-24**
16. Pascal Rettig commented that they would table the minutes to a future meeting.

17. **Signs – 57 Main St. – Advantage Properties**
18. Nipun Jain commented that the DRC sent a positive recommendation. The applicant had initially indicated multiple business entities on the hanging sign. Now there is one primary sign and there will be a directory on the storefront. They have presented two options for the primary sign, so they will need to choose which will be the primary sign. Additionally, the DRC recommended that the applicant consider changing the proposed bright white to a softer white. They also recommended reducing the overall sign size and consider changing the shape to an oval sign. They would keep the size of the letters the same. Those recommendations were not critical to the approval, but suggestions.
19. David Frick commented that he hoped the applicant took those suggestions because a softer white with an oval shape would look better.
20. David Frick motioned to approve one of the two proposed primary signs at 57 Main St. and recommended changing the background to an off-white and the shape of the sign to an oval. Seconded by Keith Ratner.
21. Pascal Rettig initiated roll call vote –

22. Keith Ratner – YES
23. Joel Nice – YES
24. Lorri Krebs- NO
25. Michael Jewell – YES
26. Tracey Chalifour - YES
27. David Frick – YES
28. Pascal Rettig - YES
29. Motion passed 6-0

30. **Signs – 58 Macy St. – Northeast Electrical**
31. Kevin Gay with NH Signs in Manchester, NH spoke on behalf of Northeast Electrical and noted they were facilitating the rebranding throughout NH.
32. Nipun Jain commented that the package contained three signs. One is a free-standing sign; one is a building mounted sign and the last is another building mounted sign. The revised package indicates one building mounted sign with red letters. They also indicated there would be a sign on the door. The DRC supported that because it helped to direct traffic. One of the building directory signs would be replaced with the new name Northeast Electrical. The third sign is an existing box image face replacement. DRC recommended that the supporting structure in the box be repainted black and the applicant has indicated they will do that. Kevin Gay commented that they could center the lettering of the sign or increase the lettering size if the Board would like.
33. David Frick questioned if they would consider reversing the image to have a red background with white lettering. Kevin Gay confirmed they could make that switch. David Frick noted that centering the letters would look better.
34. David Frick motioned to approve the signs on the building and directory and approve free the standing with a red background and white lettering and centering the letters. Seconded by Tracey Chalifour.
35. Michael Jewell questioned if the door sign would be blue. Kevin Gay confirmed that was correct. The plaza doors will have the specific branding.
36. Pascal Rettig initiated roll call vote –
37. Keith Ratner – YES
38. Joel Nice – YES
39. Lorri Krebs- ABSENT
40. Michael Jewell – YES
41. Tracey Chalifour - YES
42. David Frick – YES
43. Pascal Rettig - YES
44. Motion passed 6-0

45. **Continued Public Hearings – 87 S Hampton Rd.**
46. Keith Ratner motioned to continue the public hearing to the October 28, 2024, meeting. Seconded by Tracey Chalifour.
47. Pascal Rettig initiated roll call vote –
48. Keith Ratner – YES

49. Joel Nice – YES
50. Lorri Krebs- ABSENT
51. Michael Jewell – YES
52. Tracey Chalifour - YES
53. David Frick – YES
54. Pascal Rettig - YES
55. Motion passed 6-0

56. **Continued Public Hearings – 2 Merrimac St.**
57. Pasca Rettig commented that the Board had asked Staff to prepare a draft decision with conditions.
58. Nipun Jain confirmed that they had done that. The application is for a Site Plan Review and three Special Permits. Stantec reviewed the plans and technical information, and the DRC reviewed the design elements. The applicant will submit more detailed design drawings and landscape plans at the construction phase for final deliberation with DRC. The decision includes the general conditions and conditions specific to this project. The other thing the Board will need to consider are the 3 requested waivers for, parking, an HDPE pipe and cover for drainage pipes. The Board's peer reviewer did not have any objection for last two waiver requests. The parking waiver request is the only non-technical request.
59. Nipun Jain commented that he would highlight some of the specific conditions as they relate to the project. Typically, the decision is broken down into categories. There are general conditions that stay with the life of the project outlining the allowed uses. The decision includes the site plan review and special permit for parking, flood plain, and marina restaurant use. The marina use iss pre-permitted. The marina building is being approved but the slips layout is not part of this decision. They are already an approved use. The decision includes requirements around the details on the retaining walls and lighting. The Chapter 91 license application has been filed. The next 3-4 conditions pertain to the parking on the site. Under the Chapter 91 water license, they need to provide public parking spaces and the applicant has clarified that those have been specifically identified. The building code now includes requirements for providing EV spaces as well. Since this was not a requirement when the application was originally submitted, they have asked for additional information to be submitted on that. There are specific conditions for the parking lot itself including requirements for the parking near the retaining wall. There are specific areas where additional safety measures must be installed. There is one rain garden proposed close to the Powwow River. The decision requires additional details for the plants that will be installed. There will be a fence that demarcates the wetland area at 13 Merrimac St. The parking at 13 Merrimac St. would only be for marina patrons and employees. They have also suggested to install a sign to be clear about who can park there. The next condition deals with the discussion around the adequacy of the waiver for providing 99 parking spaces where the code requires 117 parking spaces. The applicant submitted information that shows they currently have 40-45 parking spaces for the 99 slips. The zoning code requires 87 spaces, and the applicant has shown they have adequate parking on the site now. 30 parking spaces are required for the restaurant use. The applicant has discussed many ways to address the parking. The decision includes a condition the allows for the city to do a

parking assessment. It requires the applicant to work with the APD to address any issues. They can also come back with parking arrangements with other property owners in the area. The fence was discussed with DRC. Those are the key conditions specific to the project. There is also a condition that includes the open items in the Stantec memo from 8/28 as conditions of approval.

60. David Frick questioned if outstanding Stantec comments were addressed in the decision. Nipun Jain confirmed they have been included in the conditions.
61. Tracey Chalifour commented that the applicants have requested a parking waiver but also noted they would not be plowing 13 Merrimac St. in the winter. That lot is supposed to be employee parking. It is concerning that lot will not be available and everyone will be using 2 Merrimac St. The applicant has not demonstrated a hardship per the regulations. It is also unclear how many public access spaces there will be.
62. Pascal Rettig commented that they may be at a point where Board members agree to disagree on the parking waiver. The position Tracey Chalifour is taking is that the Amesbury bylaws restaurant parking requirements are too low because the concern is not about the amount of marina parking. The concern is that there will not be enough parking for the restaurant. Historical data shows that the number of parking spots will be more than adequate for the marina. The real question here is are there enough for restaurant. The space has overlapping uses which is allowed in the bylaws and there is more than enough restaurant parking if we take the applicant at their word for the number of spaces used by the marina today. There may be disagreement on that point but in my mind, there is plenty of parking for the marina and restaurant. A 120-person restaurant would require 30 parking spots.
63. Tracey Chalifour commented that number assumes people travel in 4s because the bylaw was written so long ago. David Frick noted they were adding 50 spaces and the restaurant required 30 spaces. The Board doesn't require to increase beyond the bylaws for other restaurants.
64. Tracey Chalifour commented that a hardship must be demonstrated. Pascal Rettig commented that the Board has the authority to grant the parking waiver if they feel it is appropriate.
65. Keith Ratner noted that the marina will not be in use in the winter, so not plowing the lot at 13 Merrimac St. should not have a parking impact. Tracey Chalifour noted that there would be a reduction in spaces a 2 Merrimac St. as well to account for dock and snow storage.
66. Pascal Rettig commented the applicant could plow the lot at 13 Merrimac St. if they find they need it.
67. Paul Gagliardi commented they did not think it would be necessary to plow the lot at 13 Merrimac St. The lot at 2 Merrimac St., even with the snow storage and dock storage, will still have 50 parking spaces available for the restaurant. That is 20 spaces higher than what the bylaw requires. They will have sufficient parking. They are not going into this with the expectation they will have parking issues. The draft decision requires us to work with APD if they find parking is a problem and find a solution. The Board has issued similar conditions with Maple's Crossing and Munters. Proving a hardship is not a requirement to get a waiver.

68. Nipun Jain confirmed they did not need to prove a hardship. They just needed to provide justification for the request. The hardship requirement is for those seeking a variance through the Zoning Board of Appeals.
69. David Frick commented that the marina use has been here for over 30 years. They have never seen a parking issue at the marina. They are adding 50 parking spaces, and the restaurant use requires 30 parking spaces. There should not be a parking issue and if there is the APD will work with the applicant to resolve it.
70. Joel Nice confirmed he did not have any issues with the parking proposal. People could be arriving via bike or rideshare in addition to those who drive. Some will be using both the marina and the restaurant. If there does turn out to be an issue the decision includes guardrails to address it.
71. David Frick motioned to approve the draft decision for the proposed site plan and special permit for 2 and 13 Merrimac St. Seconded by Michael Jewell.
72. Pascal Rettig questioned if there were any other comments from the Board.
73. Tracey Chalifour requested clarification on if the motion and second included approving all of the waivers. David Frick confirmed that was correct.
74. Pascal Rettig opened public comment. There was none.
75. David Frick amended the motion to include the approval of 3 waivers requested in the affirmative. Seconded Michael Jewell.
76. Pascal Rettig initiated roll call vote –
77. Keith Ratner – YES
78. Joel Nice – YES
79. Lorri Krebs- ABSENT
80. Michael Jewell – YES
81. Tracey Chalifour - ABSTAIN
82. David Frick – YES
83. Pascal Rettig - YES
84. Motion passed 5-0-1

85. Keith Ratner motioned to close the public hearing for 2 and 13 Merrimac St. Seconded by Tracey Chalifour.
86. Pascal Rettig initiated roll call vote –
87. Keith Ratner – YES
88. Joel Nice – YES
89. Lorri Krebs- ABSENT
90. Michael Jewell – YES
91. Tracey Chalifour - YES
92. David Frick – YES
93. Pascal Rettig - YES
94. Motion passed 6-0

95. **Continued Public Hearings – 13 Merrimac St.**
96. This was addressed in the item above.

97. **Continued Public Hearings – Bill 2024-096.**

98. Pascal Rettig commented that the Board received a memo back from legal counsel today and Alex Weisheit from KP Law was on the call. Given how recently that memo came back the Board has not had a chance to read or digest it. Pascal Rettig did not anticipate there would be a vote on the Bill tonight.

99. Nipun Jain commented that the public hearing was continued to today because they were waiting for a memo from legal counsel to address questions that have been raised. They have received it today and it will be discussed by the Board, legal counsel, and public comment after that.

100. Alex Weisheit from KP Law commented that they prepared a memo for the Board. There were a couple questions that Nipun Jain and Nick Cracknell had asked they address. The overall question was if it was in the Board's best interest to adopt these proposed amendments. Ultimately that's a policy decision for the Board to make but there are some legal and procedural opinions that reinforce that in my opinion it is the best path. The legal memo outlines the reasons why it would be in the best interest of the Board and city to consider adopting zoning amendments that are aimed at protecting the Water Resource District in association with a solar project. If this was not adopted there could be a couple procedural outcomes. The first outcome is the applicant just goes to the Building Commissioner and applies for a building permit without applying for a permit with the Planning Board. They would be taking the position that they are exempt from the zoning bylaw because the property locus is not in the solar district, and they are not subject to site plan review. It would be up to the Building Commissioner to decide whether or not to issue a building permit. If they deny the permit, then they could to an administrative appeal and go to the Zoning Board of Appeals. The scope of the review for the ZBA in the appeal would be limited to the legal question of whether or not the Building Commissioner was correct in denying a building permit. In order to answer that, they would need to analyze the scope for the exemption for solar, how it would apply to the project, and whether the public health or welfare was a reason to deny the project. Most of the amendments in the zoning proposal and the additional performance standards the Planning Board is looking at right now would provide more stringent guardrails in the planning process. In my opinion if the project ends up in court, it would be easier to defend the decision of the Board with a robust record at the administrative level. It would be a benefit to have a stronger and more robust review process and it would result in a more defensible decision. In my opinion this is amendment is ultimately in the city's best interest.

101. Pascal Rettig commented that they were currently at 8% and questioned if it would be adequate to expand to 10-11%. Alex Weisheit responded that if the court was reviewing the current area, then they would interpret the ordinance as being prohibitive because it does not allow for as of right large scale solar. It may make sense to expand it or add a provision saying any time a large-scale solar project was proposed, it shall go through this process.

102. David Frick commented that there was other land in Amesbury that could be considered for an overlay expansion. Staff should look at areas like land out by Cider Hill Farm.

103. Keith Ratner commented that there was a previous affordable 40B project that was approved on that site. That approval has now expired. The Water Resource Protection District only allows for limited development except for another 40B.

104. Nipun Jain commented that some of the zoning on that area is Zone A and some Zone B. That limits development but does not prohibit it. They would need to meet the existing performance standards.

105. David Frick commented that the Planning Board has to consider if we want to put protection in place should this type of project come forward or wait for something to come forward without stronger authority. The Board should consider if they should widen the scope of overlay in the town. The Board should consider if it is better for a project like this to go to the building permit application or if it is better to be subject to site plan rules.

106. Nipun Jain confirmed those two components were the bottom line. The Board needs to consider the boundaries of the district and more importantly what performance standards are subject to the REDD. Solar facilities provided are provided greater flexibility on where they can be sited. Currently the REDD solar is generally limited which is why we have proposed more performance standards. The goal is to have higher performance standards for solar facilities and the expansion of the REDD. It is important for the city to be mindful of having appropriate performance standards to evaluate the impact of the site for deforestation, wildlife, erosion etc. It is even more important if it is close to critical resources. An important aspect is to have the right regulatory framework and performance standards for these types of facilities.

107. Joel Nice commented that they may run into a potential lawsuit if they don't adopt an expansion. However, if they do a potential expansion then they could face potential litigation from members of the Lake Attitash Association. Alex Weisheit responded that any party who is aggrieved by the ultimate decision made by the Building Commissioner or Planning Board would have the right to appeal it. My recommendation on what is in the best interest for the city is to adopt more stringent standards. If they do end up in court, the Board's decisions would be more defensible if there's a process with stringent standards and they can provide a robust record. Joel Nice questioned what would happen if they enhanced the performance standards but did not expand the REDD. Alex Weisheit responded that they would likely end up in court.

108. Joel Nice questioned if we could consider a payment in lieu requirement for community improvements for this type of project. What other ways can they offset the impact and help the community as a potential guardrail? Alex Weisheit responded that there would be room for negotiation in terms of conditions. It would be appropriate to require mitigation for a project like this.

109. Keith Ratner clarified that the Board would be making a recommendation to City Council, and they are making the ultimate decision.

110. Tracey Chalifour commented that she was trying to comprehend what performance standards they were talking about. If this moved forward at what point are the performance standards being developed? Pascal Rettig commented that they could ask Staff to go back and revise the Bill to include better performance standards. That is how the Board has handled situations like this in the past. Then the Board can make a recommendation to Council incorporating revisions.

111. Nipun Jain commented that they have proposed certain additional performance standards in this iteration of the Bill. It would be a disservice to send something to Council saying that this will not work. The Board should show the Council what will work. If the

Board is going to review a project one way or another, then there needs to be really good standards regardless of where it's sited. They should look at the additional standards and see how they could best address concerns.

112. Pascal Rettig summarized what they have heard from the city's Counsel in the memo. The memo notes that regardless of the steps taken, if it is denied or approved, it would most likely end up in front of the Planning Board. If the Board doesn't have legally defensible performance standards, then the Board is in a weak legal position regardless of the decision they make on a project. They are opening the City up to litigation on either end if the bylaws themselves haven't crystalized performance standards that could be used to evaluate a project. Alex Weisheit confirmed that was a good summary. Solar is under a zoning statute that grants broad exemptions. The one reason a municipality can legally deny this type of project or stringently condition it is if there is a threat to public health, safety, or environment. The performance standards would define what would constitute a negative impact. They would not be leaving it up to a judge to interpret.

113. Pascal Rettig commented that the next steps would be to discuss some of pieces that are already missing from the bylaws. The Board can discuss those and ask staff to come back at a subsequent meeting with an updated ordinance that includes better performance standards. They can add an explicit note for projects proposed outside the REDD the performance standards would still apply. The Planning Board should rework it here and then send it back to City Council. The next step is to sum up the explicit pieces they think are missing and ask staff to incorporate them into a revised version. Then it would come back here for review.

114. Pascal Rettig opened public comment.

115. Barry Fogel Lawyer for Lake Attitash Association commented that he read the City Attorney's letter. Mr. Fogel interpreted it to say that there were insufficient performance standards in the proposed Bill. Our recommendation is to do the opposite. They should go back to ground zero and start with a full evaluation of what the city of Amesbury wants to do for solar. The Board of Health, Director of DPW, and Water Department have not been consulted. Syncarpha has dragged the city into trying to set standards and expanding the solar overlay while focusing on a specific site. They should ask City Council to go back and set standards across the city and take advantage of the already established WRPD zoning that says don't go with development that will impact health and safety. The 8-11% is not a criterion. There have been cases where it was decided 1-2% were insufficient and they were cases where health and safety not impacted. Here there are reasons for concern with public health, safety, and welfare. This could endanger or threaten the water quality or supply. I believe there is a strong argument that could be made by the city defending a denial from the Building Commissioner and ZBA. There is plenty of solar allowed in the city and they have basis for denying based on public health. A 40B project doesn't mean that the Water Resource Protection District does not apply. Under a 40B those standards still apply. The ZBA permits those projects. The city attorney's advice is to revise this Bill. They will not get standards set and stakeholder input in one month. They should start at square one and build on energy planning. Talk to the Energy Committee. Don't revise the standards on the back of this project. The decision in Petersham where the ZBA said no because of deforestation is on appeal. We won't see a decision for a long time. There is

solar guidance from the state that they should not cut down forests to put in solar. Amesbury is within their rights to send this to the Building Commissioner and ZBA.

116. Alex Milne of 20 lake Attitash Rd. commented that they were supportive of the solar energy part and were currently in discussion with Sun Run to put in solar on their home. However, this is an ill-conceived placement and potentially a devasting impact to the lake. The existing solar farm is on the old town dump and that is a perfect site. The dump land couldn't be used for other purposes. This is the worst possible site. There is an overwhelming risk in pollution, and it would be permanent and irreversible. It would take 100 years to restore. Numerous entities have spent a lot of money to improve the quality of water in the lake.

117. Barbara Hamel of 2 a Lake Attitash Road commented that like the previous speaker they understood the drive for solar, but it is not perfect. There are 3 major problems with the site. It is in the water shed. It is on a hill. It is in a heavily forested area. Uncontrolled runoff could be a major outcome. Plainville, MA is a solar farm cautionary tale. The uncontrolled flooding that happened there destroyed homes and washed-out Route 1A. The company is partially blaming the Planning Board for approving it. Lake Attitash is a Class A outstanding resource and back up water supply. Lake Attitash was declared impaired waters in 1992 and 2016 for harmful algae blooms. They have worked to clean up the lake and do not want to go backwards. Based on what Barry Fogel has said, it sounds like we can and should say no. We need to think carefully about allowing this placement of a solar farm.

118. Rachel Matos of 45 lake Attitash Road agreed with Attorney Fogel. There is nothing green or progressive in cutting a forest for a project like this. There are better suited locations. The City should reject this proposal and look at retaining the property for conservation.

119. Krsytine Hetel commented that she lived in Merrimac, MA and is the President of the Lake Attitash Association. There is a large concern for the health of the lake. They have spent close to a million dollars to clean up the lake and do not want to go backwards. One of the problems is that this is between the Back River, Meadowborok Pond, and Lake Attitash. Runoff will go into one of these waterbodies. There is a steep hill coming down into Lake Attitash. If that site is deforested it will be a problem. The overlay district is currently strong and shouldn't expand.

120. Peggy Ogglestein submitted written public comment. The property values are impacted in relation to the water quality on Lake Attitash. One of the major appeals is the water quality. There are several nearby lakes dealing with water quality issues and they are impacting real estate. Will there be a bond in place to protect lake? Will there be a bond in place for property owners who may be negatively impacted? Who will determine how the panels are constructed and how? Are there case studies analyzing how they break down and impact water quality? What is the life span? This world is changing quickly and soon this will be antiquated. When they built a home in the water shed district, they had to jump through hoops. Why were they scrutinized so harshly but now they are considering solar zoning? Who does that benefit? Lower energy costs are not true. There are far too many unanswered questions to responsibly approve this.

121. Earl Doliber of 26 Oak Circle commented that this was the 5th meeting, and they have all spoken and heard the same stories. No one other than Syncharpha have spoken favorably about this project. This Board was ready to send a negative recommendation to the City Council pending the lawyer recommendation. Over the past decade they worked to bring Lake Attitash into a clean water resource. Clear cutting and adding panels are environmental insanity. They should deny it and fight it.
122. Faye Doliber of 26 Oak Circle commented that she was in favor of alternative energy sources but the city has other opportunities like the Microfab site that is already in the solar zone. There are better sites with less impact. This Bill is disrespectful to the resource. Ms. Doliber was opposed to passing the Bill that proposes expanding the REDD district to include wetlands, Water Resource Protection District, and Lake Attitash. Ms. Doliber opposed this for the welfare of the residents of Amesbury and to protect the lake. They have worked hard to reduce the algae blooms and increase oxygen in the lake to make it sustainable for fish. This past summer Lake Attitash was one of the few that remained open all summer. It provides a critical habitat for species.
123. Chuck Wright of 55 Birchmeadow Road commented that he would like to again invite the Board to come up and see the property. This past week Jeff Roelofs came out and walked the entire 17 acres they own. The Board should look at what they are voting on.
124. Sandra Charland of 48 Lake Attitash Road commented that Barry Fogel presents strong arguments to not change the zoning. This lake is a secondary source of drinking water for the town and was drained 3 inches this summer for that purpose. They cannot take the chance that this could be impacted from a solar farm. Who would be responsible for the lake cleanup year after year? Who would monitor for this for 25 years?
125. Tracey Chalifour motioned to send Bill 2024-096 back to City Council with a negative recommendation. Seconded by David Frick.
126. Pascal commented that he respected Barry Fogel's position, however, it seems that for Amesbury to be in the strongest position it would be best to apply a robust set of standards and evaluation for this project. They need to have something in the bylaws to apply it to. The best option would be to give direction to City Council instead of passing the buck. They should request to add stronger standards into the bylaws to address what happens when a project is proposed outside the REDD. Those items are not covered today. The impulse to vote no is understandable, but it does not put the city in the strongest position.
127. Tracey Chalifour commented that she could amend the motion to send Bill 2024-96 back with a negative recommendation and ask City Council to retool the Bill with better performance standards to protect the city.
128. David Frick noted that they needed to rethink other areas to include in the overlay district. It may not make sense to include this area in the expansion.
129. Alex Weisheit commented that it was in his opinion that the best way to protect the safety and welfare is to define what that is and base it on science and standards. The overarching question is does this particular project have enough of an adverse effect that a denial would withstand judicial review. The strongest way to defend that is to have specific stringent performance standards and to define why this has a negative impact.
130. David Frick commented that in the public comment it was noted that the State was not in favor of deforestation and questioned if that was counsel's understanding as well. Alex

Weisheit responded that he did review the guidance document that was cited. Applying that decision on its own is not enough. They need an expert to apply the reasoning for why deforestation for this particular property is problematic.

131. Tracey Chalifour commented that the Open Space Committee sent a negative recommendation back to City Council. Pascal Rettig confirmed that was correct and based on the impact on open space.
132. Keith Ratner motioned to continue the meeting to 10 pm. Seconded by Michael Jewell.
133. Pascal Rettig initiated roll call vote –
134. Keith Ratner – YES
135. Joel Nice – YES
136. Lorri Krebs- ABSENT
137. Michael Jewell – YES
138. Tracey Chalifour - YES
139. David Frick – YES
140. Pascal Rettig - YES
141. Motion passed - 6-0
142. Joel Nice questioned if they would need to consider holding higher performance bonds based on what happened in Plainville, MA. Alex Weisheit responded that the standards should require a performance bond and decommissioning bond.
143. Pascal Rettig commented that if they send this Bill back to City Council with a negative recommendation it will end the public hearing on this Bill at the Planning Board. City Council needs to wait for the Board's position on this. Once the Board takes a vote City Council is free to ignore what the Board says especially if we don't send an alternative. The current motion is suggesting they send in a new Bill but is not providing an alternative to move on. The only thing they could do is vote yes to the proposed Bill or vote no and hope a new Bill is filed.
144. David Frick commented that it was this Board's responsibility to come up with a proper Bill and then send it to City Council. The Planning Board is the land use board. The Board should do a site visit.
145. Pascal Rettig questioned if staff would be able to provide recommendations by the next Planning Board meeting. Nipun Jain responded that they could because they have to do it. It is only fair to draft a set of performance standards and have a public discussion on it.
146. Tracey Chalifour withdrew her motion. David Frick withdrew his second.
147. David Frick motioned to continue Bill 2024-096 to the October 28, 2024, Planning Board Meeting and ask Staff to revise the Bill with more protections and consider the best land areas for Amesbury. They should include the attorney's recommendation to include a provision that all standards apply even for projects outside of the REDD. Seconded by Keith Ratner.
148. Pascal Rettig initiated roll call vote –
149. Keith Ratner – YES
150. Joel Nice – YES
151. Lorri Krebs- ABSENT
152. Michael Jewell – YES
153. Tracey Chalifour - YES

154. David Frick – YES
155. Pascal Rettig - YES
156. Motion passed -6-0

157. **New Public Hearings – 31 Newton Rd.**
158. Nipun Jain read the legal notice into the record.
159. Hazem Dani, civil engineer for the project, commented that this was approved in 2017 but the construction would have been cost prohibitive. They tried to simplify the design while still understanding it is in the Water Resource Protection District. The wetland line has been reviewed by the Conservation Commission and they have agreed with the delineation. The plan proposes a wetland crossing but they chose a spot to create the least amount of impact. They will need to provide a wetland replication area that is twice the impact size. Currently there is a pending Notice of Intent application filed with the Conservation Commission. They have addressed the wetland comments but want to coordinate with Planning on the storm water review. The project proposes a single-family home with a septic system outside of the 200-foot buffer.
160. Pascal Rettig commented that the primary review for this would be storm water because this is in front of the Board because it is in the WRPD. Nipun Jain confirmed that was correct. The storm water and grading are paramount. They are adding more wetlands to the site and there are erosion controls associated with the improvements. There is a substantial amount of regrading needed in Zone A. It would make sense to have Stantec review the storm water report and provide comment on the grading and revegetation needed to stabilize the disturbance. Nipun Jain commented that they had a proposed contract from Stantec for $4,844.
161. Pascal Rettig questioned if there was any public comment. There was none.
162. David Frick motioned to authorize Stantec to Peer Review the application submittal for 31 Newton Road. Seconded by Keith Ratner.
163. Pascal Rettig initiated roll call vote.
164. Keith Ratner – YES
165. Joel Nice – YES
166. Lorri Krebs- Absent
167. Michael Jewell – YES
168. Tracey Chalifour - YES
169. David Frick – YES
170. Pascal Rettig - YES
171. Motion passed 6-0

172. Keith Ratner motioned to continue to the application for 31 Newton Road to the October 28, 2024, Planning Board Meeting. Seconded by Tracey Chalifour.
173. Pascal Rettig initiated roll call vote
174. Keith Ratner – YES
175. Joel Nice – YES
176. Lorri Krebs- Absent

177. Michael Jewell – YES
178. Tracey Chalifour - YES
179. David Frick – YES
180. Pascal Rettig - YES
181. Motion passed 6-0

182. **New Public Hearings – 35 Pleasant Valley Rd.**
183. David Frick recused himself from the application.
184. Nipun Jain read the notice into the record.
185. Nipun Jain commented this is the first ADU application received since the bylaw has been adopted. On a preliminary assessment it appears to meet the requirements. An ADU is required to go to TRC and DRC. There isn't anything to be discussed with TRC. However, there are elements that should be reviewed by DRC. The Board should ask DRC to review and provide recommendations.
186. Tracey Chalifour clarified that the new legislation would not apply because it doesn't take effect until February. Nipun Jain confirmed that was correct.
187. Pascal Rettig questioned if there was any public comment.
188. Victor Vigna of 35A Pleasant Valley Road questioned why it needed to go to DRC because it was an existing structure. Nipun Jain responded that it is laid out in the ordinance that they needed to get comments and report back from the DRC.

189. Ketih Ratner motioned to continue the meeting to 10:20 pm. Seconded by Michael Jewell.
190. Pascal Rettig initiated roll call vote –
191. Keith Ratner – YES
192. Joel Nice – YES
193. Lorri Krebs- ABSENT
194. Michael Jewell – YES
195. Tracey Chalifour - YES
196. David Frick – Abstain
197. Pascal Rettig - YES
198. Motion passed 5-0-1

199. Ketih Ratner motioned to send the application to DRC and continue the public hearing to the October 28, 2024, Planning Board meeting. Seconded by Tracey Chalifour.
200. Pascal Rettig initiated roll call vote –
201. Keith Ratner – YES
202. Joel Nice – YES
203. Lorri Krebs- ABSENT
204. Michael Jewell – YES
205. Tracey Chalifour - YES
206. David Frick – YES
207. Pascal Rettig - YES
208. Motion passed 5-0-1

209. David Frick rejoined the meeting.

210. **Administrative – Curaleaf**

211. Nipun Jain commented that the last time this was before the Board it was determined a minor modification to the special permit for this facility. The Board was looking for confirmation from the Executive Office that the new HCA has been endorsed. At that time, it was still being reviewed. They have now received confirmation that it has been completed. Staff recommends approving the request to change the name from Curaleaf Northshore INC. to Mass Grow LLC.

212. David Frick motioned to of the request to change the name from Curaleaf Northshore INC. to Mass Grow LLC at 10 Industrial Way and noted that any signage replacement should be filed through the appropriate application process. Seconded by Keith Ratner.

213. Pascal Rettig initiated roll call vote –

214. Keith Ratner – YES

215. Joel Nice – YES

216. Lorri Krebs- ABSENT

217. Michael Jewell – YES

218. Tracey Chalifour - YES

219. David Frick – YES

220. Pascal Rettig - YES

221. Motion passed 6-0

222. **Administrative – CNA Stores**

223. Pascal Rettig commented that they received a request for a change of hours from 12pm to 6pm to 9 am to 9 pm.

224. Rob Lafazio of 6 Baker St. commented that this request is to match the other businesses in the area.

225. Tracey Chalifour motioned to accept hours change. Seconded by Michael Jewell.

226. Pascal Rettig initiated roll call vote –

227. Keith Ratner – YES

228. Joel Nice – YES

229. Lorri Krebs- ABSENT

230. Michael Jewell – YES

231. Tracey Chalifour - YES

232. David Frick – YES

233. Pascal Rettig - YES

234. Motion passed 6-0

235. Nipun Jain commented that the Board should coordinate a site visit to the Meadowbrook property. The Board decided to go on 10/7/24 at 3 pm.

236. **Administrative – Contracts, Bills, and Invoices**

237. Pascal Rettig read the invoices into the record.

1. A Stantec Bill for Bailey’s Pond in the amount of $385.00
2. A Stantec Bill for 47-57 Kimball Rd. in the amount of $150.00

3. A Stantec Bill for 14 S Hunt Rd. in the amount of $495.10.
4. A Stantec Bill for 2-13 Merrimac St. in the amount of $6,689.25
5. A Stantec Bill for Bailey's Pond in the amount of $340.20.
6. A Stantec Bill for 12 S Hunt Rd. in the amount of $820.50

238. David Frick noted that they did not have enough money to pay the marina bill. Nipun Jain noted they could make it a conditional approval.

239. David Frick motioned to approve payment for the 2-13 Merrimac St. subject to obtaining additional funds and approve the rest of the invoice payments as read above. Seconded by Keith Ratner.

240. Pascal Rettig initiated roll call vote –

241. Keith Ratner – YES

242. Joel Nice – YES

243. Lorri Krebs- ABSENT

244. Michael Jewell – YES

245. Tracey Chalifour - YES

246. David Frick – YES

247. Pascal Rettig - YES

248. Motion passed 6-0

249. Adjournment

250. Keith Ratner motioned to adjourn at 10:18 pm. Seconded by Michael Jewell.

251. Pascal Rettig initiated roll call vote –

252. Keith Ratner – YES

253. Joel Nice – YES

254. Lorri Krebs- ABSENT

255. Michael Jewell – YES

256. Tracey Chalifour - YES

257. David Frick – YES

258. Pascal Rettig - YES

259. Motion passed 6-0