

**TOWN PLAN AND ZONING COMMISSION
GLASTONBURY, CONNECTICUT**

Tuesday, March 3, 2020
REGULAR MEETING

7:00 P.M.

Council Chambers
2nd Floor – Town Hall
2155 Main Street

Robert J. Zanlungo, Jr., Chairman
Sharon H. Purtill, Vice Chairman
Michael Botelho, Secretary

Christopher Griffin
Raymond Hassett
Keith S. Shaw

ALTERNATES: Matthew Saunig; Scott Miller; Alice Sexton

AGENDA

1. Voting on the application of William M. Dufford (public hearing closed) for final subdivision approval for the 6-lot River Road Subdivision, Phase 3 involving an easterly extension of Dufford's Landing – Assessor's Lots S-4 Dug Road & S-3A Dufford's Landing – Rural Residence Zone & Groundwater Protection Zone 1 – Alter & Pearson, LLC
2. Informal session for the purpose of hearing from citizens on Regular Meeting agenda or non-agenda items
3. Acceptance of *Amended* Minutes of the February 18, 2020 Regular Meeting
4. **CONSENT CALENDAR**
 - a. Scheduling of Public Hearings for Regular Meeting of March 17, 2020: **to be determined**
 - b. Request of Shops on Main, LLC for a one-year extension to commence construction pursuant to Section 12.7 of the Building-Zone Regulations – Special Permit with Design Review for Building 3 of the Shops on Main – 2951 Main Street - Planned Business & Development Zone
5. Chairman's Report
6. Report from Community Development Staff

MEMORANDUM

OFFICE OF COMMUNITY DEVELOPMENT

APPLICATION FOR FINAL SUBDIVISION APPROVAL
 RIVER ROAD SUBDIVISION PHASE III; ASSESSOR'S LOT S-4 DUG ROAD AND LOT S0003A DUFFORD'S LANDING
 MEETING DATE : MARCH 3, 2020
 PUBLIC HEARING CONTINUED FROM 2-4-2020; 1- 21-2020; 12-10-2020; & 11- 19-2019
PUBLIC HEARING CLOSED 02/18/2020

<p>03-03-2020 AGENDA</p> <p>To: Town Plan and Zoning Commission</p> <p>From: Office of Community Development Staff</p> <p>Memo Date: February 28, 2020</p> <p>Zoning District: Rural Residence (RR) and GWP Zone 1</p> <p>Applicants/Owners: William M. and Suzanne Dufford</p>	<p>STATUS UPDATE MARCH 3, 2020</p> <ul style="list-style-type: none"> • At its February 14, 2020 meeting, the Town Plan and Zoning Commission (TPZ) made a motion to close the public hearing for this application. <p>TOWN ATTORNEY ADVISEMENT</p> <p>The Town Attorney has advised the TPZ with regard to drafting a motion as follows:</p> <ul style="list-style-type: none"> • When the Commission makes its decision, the reasons for decision needed to be stated within the motion of decision. <ul style="list-style-type: none"> • Example: <i>River Road Subdivision is in accordance with the Town of Glastonbury Sub-division Regulations, effective June 1, 1993 and amended May 28, 1996.</i> • If the Commission determines that the excavation proposed as part of this subdivision is exempt from the requirements within Section 6.2 of the Building-Zone Regulation (Excavation and Filling or Removal of Earth Products), the Commission should state in a general categorized method, which part of the subdivision plan is exempt under which subsection (subsection 6.2.4 a, b, or c -or combination thereof). <ul style="list-style-type: none"> • Example: <ul style="list-style-type: none"> • <i>The excavation associated with the subdivision as proposed is found to be exempt from special permit requirements for Excavation And Filling or Removal of Earth Products, as described in Section 6.2 of the Town of Glastonbury Building-Zone Regulations in accordance with the following:</i> • <i>In regards to excavation required for the extension and construction within the actual right-of-way of the road known as Dufford's Landing to Town of Glastonbury standards, said excavation is found to be exempt in accordance with subsection 6.2.4 ___ (identify a, b, or c-or combination here)</i> • <i>In regards to excavation for the construction of the area located outside of the actual right of way required for the construction of the side slopes and the entrances to the driveways for the proposed building lots, said excavation is exempt under subsection 6.2.4 ___ (identify a, b, or c-or combination thereof here)</i> • <i>In regards to excavation for the development of the lots and associated improvements as identified on the subdivision plan as proposed, said excavation is found to be exempt under subsection 6.2.4 ___ (identify a, b, or c-or combination thereof here)</i>
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MEMORANDUM

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 PUBLIC HEARING CLOSED 02/18/2020

03-03-2020 AGENDA

To:
 Town Plan and Zoning
 Commission

From:
 Office of Community
 Development Staff

Memo Date:
 February 28, 2020

Zoning District:
 Rural Residence (RR)
 and GWP Zone 1

Applicants/Owners:
 William M. and
 Suzanne Dufford

- **Additional Conditions of Approval to consider in regards to associated excavation work:**
 - Prior to the start of excavation beyond the actual right-of-way as depicted on the proposed subdivision plan, the applicant shall make application(s) to the Town Building Official for the construction of the proposed lots for which the excavation is said to occur.
 - No screening shall be conducted on the premises.
 - Operating hours for excavation operations shall be restricted to weekdays (Monday through Friday), between the hours of 7 a.m. and 4 p.m. Excavation operations shall not be allowed on legal State holidays with the exception of Columbus Day and Veterans Day. Equipment startup and/or engine idling on or adjacent to the premises shall not be permitted prior to the approved hours of operation.
 - All equipment and machinery shall be maintained in good repair and operated in such a manner as to minimize noise, vibration, smoke dust, unsightly conditions and any other nuisance.
 - To prevent spillage from vehicles or equipment and windblown air pollution, any truckload of earth material which is to travel on a public street shall be covered with tarpaulin or other suitable material. All commercial haulers shall utilize vehicles clearly marked with the hauler's name and an identification number.
 - The Applicant shall provide proper drainage at all stages during and after completion of the excavation operations to prevent the collection and stagnation of water, interference with or disturbance of the flow, banks or bed of any watercourse, the erosion of the premises or adjoining properties or any other harmful effects to adjoining properties or the future use of the premises.
 - All overburden shall be stockpiled in windows or concentrated piles and stabilized so as to prevent its erosion by either wind or water and so that it does not become a source of dust or other windblown air pollutants.
 - It shall be the responsibility of the operator of the excavation operations to repair immediately, any damage to any sidewalks, curbs, surface drains or other improvements or utilities that may be caused as a result of the excavation operations.
 - Proper safety measures for within the premises and for the surrounding area shall be clearly set forth and strictly adhered to at all times to protect the health, welfare and safety of all individuals and property.
 - All operations shall be conducted in a safe manner to prevent hazards to persons, physical damage to adjacent land or improvements, and damage to any road, street, highway or property because of slides, sinking or collapse.

MEMORANDUM

OFFICE OF COMMUNITY DEVELOPMENT

**APPLICATION FOR FINAL SUBDIVISION APPROVAL
RIVER ROAD SUBDIVISION PHASE III; ASSESSOR'S LOT S-4 DUG ROAD AND LOT S0003A DUFFORD'S LANDING
MEETING DATE : February 18, 2020
PUBLIC HEARING CONTINUED FROM 2-4-2020; 1- 21-2020; 12-10-2020; & 11- 19-2019**

<p>PUBLIC HEARING #1 02-18-2020 AGENDA</p> <hr/> <p>To: Town Plan and Zoning Commission</p> <p>From: Office of Community Development Staff</p> <p>Memo Date: February 14, 2020</p> <p>Zoning District: Rural Residence (RR) and GWP Zone 1</p> <p>Applicants/Owners: William M. and Suzanne Dufford</p>	<p>STATUS UPDATE February 14, 2020</p> <ul style="list-style-type: none"> • At its February 4, 2020 meeting, the Town Plan and Zoning Commission (TPZ) made a motion to continue the public hearing for this application. • Attorney Carl Landolina, representing property owners on Dug Road, will not be present at the February 18th meeting and asked for the letter attached to be placed into the record. • The Town Attorney, Matt Ranelli, will be present at the meeting to provide responses to the questions asked by Commissioners on February 4th. To summarize the questions asked, please see below: <p style="margin-left: 40px;">After listening to the arguments of Attorney Alter, Attorney Slater and Attorney Landolina, does it change Attorney. Ranelli's legal opinion on the matter one way or the other?</p> <p style="margin-left: 40px;">Does the applicant have to specify which areas of excavation were exempted under Subsection "a" as within the right-of-way and which areas were exempted under Subsection "b"? Or, could the Commission condition the approval to only allow excavation within the right-of-way and delegate the responsibility to determine if any other excavation is exempted under Sub section "b" to the Building Official?</p> <p style="margin-left: 40px;">The Commission requested clarification as to whether Subsection "a" limits excavation to only within the right-of-way or if it allows for excavation to go outside of the right-of-way. If Subsection "a" does limit excavation to within the right-of-way only then they would like clarification as to how Subsection "b" would apply to excavation outside of the right-of-way."</p> <p style="margin-left: 40px;">Can the Commission condition a subdivision approval on obtaining an excavation special permit?</p> <p style="margin-left: 40px;"><i>To re-familiarize yourself, please also see the meeting minutes of the last public hearing, which are enclosed. The staff report of 11-19-19 and previous memorandum from the Town Attorney of 1-17-20 are attached.</i></p> <p>Procedural Items:</p> <ul style="list-style-type: none"> • In accordance with State Statute, the Commission will have to close the public hearing on the meeting of the 18th. Once the public hearing is closed, the Commission will have up to 65 days to make a decision on the application.
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MEMORANDUM

OFFICE OF COMMUNITY DEVELOPMENT

APPLICATION FOR FINAL SUBDIVISION APPROVAL
 RIVER ROAD SUBDIVISION PHASE III
 ASSESSOR'S LOT S-4 DUG ROAD AND LOT S0003A DUFFORD'S LANDING
 MEETING DATE : JANUARY 21, 2020 CONTINUED FROM DECEMBER 10 & NOVEMBER 19, 2019

<p>PUBLIC HEARING 01-21-2020 AGENDA</p> <p>To: Town Plan and Zoning Commission</p> <p>From: Office of Community Development Staff</p> <p>Memo Date: January 17, 2020</p> <p>Zoning District: Rural Residence (RR) and GWP Zone 1</p> <p>Applicants/Owners: William M. and Suzanne Dufford</p>	<p><u>STATUS UPDATE</u></p> <ul style="list-style-type: none"> • At its November 19, 2019 meeting, the Town Plan and Zoning Commission (TPZ) made a motion to continue the public hearing for this application. • At that meeting attorneys representing neighboring property owners on Dufford's Landing and Dug Road gave testimony in opposition to this proposal. • The members of the TPZ requested that the Town Attorney provide an opinion on whether the applicants' proposal requires a Section 6.2 Excavation Special Permit in addition to subdivision approval. • Attorney Kenneth Slater representing Michael Blair of 65 Dufford's Landing, submitted a memorandum (which is included in your Commissioners' packets) to the Town Attorney dated December 4, 2019, stating his position that the applicant would require a Section 6.2 Excavation Permit in addition to subdivision approval. • The Town Attorney has drafted a memorandum in response to both the questions posed by the TPZ and the issues raised by Attorney Slater which is included in your Commissioners' packets. • In summary, the Town Attorney concludes: <ul style="list-style-type: none"> • <i>The burden is on the applicant to present evidence that the proposed excavation operations are associated with construction activities that fall under the exemptions in Section 6.2.4.a and 6.2.4.b of the Building-Zone Regulations.</i> <p style="margin-left: 20px;"><i>It is up to the TPZ to determine whether proposed excavation activities are considered exempt under Sections 6.2.4.a and 6.2.4.b of the regulations based on the evidence presented by the applicant</i></p>
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MEMORANDUM

OFFICE OF COMMUNITY DEVELOPMENT

**APPLICATION FOR FINAL SUBDIVISION APPROVAL
RIVER ROAD SUBDIVISION PHASE III
ASSESSOR'S LOT S-4 DUG ROAD AND LOT S0003A DUFFORD'S LANDING
MEETING DATE : JANUARY 21, 2020 CONTINUED FROM DECEMBER 10, & NOVEMBER 19, 2019**

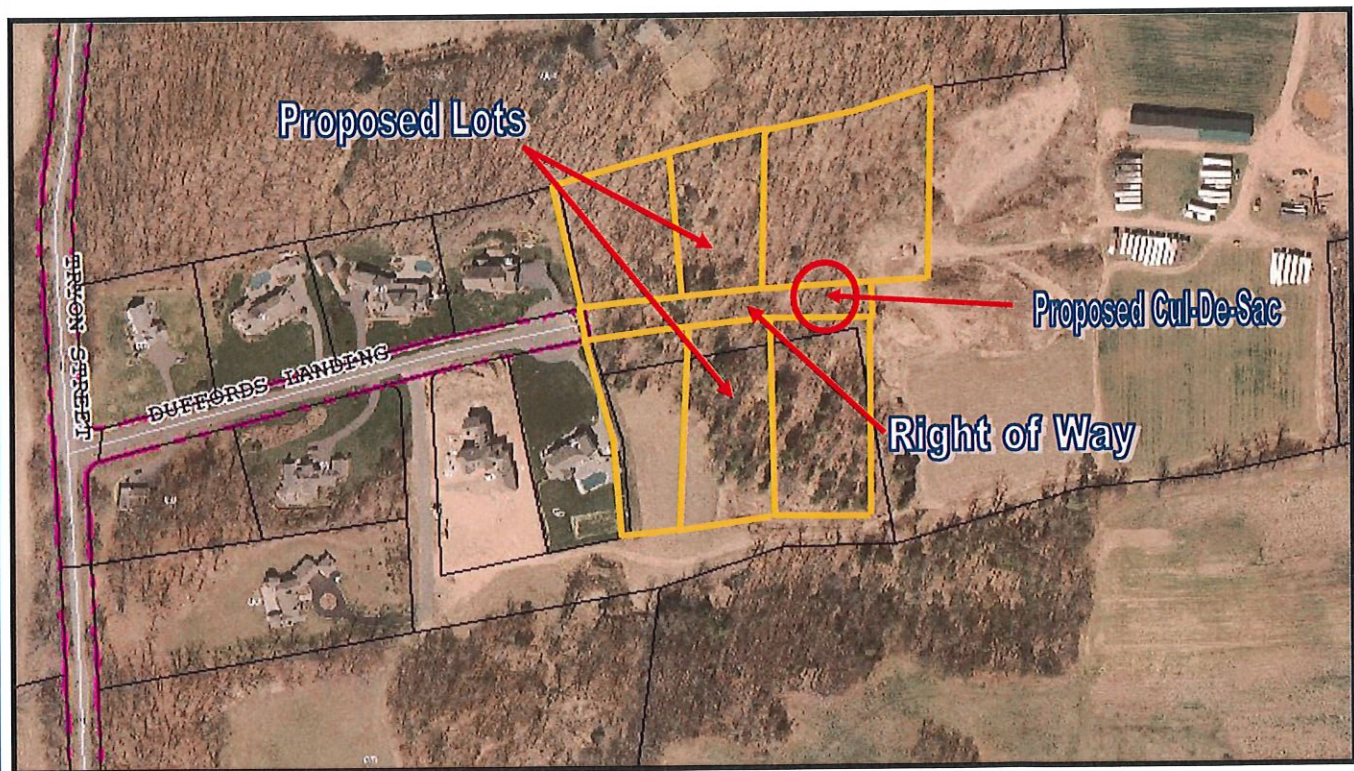
<p>PUBLIC HEARING 01-21-2020 AGENDA</p> <p>To: Town Plan and Zoning Commission</p> <p>From: Office of Community Development Staff</p> <p>Memo Date: January 17, 2019</p> <p>Zoning District: Rural Residence (RR) and GWP Zone 1</p> <p>Applicants/Owners: William M. and Suzanne Dufford</p>	<p><u>STATUS UPDATE CONTINUED</u></p> <ul style="list-style-type: none"> • <i>For reference purposes the above-referenced sections state a special permit for excavation operations shall be required except in the case of the following operations:</i> <ul style="list-style-type: none"> <i>a.—Excavation operations within the actual rights-of-way of public streets or highways of either the Town of Glastonbury or the State of Connecticut or within the streets or roads as shown on a subdivision map or a plan of development map approved by the Town Plan and Zoning Commission.</i> <i>b.—Excavation operations within a premises as directed and approved by the Town Building Official as a result of bona-fide construction operations, such as building erection, for which operation a building permit has been issued by the Town Building Official.</i> • Connecticut General Statutes Section 8-7d states that a public hearing shall be closed after 35 days unless the applicant consents to one or more time extensions as long as the extensions do not exceed 65 days. • Should the public hearing need to be continued the applicant would have to grant a time extension. The hearing cannot be extended beyond February 26, 2020 (or the next regularly scheduled TPZ meeting of February 18, 2020). <p><u>Review</u></p> <p>Additional items included for Commission review are the following:</p> <ul style="list-style-type: none"> • Memorandum from the Town Attorney • A cut and fill analysis prepared by the applicant • The staff report from the November 19, 2019 TPZ meeting
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**APPLICATION FOR FINAL SUBDIVISION APPROVAL
RIVER ROAD SUBDIVISION PHASE III
ASSESSOR'S LOT S-4 DUG ROAD AND LOT S0003A DUFFORD'S LANDING
MEETING DATE : NOVEMBER 19, 2019**

<p>PUBLIC HEARING #2 11-19-2019 AGENDA</p> <p>To: Town Plan and Zoning Commission</p> <p>From: Office of Community Development Staff</p> <p>Memo Date: November 15, 2019</p> <p>Zoning District: Rural Residence (RR) and GWP Zone 1</p> <p>Applicant: William M. and Suzanne Dufford</p>	<p><u>EXECUTIVE SUMMARY</u></p> <ul style="list-style-type: none"> • The applicant is proposing a 6-lot subdivision at Assessor's Lot S-4 Dug Road and Lot S0003A Duffords Landing. • This subdivision plan is the third phase of the River Road Subdivision which proposes to connect Dufford's Landing with Dug Road to the east. • The first two phases resulted in the development of 8 building lots and the construction of Dufford's Landing. • The total number of lots as referenced in the plan sheet entitled "Conceptual Subdivision Plan" will be 37. • The applicant proposed a 3 lot subdivision in the same location in January 2019 but withdrew the application. • The proposal includes the extension of Dufford's Landing from the existing temporary cul-de-sac east to a new temporary cul-de-sac. • The subdivision will be laid out such that there are three lots on the north side and three lots on the south side of Dufford's Landing. • The lot located on the north side of the new cul-de-sac will be 1.8 acres and the lot on the south side of the cul-de-sac will be 1.2 acres. The remaining 4 lots will all be .9 acres. • The lots will have wells and on-site septic systems. • The Plans Review Subcommittee reviewed the proposed subdivision on July 10, 2019 where they advised the applicant on the proposed road grade, and construction/excavation traffic associated with the subdivision. • At its meeting of September 26, 2019, the Conservation Commission provided a favorable recommendation to the TPZ for the proposed subdivision. <p><u>REVIEW</u></p> <p><u>The review of this application is governed by the Town of Glastonbury Subdivision and Resubdivision Regulations, as such the Commission's discretionary powers are limited. Any condition imposed would have to be directly linked to the Subdivision Regulations. Please see the section entitled "Memorandums" on page 5 of this report for further details.</u></p> <p>Included for Commission review are the following:</p> <ul style="list-style-type: none"> • The Subdivision Plans • Memoranda from Town Staff • Minutes from the July 10, 2019 Plans Review Subcommittee meeting
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Aerial View of Assessor's Lots S-4 Dug Road and S0003A Dufford's Landing



Aerial View of Proposed Subdivision

ADJACENT USES

- Farm land exists to the north, east and south.
- Single-family housing is located to the west.

SITE DESCRIPTION (Please refer to plan set sheet 2)

The site consists of approximately 36 acres located east of the temporary cul-de-sac at the end of Dufford's Landing. The proposed subdivision area is currently wooded and slopes steeply up from an elevation of 75 at the end of Dufford's Landing easterly to a high point of elevation 133, and then down to elevation 100. The remainder of the site has been previously excavated and is flat all the way to Dug Road. Soils on the site are Manchester Gravely Loam, 15 to 45 percent slopes. The right-of-way of the Dufford's Landing extension and the proposed lots that will be on the north side of the extension are located at the northwest corner of Assessor's Lot S-4 Dug Road. A small portion of the lots on the south side of the Dufford's Landing extension are also located on Lot S-4 Dug Road with the remainder located on the eastern side of Assessor's Lot S0003A Dufford's Landing.

PROPOSAL (Please refer to plan sheets 3,4,5 & 6 and plan sheet entitled "Conceptual Subdivision Plan")

The applicant is proposing to create lots 9,10, and 11 on the north side of the road and lots 35, 36 and 37 on the south side of the road. Lots 9, 10, 36 and 37 will be .9 acres while lot 11 will be 1.8 acres and lot 35 will be 1.2 acres for a combined total area of 7.5 acres (including the right-of-way). Dufford's Landing will be extended approximately 500 feet to the east to a new temporary cul-de-sac. The extension will bring the overall length of Dufford's Landing to approximately 1,400 feet from the intersection of Tryon Street which is below the maximum permitted length of 1,500 feet for a cul-de-sac road as set forth in Section 10.5 (a) of the Subdivision Regulations. The Town of Glastonbury Standards for Public improvements states that 10% is the maximum grade for a light local road. In order to comply with Town standards the applicant will excavate the area east of the existing temporary cul-de-sac and construct a road with an 8 ^{1/2} % grade. The proposed road grade is higher than was proposed in the previous subdivision application. The paved area from the existing temporary cul-de-sac outside the Town right-of-way will be removed by the applicant and the land will be loamed and seeded. The land will be deeded to the adjacent property owners.

The applicant will also excavate and grade the six proposed lots on the north and south sides of the Dufford's Landing extension. A total of 95,000 cubic yards will be excavated for the road extension and building lots. As explained in the applicant's Erosion and Sedimentation Control Narrative, excavation associated with the subdivision will be divided into two phases. Phase I will start at the east end of the site and proceed west to the phase line (see plan set sheet 5). During the first phase truck traffic will access the site through the entrance on Dug Road. Phase II will start at the west end of the site and progress eastward to the phase line. Access to the side for the second phase will be off Dufford's Landing.

DRIVEWAYS (Please refer to plan sheet 4)

Each lot will have its own driveway with a turnaround.

WETLANDS

There are no wetlands or watercourses on the site and no activity will take place within 100 feet of a wetland or watercourse.

DRAINAGE (Please refer to plan sheets 3,4,5 & 6)

There will be 6 drywells installed along the extension of Dufford's Landing; three on the north side and three on the south side. The drywells will be located on the individual lots in easements in favor of the Town. Stormwater will be collected along the road extension and sent to the drywells where the water will infiltrate into the soil.

UTILITIES (Please refer to plan set sheet 4)

The lots will have on-site septic systems and wells. All other utilities will be accessed from Dufford's Landing.

ROADS

As previously discussed Dufford's landing will be extended to 500 feet to the east at an 8 ^{1/2} % grade to a new temporary cul-de-sac. Classified as a "Limited Local Road" the Dufford's road extension will have a 50-foot right of way and a 25-foot wide pavement width. The existing 4-foot wide concrete sidewalk on the north side of the road will be extended to the new temporary cul-de-sac and each lot will have three street trees.

SOIL MANAGEMENT (Please refer to plan set sheets 5 & 8)

The applicant has submitted an Erosion and Sedimentation (E&S) Control Narrative which states that Best Management Practices will be used during the project. The phasing plan proposed by the applicant will use the natural topography of the site to assist with E& S control. Other E&S measures include hay bale, silt fences and temporary sediment traps.

STAFF MEMORANDUMS

The Glastonbury Police Department has provided a memorandum that recommends several conditions regarding hours of operation, days of operation, operation on holidays and truck traffic routes for excavation activity associated with this application. The Town Attorney has advised the Office of Community Development that it would be within the Town Plan and Zoning Commission's discretion to impose any or all of these conditions as part of the approval for this application as these recommendations are related to the regulations regarding health welfare and public safety as set forth in Section 3.4 of the Subdivision Regulations.

PLANNING AND ZONING ANALYSIS

The applicant has addressed several of the concerns raised by the TPZ and members of the public during the previous application for a three-lot subdivision in this location. They have increased the road grade from 7% to 8^{1/2}% to decrease the total amount of material excavated for the right-of-way and building lots. The applicant has added three lots to the south side of the proposed Dufford's Landing extension to address concerns regarding the excavation and grading of this area. The applicant has increased the sizes of lots 11 and 35 so that when complete, no further excavation will be required for future phases of this subdivision.

The applicant's proposal has been reviewed by Town staff, the Conservation Commission and the Plans Review Subcommittee. The proposal meets all the requirements of the Town of Glastonbury Subdivision Regulations, and the bulk requirements for the Rural Residence Zone. In accordance with Section 5.11 of the Subdivision Regulations the applicant is applying for final subdivision approval, which would allow the applicant to bond all construction work associated with the subdivision. As set forth in Section 6.2.4 a and b of the Building—Zone Regu-

lations, the excavation associated with the proposed subdivision will not require an excavation permit.

The project is consistent the following policies of the 2018—2028 Plan of Conservation and Development:

Town-wide Policies:

- **Stormwater Management**

- Promote use of innovative techniques, Low Impact Development (LID) and Best Management Practices to benefit surface water and groundwater quality and overall ecological integrity.

Planning Area 3—Rural :

- **Aquifers**

- Maintain the aquifer water budget balance through simultaneous use of on-site sewage disposal (according to State Health Code and Groundwater Protection Regulations) and well water supply. Furthermore, use leaching field designs intended to protect against system failure and groundwater contamination.

Further, the proposed subdivision is in keeping with the Future Land Use Map designation of this land as “Rural Residence 2 dwelling unit/ 1-2 acres.”

Pertinent staff correspondence and draft motions are attached.

TOWN PLAN AND
ZONING COMMISSION

FINAL SUBDIVISION APPROVAL

APPLICANTS/OWNERS:
WILLIAM M. DUFFORD & SUZANNE
DUFFORD
593 TRYON STREET
SOUTH GLASTONBURY CT, 06073

FOR: RIVER ROAD SUBDIVISION PHASE III

MOVED, that the Town Plan and Zoning Commission approve the application of William M. Dufford and Suzanne Dufford for final subdivision approval– 6 lots – River Road Subdivision Phase III – westerly portion of Assessor’s Lot S-4 Dug Road and northeasterly portion of Lot S-0003A Dufford’s Landing – Rural Residence Zone and Groundwater Protection Zone 1, in accordance with the following plans:

“OVERALL PLAN RIVER ROAD SUBDIVISION – PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860)-659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 6-8-18 SCALE: 1”=100’ SHEET 2 OF 14 MAP NO. 34-18-10A REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“SUBDIVISION PLAN RIVER ROAD SUBDIVISION – PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860)-659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 6-8-18 SCALE: 1”=40’ SHEET 3 OF 14 MAP NO. 34-18-1S REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“TOPOGRAPHIC MAP RIVER ROAD SUBDIVISION – PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860)-659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 6-8-18 SCALE: SHOWN SHEET 4 OF 14 MAP NO. 34-18-1PLS REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

“PLAN AND PROFILE DUFFORDS LANDING RIVER ROAD SUBDIVISION – PHASE 3 PREPARED FOR WILLIAM DUFFORD GLASTONBURY, CONN. MEGSON, HEAGLE & FRIEND 81 RANKIN ROAD GLASTONBURY, CONN. 06033 PHONE (860)-659-0587 CK. BY: JHS DRW.BY: ZTA DATE: 3-4-19 SCALE: 1”=40’ SHEET 8 OF 14 MAP

NO. 34-18-1PP REV. 10-25-18 STORM DRAINAGE DESIGN & GRADING REV. 12-17-18 TOWN ENGINEER COMMENTS REV. 1-15-19 TOWN ENGINEER COMMENTS REV. 4-30-19 SIX LOT LAYOUT REV. 7-8-19 REV. 8-12-19 EROSION & SEDIMENTATION CONTROLS REV. 10-3-19 CONSERVATION CONDITIONS OF APPROVAL”

And

1. In compliance with:
 - a. The standards contained in a report from the Fire Marshal, File 19-034, plans reviewed 11-12-19.
 - b. The recommendation of the Conservation Commission contained in their memorandum dated September 26, 2019.

2. In adherence to:
 - a. The Town Engineer’s memorandum dated November 13, 2019.
 - b. The Sanitarian’s memorandum dated November 6, 2019.
 - c. The Police Chief’s memorandum dated November 8, 2019.

(Additional conditions here)


(Insert finding of fact here)

APPROVED: TOWN PLAN & ZONING COMMISSION
MARCH 3, 2020

ROBERT J. ZANLUNGO, JR., CHAIRMAN

MEMORANDUM

To: Town Plan & Zoning Commission

From: Thomas Mocko, Environmental Planner 

Date: October 1, 2019

Re: **Recommendation to the Town Plan & Zoning Commission** concerning subdivision approval – **River Road Subdivision, Phase 3 (6 frontage lots and a 500-foot easterly extension of Dufford's Landing)** – Assessor's Lots LS-4 Dug Road and L3A Dufford's Landing – Rural Residence Zone and Groundwater Protection Zone 1 – Megson, Heagle & Friend, C.E. & L.S., LLC – Attorneys Peter Jay Alter & Meghan Hope – **William M. Dufford, landowner/applicant**

During its Regular Meeting of September 26, 2019, the Conservation Commission recommended to the Town Plan and Zoning Commission subdivision approval for the River Road Subdivision, Phase 3 (6 frontage lots and a 500-foot easterly extension of Dufford's Landing) – Assessor's Lots LS-4 Dug Road and L3A Dufford's Landing – Rural Residence Zone and Groundwater Protection Zone 1. The attached motion was approved by the Commission.

TM:gfm

cc: Daniel A. Pennington, Town Engineer/Manager of Physical Services
Peter R. Carey, Building Official
Megson, Heagle & Friend, C.E. & L.S., LLC
Attorneys Peter Jay Alter & Meghan Hope

**APPROVED RECOMMENDATION TO
THE TOWN PLAN & ZONING COMMISSION**

MOVED, that the Conservation Commission recommends to the Town Plan & Zoning Commission subdivision approval of William Dufford's proposed 6-lot River Road Subdivision, Phase III, involving an easterly extension of Dufford's Landing, in accordance with plans on file in the Office of Community Development, and in compliance with the following conditions:

1. Comments 2 through 6, inclusive, within the Town Engineer's memorandum dated September 19, 2019 shall become conditions of approval.
2. Adherence to the Health Department's review and comment memorandum dated September 24, 2019.
3. Healthy mature trees shall be preserved and saved when possible. Said trees shall be protected with the use of high visibility construction fence during construction or otherwise protected as required by staff.
4. Installation of soil erosion and sedimentation control and stabilization measures shall be the Permittee's responsibility. Once installed these measures shall then be inspected by the Environmental Planner prior to land disturbance activities. Afterwards it then shall be the Permittee's responsibility to inspect these control measures during, and immediately following, substantial storm events and maintain and/or replace the control measures, when needed, on a regular basis until the site is vegetatively stabilized. Hay bales shall be replaced every 60 days. The Environmental Planner is hereby authorized to require additional soil erosion and sediment controls and stabilization measures to address situations that arise on the site.
5. Tree stumps and blasted rock material shall not be buried at the site.
6. Dry wells shall be designed and installed to facilitate the roof runoff in order to attenuate increased flows to downgradient receiving water and provide recharge to the groundwater. Such dry well design shall appear on the site plan submitted for a building permit. An as-built statement from the contractor that constructed the dry wells shall be required for obtaining a certificate of occupancy.
7. The plot plan required for building permit application shall contain and comply with these conditions of approval. If construction including limits of clearing is proposed in areas other than the indicated locations on these plans, the Office of Community Development shall be notified and the Office of Community Development and the Chairman of the Town Plan and Zoning Commission are hereby authorized to approve or deny the alternative. Each plot plan shall indicate the limits of vegetative clearing, existing and proposed contours, soil erosion and sediment controls, all subsurface drainage, all stockpile areas, and temporary and permanent vegetative stabilization measures, including details of seedbed preparation, seed mix selection, application rates, seeding dates and mulching requirements. Vegetative clearing for stockpiling shall be minimized and subject to the approval of the Environmental Planner.

8. Metal waste containers shall be provided at the site to facilitate the collection of refuse material generated from construction activities. Such material shall not be buried or burned at the site.

9. Prior to any bond release concerning the new road and public road acceptance, certification from a professional engineer shall be required confirming that the stormwater management system was constructed in conformance with the approved design and modified by condition number 1 above.



TOWN OF GLASTONBURY
FIRE MARSHAL'S OFFICE
SITE PLAN/SUBDIVISION REVIEW

PROJECT: River Road Subdivision Phase 3 **LOCATION:** Dufford's Landing

DEVELOPER: William M. Dufford

NEW CONSTRUCTION CHANGE OF USE SUBDIVISION COMMERCIAL

OCCUPANCY CLASSIFICATION: Group R **F.M.O. FILE #** 19-034

PROPOSED FIRE PROTECTION: None via tanker truck Shuttle and Mutual Aid

ENGINEER'S PLAN # 34-18-C **INITIAL PLAN** **REVISED PLAN** 10-3-19

ENGINEER: Megson, Heagle & Friend

ADDRESS AND PHONE: 18 Rankin Road Glastonbury CT 06033

DATE PLANS RECEIVED: 11-7-19

DATE PLANS REVIEWED: 11-12-19

COMMENTS: There is no public water supply available for the purpose of fire protection in this area.

Drawings depict a future connection to Dug Road which has been previously identified as substandard and presents emergency vehicle access obstructions due to seasonal conditions. Alternative forms of fire protection are recommended and should be considered as the area develops.

REVIEWED BY: _____

Deputy Chief Christopher N. Siwy- Fire Marshal

PAGE 1 **OF** 1

cc: App/File

November 13, 2019

MEMORANDUM

To: Town Plan and Zoning Commission
Khara Dodds, Director of Planning and Land Use Services

From: Daniel A. Pennington, Town Engineer/ Manager of Physical Services

DAP

Re: River Road Subdivision - Phase 3
Dufford's Landing

The Engineering Division has reviewed the plans for the proposed River Road Subdivision - Phase 3 prepared by Megson, Heagle and Friend, Civil Engineers and Land Surveyors last revised October 3, 2019 and offers the following comments:

1. A sidewalk ramp conforming to Town Standards and ADA requirements should be labeled on Sheets 4 and 8 and an appropriate detail provided. The proposed temporary bituminous ramp will need to include a detectable warning tile consistent with Town and ADA standards.
2. Additional grading information is required on sheet 9 to clarify design intent for removal of the northerly wing of the existing cul-de-sac and to clarify the limits of reconstruction for the driveways to 64 and 65 Dufford's Landing. Spot grades, proposed contours with elevation labels, and proposed limits of driveway reconstruction should be included on all applicable plans.
3. The project limit within the existing cul-de-sac shall be labeled on the plans with a note directing the contractor to sawcut pavement and match existing grades at this location. Proposed contours indicate that road reconstruction will be required through all or a portion of the existing cul-de-sac.
4. It is noted that ingress/egress traffic associated with construction activities will likely be split between Dug Road and Dufford's Landing in accordance with the phase line delineation indicated on sheet 5 and the related Erosion and Sedimentation Control narrative. The proposed scheme is seen as being equitable in terms of distributing resulting traffic impacts to adjoining neighborhoods.
5. Past subdivision applications associated with the subject parcel have generated considerable discussion regarding the volume of earth excavation necessary to develop. Items noted below are intended to articulate Engineering Division opinions on the matter.
 - Past Phase 3 subdivision applications called for a maximum road grade of 7%. This grade was consistent with the road grade projected on the approved River Road subdivision plan (2003). The previous Phase 3 plan however, would have resulted in large earth excavation volumes within the

proposed road Right of Way and on adjacent building lots. Engineering Division Public Improvement standards allow for a maximum road grade of 10%. It is my understanding that others have suggested use of the 10% maximum road grade and use of retaining walls to minimize excavation quantities associated with the proposed development.

- While Engineering Division Public Improvement standards allow for a 10% maximum road grade, such grades are not seen as ideal and are not encouraged unless existing land topography and potential future development potential is such that use of a lesser grade would create even more severe grade issues going forward. That is not the case in this instance as the existing high point is located at approximately Station 12+50 within the Phase 3 limits. Thus use of the maximum allowable road grade cannot be recommended.
- Similarly, use of retaining walls within or just outside of the road Right of Way is also not recommended. The Town does not wish to be burdened with long term maintenance of the retaining walls and placement of said burden on the private property owners not only presents high cost maintenance to the owner but presents the possibility of requiring Town action to ensure public safety if private owners do not fulfill responsibilities. Further, use of retaining walls solely for the purpose of reducing excavation volumes results in unnecessary negative impacts to overall aesthetics and presence of fall hazards.
- The maximum road grade of the Development as now proposed is 8.5%. This grade was suggested for consideration by the Engineering Division and mimics the maximum road grade used within the previously approved and constructed River Rd. Development. This grade addresses concerns previously expressed by both residents and Town staff. The road Right of Way and adjacent building lot grading is seen as reasonable. Cross sections of the road and building lots were requested and have been included in the plan set. These cross sectional views graphically depict existing and final grades as now proposed for purposes of clarity. It is the opinion of the Engineering Division that the grading proposed can be supported as reasonable for the reasons noted.

6. Applicant shall provide a copy of final stamped and signed plans and drainage report in PDF form to the Town Engineer.



Town of Glastonbury

Health Department

MEMORANDUM

Date: November 6, 2019

To: Town Planning & Zoning, Conservation & WPCA Commissions

From: Don Kendrick, R.S., Sanitarian *DK*

Re: River Road Subdivision Phase 3, Dufford's Landing

The Department has been involved in the investigation of this property since the spring of 2018. Test pits were observed in the spring of 2018, December 2018 and the spring of 2019. Groundwater monitoring was not required since most of the soil testing occurred during the spring. The soil in the area is described as Manchester gravelly sandy loam with 15 to 45 percent slopes. Indicators of seasonal high groundwater were not detected in any of the test holes. Areas suitable for on-site sewage disposal were identified and are shown on plans revised October 3, 2019 by Megson, Heagle & Friend, Civil Engineers and Land Surveyors, LLC.

The Department recommends approval of this proposal using on-site sewage disposal and individual well water supplies with the following conditions:

1. All sewage disposal systems are to be designed by a professional engineer licensed in the State of Connecticut.
2. Leach fields will be permitted only in the locations shown on the approved subdivision plan.
3. The design of the leach field for Lot 36 will have to appropriately address the 2' of fill discovered in the designated primary leaching area.
4. The well and septic system locations are approved based upon a well withdrawal rate of less than 10 gallons per minute.
5. All of the drinking water supply wells are required to be tested for uranium and radon in addition to the standard potability parameters.
6. Sanitary "as-built" drawings are to be submitted to the Health Department prior to the issuance of a Certificate of Occupancy.
7. The eastern portions of Lots 11 and 35 are proposed to be extensively regraded and may render those areas unsuitable for septic systems. This is of concern in the event there are lot line changes (lot size reduction) in the future whereas these regraded sections may be incorporated into future lots.

Revised 9-22-17



GLASTONBURY POLICE DEPARTMENT

2108 MAIN ST./P.O. BOX 535/GLASTONBURY, CT 06033-0535/(860)633-8301/FAX (860)652-4290

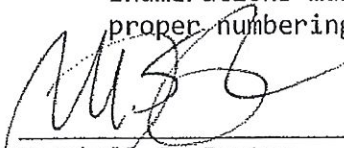
MEMORANDUM

To: Town Plan and Zoning Commission
From: Marshall S. Porter; Chief of Police
Date: November 8, 2019
Subject: River Road Subdivision

Members of the Police Department have reviewed the Application of William M Dufford for the final subdivision approval of 6 lot River Road subdivision involving an easterly extension Dufford's Landing- Assessor's Lots S-4 Dug Road & S-3A Dufford's Landing- RR Zone & GWP Zone 1- Alter & Pearson, LLC- Jonathan Sczurek, Megson, Heagle & Friend, C.E. & L.S., LLC Rural Residence Zone.

The police department has no objection to this proposal provided:

1. Hours of operation/removal of earth products off site associated with the preparation of the subdivision are limited to Monday - Friday, 7:00 a.m. to 4:00 p.m.
2. Operation/removal of earth products off site will not occur on State Holidays (except Columbus Day and Veterans Day).
3. All truck traffic may enter the site from the east (Main Street to Dug Road), but may not exit the site via Dug Road to Main Street due to sight line and traffic safety concerns. There are no safety concerns for egress onto Tryon Street from either Dug Road or Dufford's Landing to Tryon Street and onto the signalized intersection at Water Street.
4. That upon completion of the construction, the buildings must be properly enumerated to allow for easy identification by all public safety responders. Enumerations must conform to Section 17-19 of the Town Code. In particular, proper numbering at the street.



Marshall S. Porter
Chief of Police

JPH:jph

TOWN PLAN AND ZONING COMMISSION
PLANS REVIEW SUBCOMMITTEE
Portion of MINUTES OF JULY 10, 2019 SPECIAL MEETING

The meeting commenced at 8:00 AM in Meeting Room A, 2nd Floor Town Hall

Present: Chairman Sharon Purtill, Subcommittee Members Sharon Purtill, Mike Botelho and Bob Zanolungo; Khara C. Dodds, AICP, Director of Planning and Land Use Services and Jonathan E. Mullen, AICP, Planner

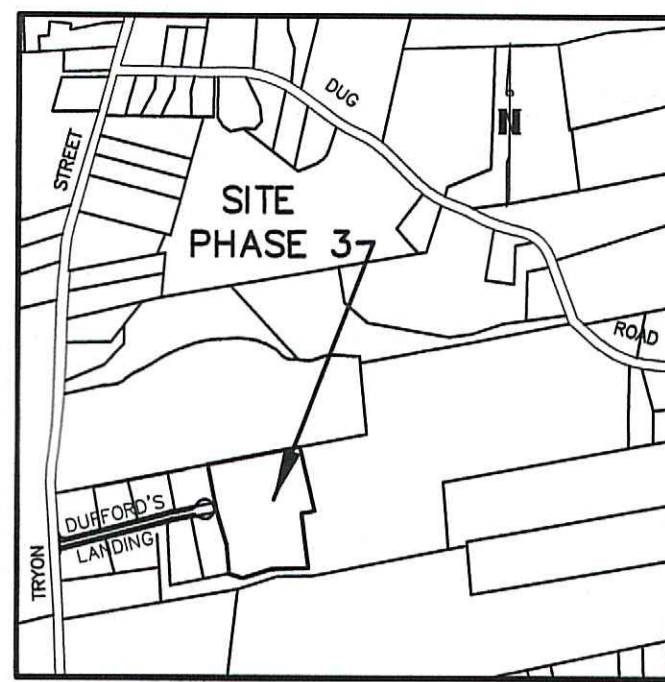
RIVER ROAD SUBDIVISION, PHASE 3 – proposal for conditional 6-lot subdivision approval involving an easterly extension of Dufford’s Landing - Assessor’s Lots S-4 Dug Road & S-3A Dufford’s Landing — Rural Residence Zone & Groundwater Protection Zone 1 – Alter & Pearson, LLC – William M. Dufford, applicant

Attorney Peter Alter of Alter & Pearson LLC oriented the Subcommittee to the site plan. Attorney Alter stated that the proposal was for a 6-lot subdivision and extension of Dufford’s Landing.

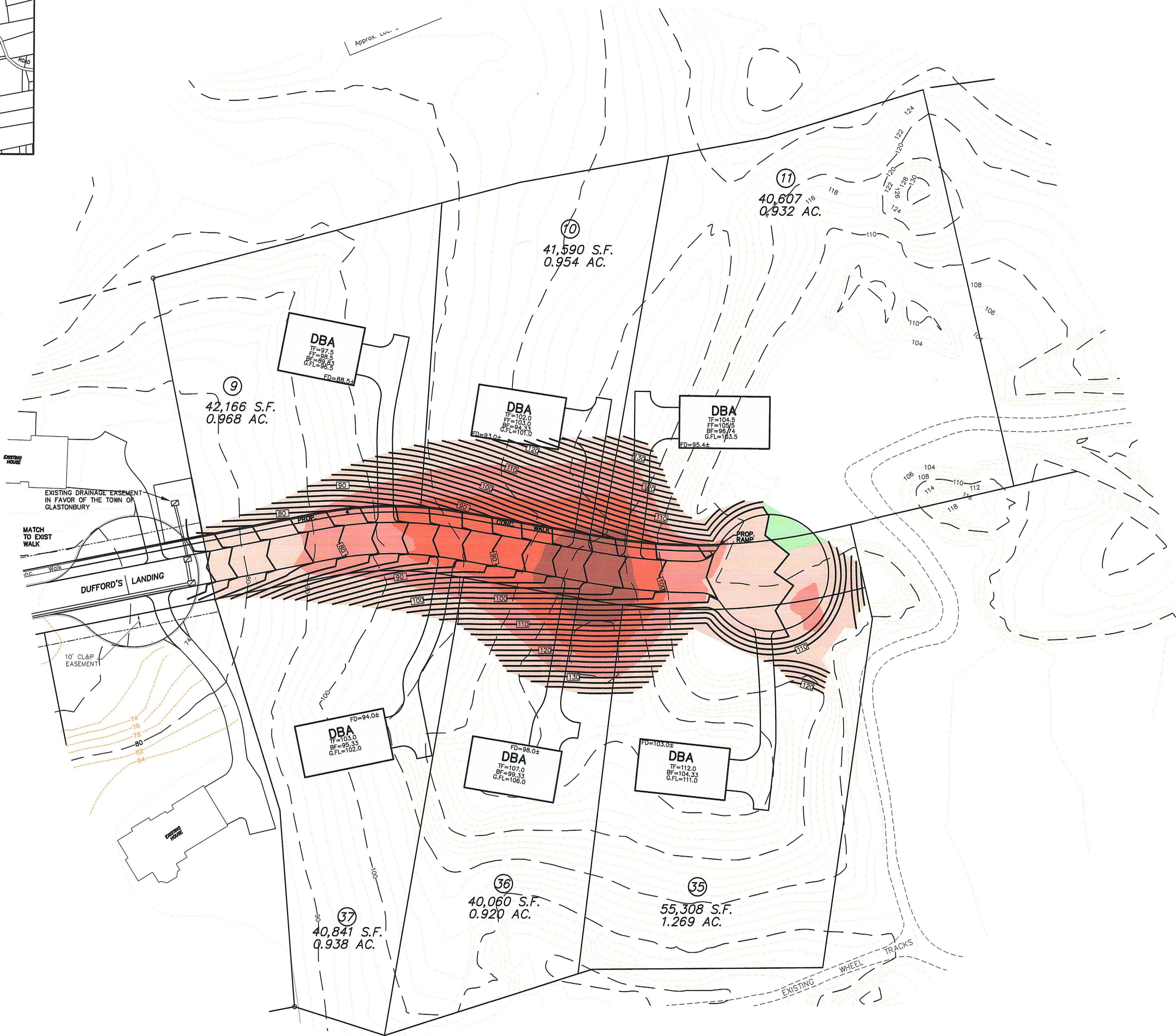
Attorney Alter explained that the maximum road grade for the extension would be 8.5% at the request of the Town Engineer. Commissioner Zanolungo asked why the Town Engineer specified that grade. Attorney Alter stated that road maintenance and snow plowing were the reasons given by the Town Engineer.

Attorney Alter then explained that a total of 94,000 cubic yards of material would be removed from the site as part of the road construction and lot grading. Jonathan Sczurek of Megson, Heagle and Friend stated that approximately 1,600 cubic yards of material would be placed on the site adjacent to Mr. Dufford’s farm fields. There was discussion between the Subcommittee members and Attorney Alter regarding the amount of excavation that would take place as part of the road construction and lot grading.

Chairman Purtill asked if the traffic for the excavation would be split between Dug Road and Tryon Street. Attorney Alter stated that the Police Department requested that the traffic be split. Chairman Purtill asked for the approximate number of trucks that would be part of the operation. Jon Sczurek stated that the total would probably be 1000 trucks over 5 years. Commissioner Zanolungo then advised the applicant to confirm with the Town Engineer the reasons for the 8.5% road grade.



SCALE: 1"=100'

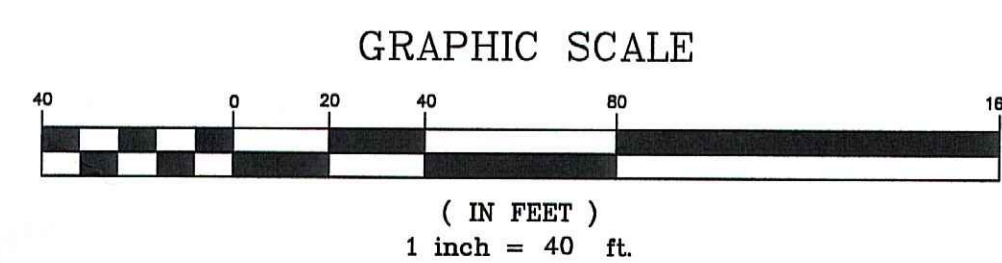


AREA OF CUT	:1.5 AC.
AREA OF FILL	:0.0 AC.
AREA OF UNDISTURBED	:6.0 AC.
TOTAL AREA	:7.5 AC.
VOLUME OF CUT	:31,449 C.Y.
VOLUME OF FILL	:23.8 C.Y.
NET VOLUME	:31,425.2 C.Y.

	CUT 40-30 FEET
	CUT 30-20 FEET
	CUT 20-10 FEET
	CUT 10-0 FEET
	FILL 0-10 FEET

LEGEND

PROPOSED IRON PIN	○
PROPOSED MONUMENT	□
EXISTING 2' CONTOUR	--- (dashed line)
EXISTING 10' CONTOUR	--- (long dashed line)
PROPOSED CONTOUR	--- (solid line)



AGRICULTURAL CAVEAT:

PLEASE NOTE AGRICULTURAL ACTIVITIES OCCUR ON PROPERTIES ABUTTING THIS SUBDIVISION. POTENTIAL PROPERTY OWNERS SHOULD BE AWARE THAT THESE ACTIVITIES INCLUDE THE KEEPING AND CARING OF LIVE STOCK, USE OF HEAVY FARMING EQUIPMENT/MACHINERY IN THE EARLY MORNING HOURS AND DURING WEEKENDS AND THE APPLICATION OF PESTICIDES, FERTILIZERS, AND MANURE.

APPLICANT:
WILLIAM DUFFORD
593 TRYON STREET
GLASTONBURY, CT 06073

SCAL
HORIZ. 1

**EARTHWORK PLAN-ROADWAY CONSTRUCTION
RIVER ROAD SUBDIVISION - PHASE 3
PREPARED FOR
WILLIAM DUFFORD
GLASTONBURY, CONN.**

MEGSON, HEAGLE & FRIEND
CIVIL ENGINEERS & LAND SURVEYORS, LLC
81 RANKIN ROAD
GLASTONBURY, CONN. 06033
PHONE (860)-659-0587

I HEREBY DECLARE TO THE BEST OF MY KNOWLEDGE AND BELIEF THAT THIS PLAN IS SUBSTANTIALLY CORRECT.
[Signature]
JOHN WYAN H. SZUREK
P.E. # 26858

CK. BY:	JHS
DRW. BY:	TCJ
DATE:	1-20-20
SCALE:	1"=40'
SHEET	1 OF 1
MAP NO.	34-18-1VR

**THE GLASTONBURY TOWN PLAN AND ZONING COMMISSION
AMENDED REGULAR MEETING MINUTES OF TUESDAY, FEBRUARY 18, 2020**

The Glastonbury Town Plan and Zoning Commission with Khara Dodds, AICP, Director of Planning and Land Use Services, and Jonathan Mullen, AICP, Planner, in attendance held a Regular Meeting in Council Chambers of the Town Hall at 2155 Main Street, Glastonbury, Connecticut.

ROLL CALL

Commission Members Present

Mr. Robert Zanolungo, Jr., Chairman
Ms. Sharon Purtill, Vice Chairman
Mr. Michael Botelho, Secretary
Mr. Keith S. Shaw
Mr. Christopher Griffin
Ms. Alice Sexton, Alternate (Assigned as voting member)
Mr. Matthew Saunig, Alternate
Mr. Scott Miller, Alternate

Commission Members Absent

Mr. Raymond Hassett

Chairman Zanolungo called the meeting to order at 7:03 P.M. He seated Commissioner Sexton as a voting member, in Commissioner Hassett's absence.

PUBLIC HEARING

1. Continued application of William M. Dufford for final subdivision approval for the 6-lot River Road Subdivision, Phase 3 involving an easterly extension of Dufford's Landing – Assessor's Lots S-4 Dug Road & S-3A Dufford's Landing – Rural Residence Zone & Groundwater Protection Zone 1 – Alter & Pearson, LLC

Town Attorney Matt Ranelli from the firm, Shipman & Goodwin LLP, stated that he went back to explore the terms that Section 6.2 focused on, especially with regard to the two clauses "within the actual rights-of-way" and "within the streets or roads," within subsection (a). He does not think that what he found altered the guidance he provided on February 4, 2020. He looked at what the term "within" means because there is no definition of "within" in the regulations. The term is used as a prepositional phrase a number of times outside of Section 6.2 (e.g. "within the Town Center Zone.") In those instances, the meaning is clear that the term "within" applies to parcels that are specifically located within the zone boundaries. He also looked at the dictionary definition of "within" which varies, but when used as a preposition, it includes a definition of bounded by a quantity or geographical description and to mean "to the inside of."

He stated that it is the Commission's job to interpret the Building-Zone Regulations, and the examples mentioned are places where they could look for guidance — they are certainly

places where the court would look. In terms of subsection (a), the Commission needs to look at those aforementioned clauses, and decide whether their plain meaning limits the exempt excavation activity to the geographical boundary of the rights-of-way of the road. If it does, this new interpretation does not allow the Commission to rely on past practices, including previous subdivision approvals, when considering the current proposal. The court will not weigh historic interpretation if it is decided the language is plain in its meaning. Alternatively, the court could weigh historic interpretation if it decides there is ambiguity and agrees that interpretation is reasonable.

Commissioner Shaw expressed confusion about the procedure. He stated that the logic here is circuitous because even if they interpret the narrow definition of “within,” how do they get to quantum leap to consider subsection (b)? They are not being asked to consider whether or not to deny a special permit. Mr. Ranelli stated that, as part of the subdivision regulations, the Commission is looking for compliance with building-zone regulations. Commissioners Purtill and Shaw both discussed the option of conditioning the approval. Mr. Ranelli acknowledged that the Commission has the ability to condition the approval, so long as it is reasonable that the applicant could obtain a special permit. And, in that case, it would require distinguishing why the excavation activities in the current proposal are different from the excavation activities at issue in the prior denial.

Secretary Botelho stated that he is struggling with the idea that they have to put themselves in the mind of the Town Building Official. He asked if they should call the Building Official here to ask him questions. Attorney Ranelli stated that the excavations shown are exempt, either under subsection (a) or (b). Vice Chairman Purtill expressed concern regarding the opposition’s interpretation of subsection (a) that limits the exemption for excavation activities to within the right-of-way. She stated if that interpretation was applied to the current proposal, the result of the excavation, as allowed under subsection (a) for the road way, would create a canyon with steep side slopes. To complete the road, the applicant would then have to apply for building permits as permitted in subsection (b) to complete the grading required to achieve the Town-mandated minimum road side slopes in the area adjacent to the right-of-way. Ms. Purtill further stated the construction bond posted by the developer normally serves as a safeguard should the developer fail to complete construction of the road and public improvements of a subdivision. The Town, she continued, would then use the bond money to complete construction of the road and public improvements. The Town would not be able to finish the road construction under the opposition’s interpretation and the Town would lose the safeguard.. Mr. Ranelli agreed that particular scenario could be problematic, as a practical matter. If the Commission determines that they fall under exemption (b) as a bona fide construction operation, in theory, the applicant could pull building permits as they go through the excavation of the roadway.

Vice Chairman Purtill asked if, without going to that extreme, the Commission could regulate the manner and the hours of when that hauling could occur. Mr. Ranelli replied, there is nothing in the subdivision regulations that gives the Commission that authority expressly, to regulate the excavation, but if the applicant were amenable to it and consented to it, they could. In short, the Commission does not have the authority to impose all of the conditions

that they would impose if the proposal was for a special permit. Commissioner Miller stated that, in addition to Section 6.2.4, they also need to consider Section 6.2.7 regarding the required standards for an excavation special permit, in order to determine whether or not they are applicable in the subdivision context or not.

Attorney Peter Alter of Alter & Pearson, LLC representing Mr. Dufford, explained that his applicant is out of state but his daughter, Bethanne Couture Dufford, is here as his representative. Mr. Alter noted that he provided staff with a letter granting extension of the public hearing this evening, and they received letters from Attorneys Landolina and Slater on behalf of their clients. Mr. Alter stated that the Commission should only be considering the second part of Section 6.4.2(a) which speaks to a plan of development approved by the Town Plan & Zoning Commission. He stated that the applicant's plan of development represents exactly what this Commission has done time and time again, where they approved excavations and removal of materials similar to this proposal. The idea that the exemption under subsection (a) is limited to within the 50-foot right-of-way leads to the bizarre result that Vice Chairman Purtill raised earlier. If the subdivision regulations require that the roadway meets the Town standards, and the plan of development complements that, then both of those matters comply with each other.

Attorney Alter explained that Mr. Dufford acquired an excavation permit before but when he built Dufford's Landing and rebuilt a portion of Tryon Street, he did not get an excavation permit. If the Commission believes the language of Section 6.2.4 is ambiguous, then they can look to their past practices, which indicate that exempt excavation activity is not limited the 50-foot right-of-way. He explained that at the last public hearing, they presented the Commission with four examples of previously approved subdivisions that represent an established practice in Glastonbury. Vice Chairman Purtill inquired about temporary slope rights. Mr. Alter stated that temporary slope rights are not on the maps at this point. She then asked, if the Town had to call the bond and build the road, could the Town build outside the 50-foot right-of-way? Mr. Alter stated that is correct.

Commissioner Shaw asked about Attorney Alter's interpretation of "excavation operations," and whether there is a certain threshold for removal of any earth product. Mr. Alter stated that his understanding is that "excavation operations" is either the removal or filling of earth material on a site, either for commercial purposes or to prepare the site for development. Commissioner Shaw then asked Attorney Alter if he agreed that there is no dispute that this is an excavation operation under the Building-Zone Regulations; Attorney Alter agreed. Chairman Zanolungo inquired how much material was removed in previous phases of this subdivision to make the lots viable. Mr. Alter stated that it was not as much as what is proposed in this application.

Mr. Alter said that he takes exception to some of the conclusions and arguments made by Attorneys Slater and Landolina. He stated that it was his opinion that the clear language of the first part of Section 6.4.2(a) contemplates that a road that meets Town standards can be built. He further stated that in order to build a road to Town standards, excavation activities have to occur in the actual right-of-way but also in the area adjacent to the right-of-way so that

appropriate grades can be achieved. Attorney Alter continued, by saying it was his belief that the aforementioned activities are exempted under 6.2.4(a). To interpret that language otherwise, would render without meaning that portion of the subdivision regulations that require the roadway to meet Town specifications. He also does not agree with Attorney Ranelli's assessment of Section 6.4.2(b). He believes that it is the Building Official's responsibility and authority to decide whether or not a special excavation permit is required. He stated that Attorney Landolina's letter makes the same arguments as Attorney Slater's letter, which concludes that he does not believe that the houses will ever be built. Mr. Alter categorized that as speculation because there is no evidence of that. Mr. Dufford has posted a \$1.2 million bond, and the only way to get his money back is to develop the lots and get them sold. He also noted that when they came before the Commission for a straightforward excavation permit, this Commission denied it.

Attorney Alter also made the point that with regard to a pertinent court case, he and Attorney Landolina are looking at the same case and interpreting it differently. The case to which they both refer is *Farrior versus Zoning Board of Appeals 2002*. The case determined that where more than one interpretation of language is permissible, restrictions on the use of land are not to be extended by implication, and doubtful language will be construed against, rather in favor of, the restriction. The interpretation of this case that the opponent is suggesting the Commission adopt is a restriction on Mr. Dufford's property. His final point was, if the Commission requires an excavation permit before a subdivision permit, then the Commission should be prepared to receive excavation applications before every subdivision application. If the Commission requires this, then they are setting a precedent that is contrary to their previous interpretations of their regulations.

Vice Chairman Purtill stated that she is concerned with the truck traffic impacting the neighbors on Dug Road. Mr. Alter stated that they would accept the same conditions that the Commission might propose for an excavation permit, including hours of operation. Commissioner Sexton asked why there is a different plan of development referred to in the subdivision regulations. Attorney Alter noted the reference in the subdivision regulations is to the Plan of Conservation & Development.

Chairman Zanolungo opened the floor for public comment.

Attorney Ken Slater of Halloran Sage, representing Michael Blair and neighbors, stated that Attorney Alter's point about previous history is irrelevant if the Commission interprets the language of Section 6.2.4(a) unambiguously because they would have to look at the plain language of the regulations. Mr. Slater stated that the Carpenter case, which was the control case that Attorney Ranelli referred to, argued against the idea of the Commission deferring to the Building Official for subsection (b). Attorney Slater also argued that subsection (c) is being overlooked. He stated that this Commission does not have any discretion to interpret the regulation any differently than it is written. Because there are no building permits issued today, those lots are not zoning compliant, but they can be by making the applicant file for a special excavation permit; then, the Commission can approve the subdivision.

Commissioner Shaw stated that it seems like subsections (a) and (b) are talking about 2 different jobs: (a) meaning excavation within the road and (b) meaning excavation within the entire lot. It seems that it is still the Building Official's job to supervise and administer. Attorney Slater countered that (b) does not apply because no building permit has been issued by the Building Official. Subsection (c) does apply in this situation because the applicant does not need a building permit to do the work necessary to create the proposed lots. The Building Official's job is not to manage the excavation. Secretary Botelho countered that it is, per the regulations. He stated that Attorney Slater is not giving the benefit of building a home to the applicant. The sum level of fairness in terms of (b) is in furtherance of operations for which a building permit will be issued. Commissioner Shaw added that the question of whether the applicant could do an excavation with or without a building permit is not under the Commission's discretion but rather the discretion of the Building Official. Attorney Slater argued that the Commission cannot approve a subdivision that does not comply with zoning, and the proposed lots do not comply with zoning. The reason the lots do not comply with zoning is because they involve excavation work in excess of 600 cubic yards, which does not require a building permit. In this situation an excavation permit is required to make the lots zoning-compliant. Attorney Slater then stated that by deferring to the discretion of the Building Official, the Commission runs the risk of the Building Official rejecting the grading plan and thus rendering the lots illegal.

Chairman Zanlungo stated that a bond is needed for a roadway. The applicant has to deliver a roadway that conforms to the Town standards, in order for that bond to be released back to the applicant. He asked Mr. Slater how he marries that with not being able to deliver a road without the proper excavations and setbacks. Attorney Slater replied that, in order to accomplish the grades, because the work is not all within the 50-foot right-of-way, the applicant needs an excavation permit. If he does not do that, then this Commission is permitting him to do excavation outside of subsection (a) (meaning outside the roadway), even though the Building-Zone Regulations say that that is not allowed.

Commissioner Shaw asked if the applicant would consider the condition that no excavation would be done outside of the right-of-way until building permits were issued. Mr. Alter stated yes, that is their expectation. He added, one of the reasons why the excavation permit was turned down was that Mr. Slater and Mr. Branse (the attorney represented the Blairs and their neighbors in a previous application) pointed out to the Commission that the access roadway did not comply with the regulation. Herein lies the trap of applying for an excavation permit, which the neighbors think the applicant should do. Under Section 6.2.7.a.2, the permitted area of excavation shall not be located within 50 feet of the property line/street/road right-of-way. Attorney Alter then pointed to the area on the site plan where the applicant could not excavate under the aforementioned section of the Building-Zone Regulations. So, when his client applies for an excavation permit, inevitably, someone will point out that the proposal does not meet that regulation, and therefore, cannot receive an excavation permit. His client also cannot get a variance because it is a self-created hardship.

Commissioner Miller asked the Town Attorney to give his thoughts on Mr. Slater's presentation on subsections 6.2.4(b) and (c). Mr. Ranelli disagreed with Attorney Slater's statement that the

building permit has to have been issued before they can act. He does not see how the regulation could be read that way. This Commission is reading into the Building-Zone Regulations, so they have to look prospectively. It is a legal impossibility that the applicant would have a building permit at this point. Before the applicant conducts the operations, they need a building permit, but not before approval by the Commission. Subsection (c) also contains language as directed and approved by the Building Official. This Commission would have to see if the excavation activities are the type that would fit under subsection (b), a bona fide construction operation, and would, prior to the conduct of that operation having a building permit, and subsection (c), projects that are small in scale, below 600 cubic yards, that would not require a permit.

Commissioner Miller asked if the Building Official is in charge of monitoring compliance with the grading plans that get approved. Ms. Dodds replied yes, but other staff members also monitor compliance as well.

Mr. Skip Kamis of 152 Dug Road, explained that his main reason for speaking was that he wanted to be certain that Attorney Landolina's letter was submitted to the record. He thanked the Commission for how engaged they remain in sorting through the details of this application. He clarified that their energy, as residents in South Glastonbury, has never been directed to Mr. Dufford and his family, but on the zoning to ensure that one person's use of property does not conflict with another resident's use of their property.

Ms. Jane DeMaio of 148 Dug Road, appreciated the Town's attention to detail, but stated that it is important to remind everybody that the quality of their lives changed with that first excavation. She explained that they built their home on Dug Road for the bucolic ambiance. In 2008, when the first excavation started, they were assaulted by the operations, which were heard inside of their house. Her opposition is aimed at unsafe truck traffic on Dug Road and the nuisance of an operation over 10 years. The excavation permit affords certain protections for them. This approval has a duration of 5 years with an option to renew for another 5 years, which is most bothersome to her. The previous 10 years of her family's lives were affected; based on current market conditions, the sale of excavated material could extend the project another 10 years. She asked the Commission for protection from another protracted period of nuisance and the safety issues on Dug Road.

Mr. Scott Bissell of 156 Dug Road, reiterated neighbors' safety regarding truck traffic on Dug Road. He encouraged the Commission to have a discussion regarding safety.

Mr. Ranelli responded to some of the concerns that were raised during the comment session. He explained how the applicant could get an access road into the site. The regulations were amended recently to include a permitted area definition, which is an area where the applicant is requesting excavation, not the entire premises. That permitted area has to be accessed by an access road, which is required to have a 50-foot setback, as per Section 6.2.7. The access road itself is not part of the excavation operation. Commissioner Miller asked if the Commission feels that they have enough information on what those excavation operations will be. Vice Chairman Purtill inquired on whether a screener will be placed there.

Attorney Alter replied, they had a screener as part of the excavation permit on Dug Road but there will be no screener as part of the subdivision approval. He clarified that the access road issue is not the issue that he was raising. He explained that they can never comply with that minimum setback requirement, as detailed in Section 6.2.7a.2 of the regulations, in order to acquire an excavation permit. Mr. Ranelli did not disagree, adding that while the permitted area cannot be within 50 feet, the access road can. A future application would have to define the permitted area as 50 feet away.

Ms. Dodds gave a refresher on what can happen after the public hearing closes: either the Commission could make a decision tonight or within 65 days of today, as the state statute stipulates. The Commission cannot ask for any new information, and any interpretation would be based on what is already in the record. Commissioner Miller added that unseated alternates cannot be involved once the public hearing is over.

Commissioner Miller expressed that this is the most difficult application that he has ever seen brought before him. He is bothered by the precedent issues on both sides and concluded that this is a very conflicting issue. Commissioner Saunig agreed, stating that there are flaws on each side of the argument, and he does not know where he would come down on this issue at this point in time. Secretary Botelho stated that he is not prepared to make a decision today. He needs to look at Section 6.2.7 and Section 6.2.4(a), (b), and (c) again, and the Commission may need further clarification(s) from Attorney Ranelli.

With no further comments, Chairman Zanlungo closed the public hearing at 9:24 P.M.

Commissioners Griffin and Purtill stated that no one should be rushed in their decision tonight. Vice Chairman Purtill expressed that, in terms of the option of approval with conditions, she would like to go over the details with staff to make sure that they do not miss any safeguards for the neighbors. Commissioners Shaw and Sexton concurred. Staff agreed to add this on to the next agenda for discussion.

REGULAR MEETING

- 1. Informal session for the purpose of hearing from citizens on Regular Meeting agenda or non-agenda items** *None*
- 2. Acceptance of Amended Minutes of the February 4, 2020 Regular Meeting**

Motion by: Commissioner Shaw

Seconded by: Vice Chairman Purtill

Result: The amended minutes were unanimously accepted as presented (6-0-0).

- 3. Referral from Zoning Board of Appeals – Request of Asana Organics, LLC for a use variance from Section 4.15.1 of the Glastonbury Building-Zone Regulations to allow a skin and beauty business within the Planned Commerce Zone at 730 Hebron Avenue**

Attorney Alter, representing Asana Organics, LLC, explained that his client is endeavoring to open their business at 730 Hebron Avenue, which was originally built as a bank building. The Planned Commerce Zone's design is not set out to allow the use that the applicant proposes, and the site is not susceptible to a zone change. He explained that this building is a much less expensive retail opportunity than downtown. Mr. Alter then passed out a roster of all of the tenants at 730 Hebron Avenue and their square footages to determine parking requirements. He concluded that his applicant is a good fit for the space.

Commissioner Shaw noted that there is already a hair salon there. He asked if that business had an approved use variance. Mr. Alter replied yes; Asana Organics offers a different set of services. Ms. Dodds added that, in terms of the regulations, they view the two businesses to be the same use. Vice Chairman Purtill stated that she has no problem with the use variance because the proposed use and similar personal service uses are taking the place of retail in these types of buildings. Commissioner Miller added that he would rather see these uses than a typical Planned Commerce use.

Motion by: Secretary Botelho

Seconded by: Vice Chairman Purtill

MOVED, that the Glastonbury Town Plan and Zoning Commission provides a favorable referral to the Zoning Board of Appeals regarding the request of Asana Organics, LLC for a variance from Section 4.15.1 permitted uses in the Planned Commerce Zone to allow a beauty salon at 730 Hebron Avenue.

Result: Motion passed unanimously (6-0-0).

4. CONSENT CALENDAR

- a. **Scheduling of Public Hearings for Regular Meeting of March 3, 2020: to be determined**

5. Chairman's Report

None

6. Report from Community Development Staff

Ms. Dodds stated that they have no public hearings, but some applications are working their way through the process.

There being no further business to discuss, Chairman Zanolungo adjourned the meeting at 9:40 P.M.

Respectfully Submitted,

Lilly Torosyan
Lilly Torosyan
Recording Clerk