



# CITY OF NEWTON, MASSACHUSETTS

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Ruthanne Fuller  
Mayor

**ZONING BOARD OF APPEALS**  
Brenda Belsanti, Zoning Board Clerk

## MEETING MINUTES

**Wednesday, March 13, 2024.**

**7:00 p.m.**

**HYBRID**

**Board Members Present:** Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, Jennifer Pucci (remote), and Denise Chicoine (alternate)

**Staff Present:** Brenda Belsanti, ZBA Clerk; Jonah Temple, Deputy City Solicitor; Barney Heath, Director of Planning & Development; Katie Whewell, Director of Current Planning; Jennifer Steel, Chief Environmental Planner; Cat Kemmett, Senior Planner and John Daghlian, Associate City Engineer.

**A public hearing of the Newton Zoning Board of Appeals was held a hybrid meeting on Wednesday, March 13, 2024, at 7:00 p.m. on the following petitions:**

1. **#04-23** Toll Bros. Inc., requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a six-story all-residential development with 244 residential units on 5.82 acres of land located at 528 Boylston Street in the SR1, SR2 Zoning Districts. The proposal includes 61 affordable units and 385 parking stalls.

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**Agenda Item 1:** 1. #04-23 Toll Bros. Inc., requesting a Comprehensive Permit, pursuant to M.G.L. Chapter 40B, to construct a six-story all-residential development with 244 residential units on 5.82 acres of land located at 528 Boylston Street; 0, 502-504, 516 Boylston Street; 0 Hagan Road; and 24-26, 32-34 Hurley Place in the SR1, SR2 Zoning Districts. The proposal includes 61 affordable units and 385 parking stalls. Sitting Members: Michael Rossi (Chair), Brooke Lipsitt, Elizabeth Sweet, Stuart Snyder, Jennifer Pucci, and Denise Chicoine (alternate)

### **Documents Submitted:**

1. Revised Civil Plans



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2. Peer Review Responses prepared by Bohler
3. Revised Landscape Plan and graphics
4. Lighting Plans
5. Signage Plans
6. Parking Protocols Description
7. Analysis of Mechanical Noise
8. Updated Sustainability Report
9. Wayfinding Site Plan
10. Letter from Attorney Buchbinder dated March 6, 2024.
11. Revised Drainage Report
12. Packet of compiled emails, letters, and comments from the public.
13. ZBA Memo from Planning with attachments dated March 6, 2024.

### Testimony:

Attorney Stephen Buchbinder, Schlessinger & Buchbinder, 1200 Walnut Street, Newton, reviewed the applicant submissions, review of meeting with abutting residents on March 6, review of meeting with Newton Housing and tour of Kendrick in Needham, and summary of the evening's presentation

Tom Schultz, architectural team, 50 Commandant's Way, Quincy, presented the current design and new graphics to review the process from the start of the design to where it stands today. He reviewed the landscape with a focus on trees and buffers with renderings of different seasons from abutting properties. He also touched on signage for traffic circulation and parking and the multi-use path.

Chair Rossi asked how long it would take for the trees to go from planted to mature.

Matt Mrva, Landscape Architect, Bohler, stated that once the trees are planted, the evergreens will grow about a foot per year. So that's sort of the expected growth rate of what these buffers will



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grow into.

Chair Rossi asked what the renderings are showing for tree maturity.

Mr. Mrva stated that it would be about 6-8 years to reach the maturity in the renderings.

Mr. Schultz continued with the presentation

Robert Michaud, Managing Principal, MDM Transportation Consultants, 28 Wood Road, Marlborough, recapped changes made based on the outcome of the peer review transportation demand report and the input by the Planning Department. Traffic calming, mitigation packages, and bicycle/pedestrian connection to the surrounding neighborhoods were reviewed and the plans of MA DOT. Traffic patterns, delivery/moving truck parking, and resident/visitor parking on the site as well as amenities was also discussed.

Steve Martorano, Bohler Engineering, 45 Franklin Street, Boston, presented the landscape plan with a focus on lighting, buffers/berm, drainage/floodplain/Paul Brook, and stormwater and to work with Conservation Commission. The emergency access area and turnaround was also reviewed.

Attorney Buchbinder summarized the presentation and discussed mitigation and the I&I for the project. He complimented the neighbors and the discussions between the applicant and abutters. He admits it's not a perfect project, but it supplies much needed housing for low-income households. He reviewed how all recommendations have been implemented into the current design.

Ms. Kemmett presented the Planning Department presentation that included the new design, sustainability, EV parking, noise concerns, signage, wayfinding, lighting, mitigation, pedestrian and bicycle safety, TDM, and stormwater plan and concerns.

Chair Rossi asked for questions from the Board.



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Ms. Sweet stated she appreciated all the information and work done to make it a better project than when it first started. We still have a lot of really important affordable housing which is why we even have 40Bs in the first place because we are, as has been noted, in a housing crisis. On this project in the memo it seemed like the sewage and the water in getting keeping the water out of the system seems good. She doesn't know if there are any comments, but it seemed like that has as they have said it's gone above and beyond so she doesn't have any questions about that. She did have a comment about the turf and hates be a nudge about this, but the synthetic turf that we have now, and maybe they will be better synthetic turf in the future, is toxic and cancer causing. So maybe it's needed for some reason why something else couldn't be there, but certainly wouldn't encourage people to sit on it. It just seems like that's not an appropriate use for it. It is cancer causing. We have lots of studies to show that unless there's some absolutely new product that she is not aware of. She pays pretty close attention to this so maybe there'll be new stuff and it will be fine, but what we have now is just not appropriate. Even though she knows residents and we have it at Newton South. It's not good for kids to be on that synthetic turf.

Mr. Snyder stated he agrees with the Ms. Sweet that we're certainly looking now at a project that's much improved from what we originally saw. As we go on, he may come back and have a couple of other things he wants to ask about, but just at the moment there were two on my mind. Maybe one is for Attorney Buchbinder or somebody from the team, but you had mentioned the meeting that took place with the neighbors on March 6 and that it felt positive. You mentioned that meeting had something to do with reaching out to them in regard to making some individual efforts for property owners around handling water and just wondering specifically what the results of that conversation were.

Attorney Buchbinder stated that the intent was to reach out and talk to folks about their own properties and learned from this process is this. These homes, they're at least all along Olde Field were in a floodplain. They've got the brook there. That's an existing condition what that we can't really make that condition better for those people. What we can do though is make the runoff that's currently coming off the site less and we can improve that conditions. That's what he understands as a lay person, but he asked Steve to come up and speak to that technically.

Mr. Martorano stated that the March 6 meeting was great. It was good to sit down with folks and



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have just a real conversation about what they're facing. We don't have any property on that side and the properties are pretty low-lying in or at or very close to groundwater conditions. So we thought the best thing we could do to help them is create more flood storage on our side of the river. Create more. We did increase some of the stormwater systems and move some around to spread the water out and retain as much as we possibly could on our property. So that's really for the Olde Field residents, they're just low and the best thing we could do is handle as much as possible on our side. On the on the Hagen Road side, we did incorporate some additional area drains and things along the property line. Again, it's mostly capturing all the water we can that's on our side or if there's any ponding from their properties that is sitting really at the base that berm, where the berm would create a new blockage, we wanted to make sure so those area drains will capture any runoff from the berm, but they'll also if there is runoff in those backyards. It gives it a relief valve so should provide some additional relief for that for the Hagen Road residents.

Mr. Snyder stated he was not asking him to characterize every neighbor's reaction, but in general how would he characterize the reaction to what was just said about trying to keep things on your side and do what you can there.

Mr. Martorano stated that he thinks it was well received. We understand there's groundwater challenges and biggest concern. We spent more time talking about the landscaping and the buffers and where can we really minimize the impact of the new building was the predominant theme of the conversation. That's when we revealed a lot of those new photo renderings to give a better feel and the photographs from those renderings were provided by the individual neighbors. They're the views that they were most concerned with. So we think they're really good representations of what it be like some of the additional evergreen spots that we needed to fill in. So it was a very productive meeting, but a lot more focused on that landscaping.

Mr. Snyder stated that there were other subjects he wanted just to hear a little bit more about. Comments from neighbors expressed their view that the multi-use path they did not actually see as all that valuable. That certainly can be a difference of opinion about that, but from their perspective, they would prefer to see a reduced width in the path is what they were saying. Maybe even no lighting, that's subject to some kind of conversation, or reduced lighting and instead planting more trees. That was the essence of it and wanted to get your reaction to that.

Mr. Martorano stated that the director abutters did not feel that path, generalizing, because it wasn't every abutter there is a handful folks, and there were a couple of people that maybe commented on the path. The general theme of the comments was that it wasn't something that they were overly



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excited for. They didn't think they would use it. They didn't necessarily say this is great and a benefit for us and who's using this path was a few of the comments we heard. They definitely did not want additional lighting because for fear that it would be something they'd see and it would be more impactful than even just having the walkway there. To have the lighting and have it lit up so that's why we said if lighting is a requirement to add there we definitely want some type of timeline cut off and not have it be lit up 24 hours a day if that was a requirement. Then the reduced path width we think if you're going to do a multi-use path, you don't want to be less than eight feet. So it's either not a multi-use path with something now or if we want it to be a multi-use path as was recommended and asked us it should be at least these eight feet. In regards to the synthetic turf and the use of it and we understand that the products today are being reevaluated and we understand there's some bans on turf fields, especially for high exposure turf fields. We fully believe that the turf industry is not going to close up and go away and they're going to come out with better products that are made with different materials or have encapsulated the materials or what they're working on, but the turf industry is not gone at this point. We fully believe by the time you're putting this turf down in three years, or whatever the timeline turns out to be, there will be better products out there. If they're not, we'll go with a different product, which is why maybe have a product submission prior to installation which would be three plus years from now and likely would be appropriate and then we could switch the materiality if that wasn't suitable.

Attorney Buchbinder stated that this isn't going to happen for a couple years. We're very happy to have a condition that says that the selection of the material will be subject to the approval of the Planning Department or the Health Department so we would work with the City on it. And again, it's at least two three years away probably, but we're fine with that. We appreciate the concern.

Ms. Chicoine stated that she appreciated the thoughtful interaction that the developer has had with the peer reviewers and the wealth of information that has been brought to bear by experts. My colleagues have covered a number of issues. but one particular very small point in mind about the transportation management plan. She wonders why there hasn't been any discussion of shuttles to the T stop. It's less than a mile to make it to Newton Center or the closest T and there is a bus line. In other projects we've talked about a dedicated shuttle service. Is that something that can be done?

Attorney Buchbinder stated that it makes a lot of sense. The reality is that for a single development to run a shuttle at meaningful times throughout the day. It's just it's incredibly expensive. What would make sense, and there was work with Mr. Heath on this in the past when Nicole Friedman had been here, she was pushing an initiative that would have a shuttle really run from the Chestnut



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Hill Green Line station to the Newton center Green Line station. You would go down Rte. 9 in a row. On other projects there were commitments for clients who would receive special permits along the Rte. 9 corridor to contribute and work on that. It's just kind of fallen off the table. There's a lot of other things going on, but we would certainly be willing to work with a team to try to get a shuttle, but to make it work you'd have to have a number of stakeholders, including Chestnut Hill Square and The Street. If you had all of those people participating and they would probably want to do it partly for their employees as well as customers. It might work but just one shuttle from our project to Newton Center would really be hard to maintain.

Ms. Chicoine asked if NewMo could be added to funding.

Attorney Buchbinder stated they'd be more than happy. We've offered to give a sum of money here and we have the \$483,000 that we've mentioned we also have some TDM funds. If you folks felt that those dollars or some of those dollars were better spent to support a city shuttle system like a NewMo or something we're fine with that because it's a legitimate need.

Ms. Lipsitt stated that she is always appreciative of my colleagues comments. It helps her cross things off her list, which is always very long. She thanked Attorney Buchbinder for the extensive presentation this evening. We have three experts here and some questions to focus. She has other issues too, but really wants to focus on giving them an excuse for having been here. The storm water and problems about the Paul Brook have been sort of the center of concerns on this project. Having said several times probably in public that we need to be assured not by the developer, but by you that this project is not going to have a negative effect on the neighborhood. She heard and really appreciated the remarks that she heard this evening and it was also in the written materials that this project only represents 1% of the watershed for the Paul Brook and therefore it can't solve the problem. That was really helpful and expects that's probably helpful to be neighbors as well. Nonetheless, it remains a concern. If she understands correctly, the amount of mitigation that they're doing is going to reduce the water flow from this site more than is required. Does that account for the water that runs onto this site as well? Not all of the water that runs off this site fell, if it was raining straight down here, a lot of it fell on Dudley Road and then all those rocks and that's running off this site as well. How does that get accounted for?



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Ms. Bernardo stated that the developers are required to look at the entire watershed including what is running on to the site. When we reviewed their watershed maps, that basically shows the existing condition and seeing what is coming off of Rte. 9, as well as what is going onto Rte. 9, as well as what is coming from Dudley, and what is going towards Hagen, was going towards the Brook. We look at all of the different watersheds and have agreed with what they are delineating the watershed to be, which includes additional runoff from the other sites.

Ms. Lipsitt stated that what we have from Bohler, this set of papers called “compensatory flood storage”, and it shows in several pages. She is not really quite sure what the difference between the pages, it shows proposed floodplain impact and proposed floodplain mitigation. In each one of these are in most of them the mitigation seems to me to be happening upstream from the impact. How does that help and doesn't it mean that the impacts getting worse in the area down toward Hagen Road?

Ms. Bernardo stated that when you look at those plans, each sheet is a different elevation. So you say are showing you elevation like 124 to 125. You can look at the colors and there's the pink and the blue, and you can see that the mitigated area is a little larger, but it's the same exact elevation. It's not up or down gradient, it is the same elevation on each sheet.

Ms. Lipsitt asked if this is the mitigation that is pictured at these different elevations more than mitigate with the impact is.

Ms. Bernardo stated that as water rises you picture water rising from Paul Brook, it comes up it is kind of flat, it evens itself out. So if you had a slope, it's kind of starts to rise up and it rises up evenly all the way along. So as long as the elevation is the same elevation, it is helping that flood elevation at that area.

Ms. Lipsitt stated that she is concerned about water control during construction. People put up hay bales and silt fences, but there's a lot of water that's going to be falling onto and through this site during the construction period before all of these six containers worth of water storage go into place. How do we get comfort with that?

Ms. Bernardo stated that typically when a project goes to the Conservation Commission usually it's required that they show the proposed flood storage first thing. So that is one of the beginning parts of construction. So the storage is already there. Then they will have erosion controls that have been





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reviewed and there's a stormwater pollution prevention plan that's created to deal with erosion. So that there isn't any sediment that goes runs off the site. They do also have to make sure that as the building gets developed and before the subsurface infiltration chambers are installed and having water directed to them because that kind of comes in almost at the end. They can put them in early and they will probably be depending on their construction sequence. Then they have to eventually get the catch basins to tie into those chambers. Still like a soil and not pavement. The water will still infiltrate on the site during construction, but a lot of times they need to put in a temporary sediment basin of some sort at a low gradient point. That's not in the wetlands. It has to be upgrading of the wetlands to capture runoff as it's going through and it might hold it so it's you might see it and it might be mucky and muddy because this sediment will get in and then it will work its way through the system. They will have to design a way to manage runoff and the Conservation Commission is going to be watching them closely.

Ms. Lipsitt stated that just because they have to; does not mean they have. We have 100-year storms every other week these days.

Ms. Steel stated during the permitting process the Conservation Commission will be requiring a construction phasing plan. Looking at when will there be vegetation removal and what would that what will that do in terms of altering site drainage, site runoff and how will that be handled. Then what will the next phase be and so on. As Janet indicated at each one of those phases, the plans will have to convince the Conservation Commission that the applicant team has really thought this through and provided adequate infiltration and stormwater controls throughout the construction period. Those are very different usually than the final post construction period infiltration and erosion protocols.

Ms. Lipsitt asked if the Conservation Commission or Engineering Department monitor what is happening.

Ms. Steel stated that the Conservation Commission often includes a condition that these systems are inspected by the Engineering Department, proof of inspection is provided to the Conservation Office, and then ultimately of course the as built plans are provided. The Conservation agents will go out in the field and inspects. Engineering has inspectors and, of course, the Building Department has inspectors. There are lots of City eyes on these projects as they're unfolding. If a project is large enough and warrants we also can condition the a third party environmental monitor to be sort of embedded in the construction team and they will be responsible for periodic monitoring, reporting, you know, site photographs and so on.

Ms. Lipsitt asked if this project was large enough that you would be likely to do that.



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Ms. Steel stated that it may it may well be. We do for example, have an environmental monitor on the Dunston East project right now and receive regular reports from him. We have an environmental monitor on the bicycle and pedestrian bridge going in at LaSalle boathouse. So it's not an uncommon request. We have we have an environmental monitor on the Needham Street project. So she can well imagine that anything.

Ms. Lipsitt asked Ms. Steel and Mr. Daghlian if they felt in a position to tell this Board that you are comfortable with how the water is being handled on this site?

Ms. Steel stated she has not received or evaluated the most recent set of plans. She did work closely with Janet Bernardo on the original review and understands that the applicant team has made many, if not all, of the changes that were that were requested, in addition to other changes. When we receive plans and an application, the Conservation Commission, under my sort of assistance, will do a very comprehensive review in coordination with the Engineering Department and at that time we'll be able to say absolutely for sure. Based on my understanding of the plans and my reliance on and trust in Horsley Witten team she believes that all of the standards that are required are being met or exceeded.

Mr. Daghlian stated the materials he received today were satisfied with it. There's just minor housekeeping items that we're going to bring to light once they get to the site planning phase and also the Conservation Commission. So we're going to get probably like two or three more bites at the apple. By no means it's a perfect design, but they do meet the spirit of the requirements and the City Ordinance.

Ms. Lipsitt stated you will understand that this Board is uncomfortable with the fact that you don't get to do that final review before we have to make a decision that makes us all very anxious in this particular project. It's not something that has happened to us before.

Ms. Steel stated that the Conservation Commission in tandem with the Engineering Department undertakes a very rigorous review. There are standards that the team will have to meet under that rigorous review. She has been very impressed with how responsive the team has been so she's not at all concerned that during that review anything large on unforeseen will be discovered except things that may be underground. The ledge is always a question, but in terms of the process unfolding she is confident that we will be able to work with the team and ensure that all of the



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standards are being met and, in fact, exceeded.

Ms. Bernardo stated that Horsley Witten has reviewed the latest design plans and we have a letter that we will be issuing tomorrow or the next day. She feels like she can say to you that they have met all of the stormwater standards in the Massachusetts Handbook and the standards required by DEP. She feels comfortable that at this stage she has reviewed all the numbers, all the calculations, and there are a few minor little tweaks, but is very comfortable that they've met the standards and that they're compliant.

Ms. Lipsitt stated that she will have more questions, but wanted to really address this issue at the beginning because she thinks it's always been the elephant in the room on this project.

Mr. Snyder built on Ms. Lipsitt's question and asked how the proposed construction in terms of blasting relate to the conversation about water. Does this site and what's being proposed require an unusual amount of blasting? Can you talk to us about how that works? What the impact is on the neighbors in the neighborhood? The public is interested in this. I'm interested in how it might or might not impact water flow.

Mr. Daghlian stated that the City has pretty stringent ordinances for blasting. They have to get a permit through the Fire Department. Surveys are required throughout the neighborhood for perimeter around this site. They also do monitoring as long as they're going along and blasting on the property. To say with 100% confidence that certain blasts will not impact someone because it's underground there is really no way to tell. Similar situation we had for Kessler was they had a lot of ledge that they had to blast out. Fortunately, with all the monitoring that went on throughout the process no one really got impacted on that site. Whether groundwater flows over any other type of surface flow. So you can't say with 100% certainty that no one's going to get impacted, but it is monitored and there are safe measures that that have to follow up with.

Ms. Pucci echoed the comments of her colleagues. It's been an incredibly informative set of presentations tonight and in prior meetings, both from the applicant and the neighbors. All the neighbors and community members have offered has been incredibly helpful. Ms. Lipsitt really covered the questions that she had around stormwater very ably getting it all the details, but she had one follow up to Horsley Witten. You said that you are very comfortable that they met all the standards and glad we can kind of get that piece in as we're trying to wrap up and figure out this



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stormwater piece which has been such a theme here. They've met the standards, but do you have any concerns about the plan as currently proposed? Are you satisfied that we've addressed this water issue? Asking the same question, but bigger picture just to make sure there are no outstanding concerns. She understands they've met the standards.

Ms. Bernardo stated that as discussed earlier there is an existing flooding condition because of the brook and the low-lying area and the project will not be able to improve that and so that part is always kind of out there as an issue. The precipitation rates seem to be getting more and more and it seems to be coming a more frequent problem. Her job is to look at the calculations and to look at the standards and to kind of be able to review each one and to make sure we're comfortable that they meet the requirements, and they do meet the requirements. They're infiltrating which she is a big fan of infiltrating stormwater. They've done more of that than they had originally. She feels more comfortable with that design. Is it the best design for the whole neighborhood? That's not my role. She takes the project as it's presented and review those calculations. So sorry. She doesn't know that she can say it's the best. They're meeting the requirements. That's basically all she can say is that they're meeting the requirements. They are improving the stormwater off-site. They're improving the flood storage. That is as much as she can say.

Ms. Pucci asked given what you see here is there anything you would recommend that the project do in addition to what they proposed? She acknowledges she thinks they have tried to do a lot. This is a problem that preexists them. They can't solve the entire ecosystem, but they do need to do, and the Board has been consistent, as much as they absolutely can to kind of minimize and improve the site as they can control it, She does see it as a problem that you can fix through engineering, hopefully, as well as you can. It's not an unsolvable problem in that respect. So is there anything you would recommend they add?

Ms. Bernardo stated they have definitely asked them to look harder at infiltrating practices and there may be more opportunity to infiltrate some of the pipes that maybe are just carrying water across underneath south of the building. That might be a possibility she is not sure about where groundwater is because it doesn't help if you're in groundwater to infiltrate. You are just kind of moving it to a different place. If some of the pipes that are crossing the south part of the site could be turned into infiltration pipes that might be useful.

Chair Rossi stated that he had several questions for the panel. Ms. Lipsitt certainly captured his



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questions and sentiments, but just he thinks this is an important issue. He really wants to make sure he is clear on it. Based on the information that you have seen will the stormwater runoff from this site, increase, decrease, or stay the same if this project is built?

Ms. Bernardo stated that the design shows it decreasing a little.

Chair Rossi stated that's what the design shows. Do you come to that conclusion based on your training experience in light of the information you've seen?

Ms. Bernardo responded yes. The numbers and the values that are used. There's definitely specific calculations that you kind of go through specific modeling analysis. The inputs are kind of what we pay attention to because you assume that the program works. We will go through and make sure we agree with the drainage areas for instance, and make sure the runoff all around the site is taking into consideration. The surface material, whether it's wooded or grass or paved or gravel roads. Taking a look at what existing surface conditions are as well as what they're proposing surface conditions to be. We look at each of the different inputs and those are all inputs. Then as well as the precipitation depths looking at kind of higher standard and some of those depths that are now being produced by NOAA. So the calculations make sense to her. They're not just kind of doing the minimum. They're doing them a little bit more. She is comfortable with that design.

Chair Rossi asked if her assessment is that based on what she has seen that the runoff, the stormwater runoff, from the site will decrease a little bit if this project compared to the existing conditions.

Ms. Bernardo responded yes.

Chair Rossi asked if Ms. Steel or Mr. Daghlian had any comments on the issue.

Mr. Daghlian stated that when he referred to housekeeping items it will be that we're going to require a few more test pits in the area of those infiltration basins just to confirm groundwater elevations. Also, if any mounding analysis is needed for those systems. That's what he meant by housekeeping items that the applicant has left when they go for Conservation Commission filings, Site Plan Review, and final building permit.

Chair Rossi stated that he didn't know if any of our panelists have had an opportunity to read the materials submitted by some of the neighbors, but among them was a report submitted by Scott Horsley, who was represented to us to be an expert, that has been retained by one of the neighbors



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or a group of the neighbors, and an issue he has raised is the test pit locations. Is anybody familiar with this issue as this has been raised? He would appreciate it if the panel could address that. Maybe just briefly summarize what you understand the issue to be. Whether you think there's merit to it and how the applicant ought to address it.

Mr. Daghlian responded that they required a test pit within 25 feet of every system. We're going to have that as part of that housekeeping items that we were talking about. We're going to want to see those testings done prior to any of the filings with Con Com within the building permit phase. So that will be tightened up.

Ms. Bernardo stated that she did go through Scott Horsley's letter. She believes there were two primary concerns that he brought up. One was the number of test pits and confirming estimated seasonal high groundwater elevation as well as the soil textures. Beneath those she went through each of the chamber systems the rain garden and the three infiltration systems and looked at the test pits in those vicinities comparing them. So the rain garden has a test pit in the middle of it as well as one that's 10 feet away. Infiltration system number two, which is south of the building and those test pits are about 30 to 35 feet away. The subsurface system three, which is on the west side of the building in the driveway, which is kind of a newer system that has one test pit, but that's 10 feet away and she would recommend additional test pits there. Also, for the southern one to have additional test pits at some stage, but it's sitting on a house at the moment. So that makes it a little harder to do the test pits there, but they can get closer to the 25 feet is a reasonable number. The subsurface system four is on the north side of the building in the drive in area courtyard and that has a test pit right in the footprint of it and another one that's about 10 feet away that shows ledge and so there's some recommendations like making sure that if they find ledge during construction, that that is removed to four feet below the system. If they find in the system three seems to be in fill and so we would remove any fill that's underneath the system to four feet. The applicant has added a note about any fill or organics that would be removed and replaced with clean sand, clean gravel that meets the filtration rate. She has gone through one of the other comments that Mr. Horsley made was that the test pits were done in December, 2023 when it wasn't so wet. We basically use the stormwater handbook and there's a soil evaluator program that requires the test pits to be looked at through the redox in soil modeling. A soil evaluator will look at the soil, look at the colors of the soil, and you can see how far groundwater would come up and in a typical basis for the changes to like a rusty color from a brown or gray. You can see that line and that is how you determine seasonal high ground water. It used to be in the good old days when she started her career you'd go out in the spring and dig and if it was a dry spring everybody was thrilled and if it was a wet spring it was harder. Now we've evened it off by using the soil modeling and looking at the sand and the materials that are in it, and the color of the soils. You don't have to depend on the



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time of year when to do it. The other comment that Mr. Horsley made was about having groundwater mounding analysis be conducted and the applicant has done a groundwater mounding for the infiltration system to the south of the building that has the test pits that are not within the footprint and that mounding analysis appears reasonable. They used values that made sense for the modeling process. For the mounding analysis is a method and you put in a bunch of inputs and the input is the critical values that's important to know. So they have done one mounding analysis. The other systems are all have four feet of separation. You do the mounding if you have between two feet and four feet of separation to groundwater. You have to have at least two feet that's part of the requirements. If you have if you have more than four you don't have to do the mounding analysis. If you have between two and four you do. So they have provided one for infiltration system number 2P and we found those numbers to be reasonable.

Chair Rossi stated that was very helpful information. There was another comment in some of the materials that the members of the public have submitted about the use of FEMA maps and particularly whether the applicant is using the correct FEMA maps to calculate some of the stormwater data and information. Does anybody had any concerns about that the use of the proper FEMA maps to measure runoff and stormwater?

Ms. Steel stated that FEMA has redone their maps for the area that Newton is within and there have been changes they are still considered preliminary maps, but they are regulatorily active even though they still have the title of preliminary on them. She does not believe that in this particular location there was a change in their mapping. She would have to go back and look at records to be sure about that. She knows that the City's stormwater ordinance flood elevation is a foot above the FEMA's flood elevation. There's added protection, if you will, because of that additional layer of regulatory authority that the Conservation Commission has and will regulate upon.

Chair Rossi asked if this is something that the Conservation Commission will consider in its review.

Ms. Steel responded absolutely.

Chair Rossi stated in talking about stormwater runoff, we've focused, justifiably so, on the abutting neighbors, but also wants to just talk a little bit about Rte. 9. We've seen some photographs and heard some testimony about the flooding at that low point, which would be just outside the building, in a moderate or heavy rainfall and wants to ask about any conclusions that have come to about how that condition will be impacted by this development if it's built.



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Ms. Bernardo stated that the watershed maps that the applicant has provided and we have reviewed indicate a small sliver of land that currently flows onto Rte. 9 and that is kind of in the northeast section of the site and it really doesn't change. It's slightly reduced under proposed conditions, but it's basically the exactly the same area so they're not doing anything to it. It's basically even the same conditions. It's kind of a wooded area.

Chair Rossi responded so the water that's currently pooling on Rte. 9 is not coming from this site.

Ms. Steel stated that her belief is that the water that collects there may well be due to insufficiently frequent cleaning of the catch basins at that site. The catch basins are owned by MA DOT. The one other thing to add is that with the current land use being changed the tracking of dirt and mulch will be greatly reduced and consequently the catch basins may not need as frequent cleaning and the MA DOT may actually be able to keep up with the requirements.

Chair Rossi stated no one on our panel sees that condition worsening as a result of the proposed bill. Is that fair to say?

Ms. Steel responded correct

Chair Rossi turned to the applicant with questions. Ms. Lipsitt raised an issue that has been a concern of mine and knows also a concern of the neighbors and that is the stormwater runoff and flooding issues during construction. We heard from Ms. Bernardo and Mr. Daghlian on that, but would also like to hear from the applicant. What can the applicant tell the neighbors and the Board about how the construction itself is going to impact the flooding that exists right now in the neighborhood. What steps will be taken to mitigate that? Obviously, the applicant potentially will be removing a lot of trees. That certainly from a layman's perspective results in more runoff. He would appreciate any insight they could share.

Mr. Martorano stated the Conservation Commission process there will be some added detail to the construction phasing and how we handle the stormwater at different points in time. The general contractor will be held to a few standards. There will be those implied by the local Conservation Commission. They will be subject to the EPA NEPDS program and that comes with weekly reporting. There will be another Notice of Intent. It's a different Notice of Intent the EPA calls it also electronic notice of intent so there will be a permit and they'll get a construction general permit issued through the EPA and that has different reporting requirements it could be weekly or bi-weekly depending on how they do it, but there's weekly reporting on conditions of the site. What are the construction activities happening in this given time period, were their issues and the





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resolution of those issues need to be documented if there was something that went wrong, and there's an inspector that does those reports weekly. There's a couple sets of eyes in addition to we heard DPW representatives and Conservation Commission has the ability to come on site and look and make sure we're protecting the wetland resource areas and the drain system. So there's a lot of set of sets of eyes and the general contractors are much better today than in years past knowing that there's many sets of eyes on top of the owners watching to make sure they're properly managing the site. There will be a heightened level of concern because there are the wetland resource areas on site right there that need to be protected.

Chair Rossi stated the applicant has been quite clear about the at least the applicants view of how the stormwater will be handled once the project's built that the runoff will decrease. Can you assure the neighbors to the highest degree of certainty that you can, given where we're at in this project, that during the course of construction, the runoff will not increase beyond what it is now.

Mr. Martorano stated he is not the general contractor, but assuming we're on board for those services, we do a training. This is a pretty prototypical course of action is you do a training before construction starts with the construction team and the general contractor and their site contractor and they all individually have to sign on to the permit saying we know these are the requirements and we will meet them. The general contractor signs on, the site contractor, and the owners of the property all need to sign this permit. He does not control them. So he can't say definitively, but the positive for this site is it does all naturally, if you didn't do anything, it naturally drains to the Paul Brook. If we're properly protecting the Paul Brook the neighborhood inherently is protected. Right? So the sensitivity is protecting and obviously the Hagen Road neighbors who are very proximate to the construction. Typically, what they do if he was the general contractor, you'd create an earth berm kind of the one we're proposing and the bill condition. You'd create that on day one. So if there is an issue, it's your issue, right? It stays on the construction site. That's typically how they do it. Again, he is not the one doing it and he can't tell them exactly how to manage it, but that's what you'll see it at a lot of construction sites. That is a very common and he would think it's great in this application is to build a berm and make it control the water on your site and deal with the flood. If it happens, the flooding occurs within the construction zone. So, again, he hopes that answers the question.

Chair Rossi stated that the Board gets a lot of letters and comments from members of the public and sometimes it's hard to understand where in the timeline the letters come in. For example, we know that the applicant met with a number of the neighbors on March 6, can you just explain a little bit about what if anything has changed or what was done, if anything in response to that meeting? For example there were a lot of comments that we received about evergreen hedges along



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the west side of the path. We saw those in the slides that were presented. Was that something in response to the meeting or are the neighbors actually looking for something in addition? He is not limiting it to that just looking for a general understanding of what was incorporated into the design since that meeting to address the concerns of the neighbors.

Mr. Martorano stated it really was the additional evergreens and the agreement to work with the Conservation Commission to see if we can add even more evergreens, but again they will be within the floodplain and in the resource areas. We think they make sense, but they want the Conservation Commission to have an opportunity to review it and make sure we're not over promising the amount of disturbance and vegetation we can bring in there. There's some opportunity still though.

Chair Rossi asked about the path. He knows there seems to be a little bit of a disagreement. One thing it seems to be in the renderings that we've seen that the applicant and perhaps the Planning Department is interested in creating something that's attractive and attracts people and that people want to use whereas the neighbors see this as a little bit more of a utility, something that people can use to pass through, but this is not necessarily a place where you want people to linger on park benches. Where are we with that? What sort of feedback did the applicant incorporate after the meeting on March 6?

Mr. Martorano stated that there were no changes to the path. We're taking that feedback and trying to relay it and we did some thinking is what we did. Would a five-foot path be better? Is lighting appropriate? We know there's difference of opinions of should it be a smaller path and with no light or should it be a wider path with more light. If we compromise and land somewhere in the middle with an eight-foot path that's still wide enough for a stroller to go one way and a bike to go the other of maybe eight feet it would get rid of two feet of impervious coverage. We've heard less impervious as much as we can. We think eight feet is a reasonable compromise there. Maybe some lighting that shuts off at a given hour. In winter, today it's one hour better, but last week at four o'clock it's getting dark. So maybe there's some lighting that just gets through the commuting hours or something like that. We just are bringing that feedback to the Board because there's a difference between planning interpretations and their desires and what we heard from the immediate neighbors, and he thinks the concern is really as you get down the end past where our emergency access road is. That stretch where you're starting to get in between some single-family homes you don't want folks hanging out down there. We focused our benches up by the building. We focused the lighting up by the building. We think what's on the plan is pretty good. If you went to eight feet that's a nice compromise.



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Attorney Buchbinder stated just by way of some background when we started the project we were rather agnostic in terms of the path. Then as things went along it seemed to make sense, and the planning certainly thought it made sense, we began to realize we may have kids going to junior high or high school. If we don't have the path you're probably going to cut through the woods and we figured it's probably better to have a path than not. He has personally struggled with whether it has to be lit at night. Ms. Kemmett has persuaded me that we may not be a bad idea to have it lit at least up to some hour, but it wasn't something that we want to die on that hill. This wasn't something that we were pounding the table on from day one. We'd like to get to a compromise. He really appreciates the neighbors particularly don't want people late at night. The issue with the path that we'd be fine with a five-foot path, but as Steve and Bob have said, if this is incorporated into the Safe Route to Schools, it's has to be at least eight feet. We're fine with eight feet. If you felt we don't need lights we're okay with no lights. It's a tough issue.

Chair Rossi tabled the path discussion for the moment. He wanted to raise it and the Board will have more opportunity to discuss it later. Another issue is noise. There were some recommendations in the report by TAT about noise mitigation and are those recommendations, something that the applicant will be willing to implement?

Mr. Martorano stated yes. They hired a Acentech to do noise analysis and they've even talked to some of the neighbors because of concerns around mechanical equipment, especially mechanical equipment degrading over time and what that leads to regarding acoustical concerns that they have. Toll is fully on board and that's why we hired Acentech because they're very well regarded in the development community to resolving those sorts of issues.

Chair Rossi asked that all the recommendations that we saw in that report, the applicant will undertake

Mr. Martorano stated yes.

Chair Rossi stated that it was mentioned in another comment that came up in the public submissions which is monitoring the noise over time, especially as the equipment degrades and becomes louder. Can you just explain how that works? Certainly it's tested at the beginning. Is it something that's tested annually to make sure that it's not getting louder?

Mr. Schultz stated he had not seen that in my professional career. He has not seen that level every



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year, but certainly longer periods of times they can put those monitors. They just locate them throughout the site. So that definitely can happen, but I haven't seen it happen that frequently.

Chair Rossi asked what a realistic frequency would be.

Mr. Schultz stated it would maybe be every decade.

Chair Rossi stated we know the applicant is not seeking a waiver of the city's noise limits. What is accounted for in coming up with the calculation of where the decibels are? Is it vehicular traffic, mechanical noise people at the swimming pool, or pedestrians on the path? How is that calculated? Trying to get at is what is really the issue. So it's one thing to say we comply with the noise ordinance because the decibels are x, but it's another thing to say this is what the real impact on the neighbors is going to be. He is trying to understand what's counted in that calculation.

Mr. Schultz stated he not the acoustical consultant. We can have them come here and speak more technically about this, but generally they create a baseline of ambient noise levels. We've had monitors out there at different times, they study that throughout a period of time to understand what those ambient levels are, and then they're measured against that. Anything we do in the project, and it's primarily based on mechanical noise and things like that. It's not based on people having playing in the pool or having coffee on the balcony. It's not that level of scrutiny.

Chair Rossi asked about mitigation. We will table for now he total amount and some of the specific things that Attorney Buchbinder addressed, but one thing he would like to see the applicant and perhaps the Planning Department give some thought to is whether there could be some mitigation measures aimed at the immediate neighborhood the Hagen Road residents and the Olde Field Road residents are clearly bearing the brunt of this. If it's built in is there anything we can do to make their lives better to make their neighborhood more pleasant? Is it planting? Is it new sidewalks? He'd like to give some thought to that because as they said, they're the ones in the crosshairs here if this project is built. Just a comment to keep in mind when we continue that discussion. Last question on traffic for Mr. Michaud. Some of these points while you're here last and wants to make sure he has them right because it's important. Focusing on the intersections in the vicinity of the project and the levels of service as those are measured. Is there any changes in the levels of service at any of the intersections in the vicinity of the project that you surveyed attributable to this proposed development?



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Mr. Michaud stated that the analysis that we did indicate little if any change to any level of service delay or vehicle queue for any of the study locations relative to what we call a no build condition. Those analyses were reviewed in detail by BETA as part of the independent peer review process. They concurred with the outcome and results of those. He believes it's in the public record now that the peer reviewer had acknowledged that the traffic impact of this project is relatively small which comports with what the analysis is showing. Certainly, relative to other initiatives along Rte. 9 and other development projects this project plays a very small part as a percentage of the amount of traffic that currently uses any one of those study locations. So the answer is no, it will not materially affect or change operating levels it study locations.

Ms. Lipsitt stated that she is so glad the subject to the path has come up. Her sense was also that the path was too wide. She wonders if it can be made of some pervious material instead of asphalt. We are trying to make everything more permeable. She agrees with Mr. Snyder that it could be narrower and could have more trees it would provide more room for trees. She thinks that there needs to be lighting along that path down toward Hagen Road. In the winter when the middle schools release after four o'clock by the time those kids walk home it's dark. So we need to have lighting at least until some hour in the early evening there and if it's those low ballers she can't imagine it's going to bother anyone or that it's even going to be visible. On the other hand, she is not exactly sure why there are like a dozen and a half lights at the rear of the property going around the emergency drive for the Fire Department and in the playground. No one's going to play in the playground when it's dark. Those lights seem totally superfluous. Maybe those could go away and replace them with a few bollards on the path. The things that have the signage. We have seen something referred to as a monument sign. We have no dimensions. We have no idea what it's going to look like. She sees that it's intended to be placed in the entry courtyard, but would like to see a rendering of it and have some real dimensions so that we could decide whether it was good or not. She still remembers when Avalon Chestnut Hill was built and suddenly there was this giant four-story high sign saying "open for leasing" or something like that. It was there for years too. While we're talking sign locations it seems there was a bit of a conflict in the way the signs at thr residence driveway were positioned so that on the one hand it said "residents only" and right after that or right before that it said "Take this Pass Hagen Road". We need to do something so that people don't find that confusing. We do need a condition in our decision about maintaining the berm that's behind Hagen Road. That that not only to maintain the construction of the berm itself so it doesn't erode over time, but also to maintain and replace those trees when and if they fail as some of them are bound to do because that's an important visual barrier for those neighbors on Hagen Road. The transportation demand management a two month pass for new tenants in years one, two and three seems to her for some sort of bus seems woefully inadequate. For one thing, people take more than two months to get accustomed to any kind of transportation. They need to



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have as many kinds of transportation as they possibly can. Tenants don't just arrive in the first three years. Tenants that come in year 4 and 14 need to have an opportunity to learn to use public transit if our goal is to get people out of cars and that is certainly our goal. Two more things. One is Ms. Sweet talked about the synthetic turf and she is feeling a little less concerned about it than she was the last time, but noticed that it's been replaced with stabilized sand and wondering whether it couldn't instead be replaced with grass. The place where you have removed it. So because that would be more attractive. Finally, the mitigation package. There are a number of things that are listed in the mitigation package that it seems to me are absolutely critical to make this project work. Things like improving the ramp coming down from Parker Street. Putting a sidewalk in front of this building. Those are not mitigation. Those are absolute requirements. Without those this project can't go. She wants mitigation that does not include those things. The multi-use path. You have to provide a way for those kids to get to school. That is not mitigation. That's part of this project. She wants mitigation that's not related. That's going to help the community at large. That concludes my questions and comments.

Mr. Martorano touched on the materials and the lighting. The multi-use path. We've talked about it internally. We've talked about even before this meeting tonight and we're comfortable going to a porous asphalt material which might solve some of the housekeeping items we've been talking about with Horsley Witten. There's a good opportunity there and that really addresses that one comment. Grass versus stabilizing. The reason we can't just plant grass back there is it will be driven on. The grass does not do well in that type of condition with the road base, which is why we're trying to find these creative solutions to keep it pervious, not have it be asphalt, but still accommodate a fire trucks turning movements. The stabilized stone dust works in a straight line. It doesn't really work where the fire trucks going to be turning its wheels, which is why we still have that area of synthetic turf. We're trying to strike that balance of aesthetics, function, for nature, and this is this is the balance. We'd prefer it be more synthetic turf, but we heard the comment, and we're trying to balance those interests. The lighting, we feel we do need some lighting on that pathway around the back. It is the Fire Department and Fire Fighter access route. If they don't want to bring a truck back there they still need to be able to walk around the building so we do need to light that as we've lit the walkway up the right side of the building. Those are purely for function. The play area last week at four o'clock it was dark we do want that area lit for those purposes. It could have a nighttime cut off in that area as well. Others will talk to the signage.

Steve Buchbinder stated that they will take a look at the number of lights at the rear of the building on fire access. We'll get details on the signage. We'll have that well in advance of the next meeting. We'll take a look at that conflict in the signage. It may be confusing. We're fine with the condition that we have to maintain that berm. That berms important and we will maintain it so



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we're fine with a condition on that. The TDM, he does not profess to be an expert at this, but you make a valid point and this is why to some degree Bob was mentioning maybe we create a fund. We want to talk to Ms. Whewell about this because she's had experience with other projects. Maybe we create a fund and maybe there's some flexibility as to how it gets used. Maybe some tenants are going to use it more than other tenants, but we'll work on that before the next meeting. Wanted to clarify one thing on the multi-use path. We haven't included the multi-use path as part of a mitigation. It's only to the extent that someone says we'd like the Safe Routes to School to be included where we'd have to bring it up to that standard. That doesn't have to happen. We're going to take care of the regular multi use path just as it is.

Chair Rossi opened public comments.

### Public Comments:

Melanie Gerard, 32 Olde Field Road, Newton, We've talked a lot about the path so she is going to focus on that path. A lot of questions are asked of Toll what the neighbors thought, but it's great to ask the neighbors directly. We would appreciate that too. We don't want the path. The path is there. We understand that people need to go to school and we appreciate a footpath. That's important. That's great. She cannot think of a single parent, grandparent, babysitter, or caretaker that would say to their child go down Parker. Go onto Rte. 9. Keep going on Rte. 9 so that you get to that safe route in the corner. They're going to take Sheldon, they're going to take Olde Field, because those are safer, those are quicker. It's off Rte. 9. Safe Routes doesn't belong on 528. It just doesn't make sense. We believe in a path. We think that's a great idea. Low level lighting may be sure. Benches? Ten feet is larger than this first bench here. Eight feet is this bench here. That's why it's unnecessary. What we'd love to see are some greens. Evergreens. My home has zero evergreens in front of it. 28 Olde Field has no evergreens in front of it. 40 Olde Field has no evergreens. We are a direct shot into it. That compromises the safety, the security, and it encourages foot traffic into the wetlands into the Conservation area for hanging out which we know our teens love to do, even though we don't want them to. It just is it's problematic for us. We don't want it. If there is somebody who wants it she encourages them to walk in front of my house where there is a beautiful sidewalk and where Safe Routes could really benefit focusing on because there are many branches getting in the way of the walkway there. That's her primary focus right now. She also says that the trees that we have in that area specifically on Olde Field, they are high trees as somebody had pointed out. So the aerial view is terrific. The ground view where the photos



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were shared from, it's very sparse, it's thin. Any lights coming out from the driveway of the parking lot will shine directly into our backyards. Without evergreens, there's really nothing to soften that pollution from lights from sound and from traffic foot traffic too.

Rob Sellers, Olde Field Road, Newton, stated he is a direct abutter. He thanks the Board for the questions on behalf of the neighborhood and community and the opportunity now to represent ourselves. We appreciated the opportunity last week to meet with Will and Steve. We found some alignment, but still have unanswered questions and concerns. He wants to share some of our continued flooding concerns and the risks to this incredibly sensitive wetlands. We don't expect Toll to fix the current flooding problems, but we are still concerned that the Toll project will make flooding worse or impossible to improve as they build, when they finish, and when global warming makes the 100-year events more frequent. We look forward to seeing the Horsley Witten report, but we perceive that most of the water shed impacting the southern neighbors flows through that five plus acre site. So maybe it's not a big contributor, but it goes through that site now. For starters, there's the authoritative recommendations raised by Scott Horsley on January 17 that still haven't been acted on. For instance, Mr. Horsley strongly recommended the immediate installation of monitoring wells since groundwater levels can fluctuate several feet throughout the late winter and spring season. We're already in March. It seems reasonable that Toll could get permission from the current property owners as needed. Second, Mr. Horsley noted that the additional test pits were needed again now to be placed in accordance with stormwater handbook. That testing is most accurately done now not during the dry periods relying on the high watermarks. Calculations also showed that a mounding analysis was needed. We asked the Toll do what seems to be relatively minor but important testing recommended by Scott and be fully transparent with the findings including the risks. If risks are low, great. Then neighbors' concerns can be alleviated. If Toll isn't willing to do the additional testing it looks to us as if Toll shares are concerns about what they might learn. The neighbors also need to know that Tolls calculations considered all of the project impacts in groundwater retention including removing the mulch piles, redirecting the water table with a subterranean parking garage, removing mature trees, creating a runoff with the proposed asphalt drive, and the multi-use path at the lowest elevation of the of the site. We would like to see in writing by the consultants that those impacts were considered with a comparison to current discharge for into the brook both pre and post construction. Also, since maintenance of this containment system is critical now. How is the city going to oversee and manage the project's





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Mayor

## ZONING BOARD OF APPEALS

Brenda Belsanti, Zoning Board Clerk

operations and management plan? Does Newton have an office for that? Has trending been factored into the FEMA flood map?

Marie Frederick, 144 Hagen Road, Newton, stated that she has lived there with her family for the past 24 years. We want to start out by thanking the ZBA Committee for listening to our concerns and working hard towards a better project for the neighborhood and Newton. We also appreciate Toll for their efforts in trying to reduce our flooding and safety concerns and attempting to mitigate our privacy issues. Last hearing Mr. Rossi's and NBBJ peer reviewer a question was the 40B project and preceded in Newton over the last decade due to it being built in a single-family neighborhood and how did his analysis of other 40Bs take this into account. NBBJ responded about the walking path and building efficiencies, but in our opinion he never answered his question. We believe this development is unprecedented as NBBJ said in the beginning of this process and the only analysis in this case should be site specific. This project has been compared by NBBJ and Mr. Buchbinder to Dunstan East as being lower in FAR and equal in length, height, and massing. Our location and everything about it is nothing like their area. The housing design handbook suggests that the site and building design not the new numerical density determines if a development is appropriate for the site. This has this site has been used for commercial purposes for the past 70 years, but it really is only commercial by the financial definition. The site is covered in trees, mulch, animals, rock ledge, wetlands, and a few small homes. If it wasn't for the mulch trucks on early morning weekdays in the summer, you would not even know it was a business. You would think it was a forest. Some are bothered by the truck noise, but many feel this occasional noise is worth the sacrifice to save the forest and environment and not end up with another heat island. The land is zoned as SR-1 and SR-2 and when the neighborhood purchased their home two years ago the expectation is that if Sam White moved any replacement homes would have a similar look and feel. This area is not Chestnut Hill Shops or Towers for a half a mile stretch on this part of Rte. 9 it is all single-family homes. We want to stress again we support new affordable housing we agree we are in a severe affordable housing crisis, but we are definitely not having a luxury housing crisis especially here in Newton. Newton is hands down doing their part, but we know everyone can always do more. We understand that most likely this land will be developed at some point but the question before us is this the right project for this site. Have enough changes and mitigations been made to the design to make it fit into the neighborhood? Is the safety and health of the neighbors environment and children been adequately addressed and protected? Do the



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rewards outweigh the risk? The housing design handbook states that the agencies have a commitment to ensuring that a 40B affordable housing developments adhere to high standards of site and building design that enhance the quality of life for residents and the neighborhood in which they reside. We hope the ZBA will make the right decision for our neighborhood.

Sharon Greenstein, 16 Olde Field Road, Newton, stated she is a direct abutter. She does not live in a floodplain and she certainly hopes that that does not happen because of this project. Again, she'd like to thank Mr. Adams and Mr. Martorano for speaking with the neighborhood last week to discuss our concerns it was helpful to finally get together. Traffic Safety remained one of our primary concerns. She continues to believe that there are still many open and unanswered issues. She still is having difficulty with the TDM studies stating that only 8% of tenants will be commuting during rush hour. It just doesn't seem to be reasonable in this day and age, maybe during the pandemic it was, but 8% is awfully low. She is not going to discuss safety issues brought on by increased neighborhood traffic, tenant parking in the neighborhood, or flooding at the entrance of the building, which are all valid issues. She is going to discuss again what she believes is the most significant traffic safety issue. As has been discussed, the project's entrance and exit are going to be located at a very treacherous merging of traffic from the Parker Street Bridge, Olde Field Road, Sheldon, and Philbrook Roads. She took a walk this morning from the intersection of Olde Field and Rte. 9 to the entrance of Sam Whites, which is the planned tenant entrance and exit. She did this to measure the distance between these two points because she's been concerned all along that Olde Field and the entrance and exit to the new project are very, very close together and are going to cause potentially very serious accidents. She came up with them with a 200-foot difference in the distance. Different from the stated 100 yards, not huge, but again, every foot matters here in terms of safety mitigation. It not been proposed for the risks that Olde Field Road drivers, including students, will face merging onto Rte. 9, and competing with an industry standard projection of 729 car trips a day entering at 528 Boylston. Every day that she turned on to Rte. 9 and drive past Sam White she imagines a car pulling out from 528 Boylston, They're having difficulty accelerating up the hill. Her having to slam on the brakes and a car behind me going 50 miles an hour rear ends her. Recommend having a separate entrance and exit. This sure seems logical to me having an exit that's much further than 200 feet from a busy road. Why isn't this being considered? Which brings me to the second part of her walk this morning. Her experience was far from pleasant with a constant stream of cars zipping by at high speed. Even with a widened sidewalk and some plants who would want to walk on this road. She can't imagine that members of the community would choose to walk on Rt. 9 in order to use the mixed-use path that's been proposed by the City of Newton. She is pretty certain that my neighbors would prefer to use our quiet neighborhood streets instead. The community does not want this past math for a



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host of reasons including light flooding, privacy, and safety issues. We'd prefer that additional trees be planted in its place to preserve our privacy and assist with flooding issues.

Councilor Stephen Farrell stated he appreciates it very much and he's happy to speak closer to the end although he sees you have more people online. What is completely frustrating to him and to many people in the neighborhood is, in fact, this process. We've sat here and listened to Attorney Buchbinder and his group explain what they want to do. We have many questions and we have three minutes each person to respond to that. We have asked for over a year for Toll Brothers to sit with us and have substantive conversations where we might actually be good to get answers to a lot of the questions we have and not waste your time, or more of the community's time, or Toll Bros. time to do this. They have been reluctant until recently and a relatively short conversation. If there's any way you can convince Toll Brothers to sit down and help us all come together. You're hearing the same questions and so we're frustrated by that. He's frustrated by that and the community is frustrated by that. We'd like a process that works better and that includes working with the Planning Department and the City. He thanked everyone for questions, many of which were about stormwater and flooding, which is a critical issue in this development. He thinks it's quite unlike a lot of other ones. As an example, he wasn't really heartened to hear that the stormwater mitigation work that they will do will help the stormwater situation in the neighborhood a little. This is one the largest real estate development corporation in the country. It's certainly right up there. We would expect as a benefit to the neighborhood that this water mitigation process would do more than just a little bit better for what we have because it's miserable right now. People have one, two, three sump pumps working 24 hours a day. We have water all the time in this neighborhood. So mostly he just wants to say thank you and appreciate your support and you do what you can by the rules. If you could encourage Toll brothers to please have some substantive conversations with neighbors we could probably get through a lot of this a lot faster.

Heidi Werner, 30 Hagen Road, Newton, stated she quickly wanted just summarize the topics and concerns that have been voiced over the many months in these meetings. The Garden City is losing our already limited green space, our woods, and our charm of Newton. She feels the majority of the people in this community were not being heard. Many of us have a variety of concerns about the proposed luxury rental apartment property. If this is being built, it will contribute to the overdevelopment, the tear downs being replaced with giant homes, and eliminating healthy trees. We've seen flooding issues resulting from large single-family homes squeezed into small lots. There are bound to be issues affecting the people that live in this immediate area. On behalf of Newton Impact, a couple of us compiled and sent in a PowerPoint deck including 38 slides of local flooding from Hagen, Olde Field, and across Parker Street. Those images speak volumes as you've



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seen. There's really minimal, if any, support for this project from immediate neighbors in the community that make up the five surrounding schools. Flooding and traffic will jeopardize these people who live in this area now. A large rental property squeezed into a small area will change the landscape of this residential neighborhood that's already thickly settled. Honestly ask you, the Board, would you want this massive rental property in your neighborhood or in your backyard? Adding to the already high volume of traffic? Structure to be built near or on wetlands and knowing how often flooding happens in our area? The tremendous amount of traffic? Do you really think that this belongs here?

Ann Findeisen, 132 Hagen Road, Newton, stated she has lived there for 33 years and is a direct abutter. She appreciates the adjustments that Toll Brothers have made to try to make this project better and they have made some good adjustments. She is still very concerned that it is simply too large a project for this small, delicate, and complicated site which actually has only two and a half acres that are buildable. The neighbors have many remaining concerns in regards to both flooding and traffic safety. She doesn't think any of us are fully convinced that the mitigation strategies will be sufficient to avoid future problems. With every storm now her backyard floods and the water fails to absorb for days. There's there were puddles still this morning from the storms last week. Of course, Toll Brothers is not responsible for this, but when we look at all of the permeable surface that will be removed during the proposed building. We can't help but wonder how the project can avoid making our flooding worse. As far as traffic safety, the assumption that 19 vehicle trips or 8% of cars from the proposed building will be commuting during morning rush hour seems like quite a significant underestimate. Even with the traffic lights installed to regulate the flow of cars onto the ramp at Route 9, Dudley Road will still become the default turnaround road. This means that all of those cars will drive past the middle school and the high school causing a very dangerous situation for students walking, biking, and driving to school. We're still requesting a neighborhood traffic safety impact study. Regarding the housing crisis, which she certainly acknowledges, Newton like unlike many surrounding towns has pledged to complete the MBTA Communities Act rezoning requirements around the Village Centers and she applauds that plan. Still, those buildings will be capped at three to four stories high while the 528 project is slated to be seven stories high. We've also reached another milestone recently 10% of our housing units now have the designation of affordable. We certainly support the development of more affordable housing, but unfortunately, the builder advertises a high level of affordable units. The number of truly affordable units in the entire complex is nine. The next level of quote 'affordable units,' will be rented at a cost of \$2400 or \$2,500 for a one-bedroom apartment, \$4500 for a two-bedroom, and \$5500 for a three-bedroom which is way out of reach for most families. This project is a luxury building with a swimming pool and needs to be recognized as that. It will be of help to very few low-income families. In conclusion, we're convinced that it's simply not possible to make this work because it is the wrong



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project for this site. She asked his ZBA to support a project on this site which will be a credit to Newton rather than one which may destroy the environment and the homes of us who live there.

Enrique Testa, 84 Adeline Road, Newton, stated he is a couple of houses over from Hagen and shares the floodwater with the rest of the neighborhood. He has concerns for the following. The expert from the City says that the infiltration of water and the system will help decrease a little the possibility of flooding except that currently the flooding is a fact of life. It's not going to be created by the building, but it could make it worse, especially since we do not have any assurances that the blasting is not going to change the direction of the water that has been established over the last at least 50 or 100 years. That's very uncertain. His question is for the City and for the Council does the City has a Plan B what to do when the water is doesn't go the way you want it to go. That's question number one. Question number two has to do with the plan for the assessment for traffic. Mr. Michaud said that he did not see an increase in the traffic pattern and that will be about from the baseline. My question is the baseline. Does he think that the baseline is adequate because from just driving around the neighbors can tell that the bridge Rte. 9 at Parker Street is terrible. So again, he said assessment is not going to be worse than it is but right now, but it seems to be pretty bad. Those are my two questions.

Mike Mindlin, 459 Dudley Road, Newton, stated he has lived her for six years with his three children. He has spoken before at these meetings and appreciates everyone's diligence and attention. Sitting here listening to a variety of consultants going back and forth on a variety of studies. Does anybody really have the confidence that any of these issues will be addressed? At the end of the day this is nothing but superposition and somebody has real confidence in any of these issues and there's a myriad of them from stormwater to 100-year floods that are occurring on a weekly basis, affordable housing, traffic safety, and a variety of environmental concerns. Do we really have the confidence as a City and as members of this community and all these issues are going to be addressed? Just because some consultant thing said listen here are the probability or the statistics. Do we really want to risk the livelihood and the well-being of this community for project? Toll is a luxury developer right. When people tell me who they are you listen. Their annual report states we design, build, market, sell, and arrange financing for an array of luxury residential single-family detached homes. We cater to luxury first time, move-up, empty-nesters, active adult, and second homebuyers in the United States for urban and suburban renters. This is their annual report published a couple months ago. Where is there any language about coming into communities and building sustainable homes and upholding family values? None of that is in here. When people tell you who they are, we should listen. We've gone back and forth on this for a year and a half. Valuable City resources are spent. Perhaps this is just the wrong project for this community and at this time. Understandably, something will be done with this site, but it's not



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now and this should not be this type of project. We cannot exhibit a cavalier disregard for the well-being of this community

Michael Gerard, 32 Olde Field Road, Newton, stated they have lived here for over twenty years and are direct abutters. He is glad the Toll Brothers met with us last week. Appreciate that. He will be honest, the first couple of minutes was Toll Brothers basically indicating that project is happening one way or another regardless, so we need to move forward. That was it was a bit intimidating honestly. That prefaced the meeting. You've heard it already. This plan to guide children to cross Olde Field Road along Rte. 9 to access the Toll Brothers sidewalk. He's concerned people's children, our children, it's really it's an invitation to vehicular death. Crossing Olde Field Road right at that Rte. 9 area. Please take a look at that. It's dangerous. Think the Frogger game God forbid. Olde Field Road is the main entrance for parents and teenagers driving to Newton South and a lot of accidents there already. He's not sure if that logic of encouraging increased traffic for children crossing that Olde Field Road to access this new path, which you already know, that we're just not for. There's already Safe Routes along Sheldon, Olde Field, and some other routes. Let's invest in that and guide the kids there. You've seen that the new pictures and appreciate that Toll did some pictures from 28 to 32 Olde Field Road, but there's no visual barrier in our backyards to this property resulting in the noise pollution and light pollution. He would really appreciate more attention to that. We would thank you for that visual barrier. We're not for the path, but the path is going right through a flood zone area. He's really not sure why that's acceptable and would much rather see more trees in there. Thank you to the Board members asking the tough questions about stormwater. Regardless, a Toll Brothers has been trying hard. No one's been able to really assure us that the stormwater problem will not be worsened by this massive project. Experts from the developers say it, but he would love to hear from other folks. Thank you Board members for continuing to ask those tough questions. Honestly, as an environmental engineer, a former environmental engineer, and abutter he's really concerned about this project. A point was made about Paul Brook being that it's a great opportunity for discharge to apply with a test permit and it gets water off the site. Let's not forget the hundreds of residents downstream from that Paul Brook and that there's going to be increased flooding. There are several of your Board members that jumped in ask the tough questions. Thank you for your help supporting us representing us. Overall, I agree this project, it's really not in the spirit of 40B. So thank you again for all of your time and effort. And please, please help us and continue.

Rachel White, 124 Hagen Road, Newton, stated that she is direct abutter. She would like to make a couple of comments. First, she would appreciate the suggestion that the berm and maintenance of the trees along the berm between the project and Hagen Road that there be a condition for that as part of the operations and maintenance plan. She would also like to comment on the path. The path



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does go directly by my house. It is closest to my house of any of the homes that it goes by. You can't see it from the documentation that you have, but she has a patio. So her outdoor living space is directly next to that path. She would never have put a patio there if she knew there was going to be a sidewalk or a multi-use path. That path is literally in her outdoor living space. She would strongly be in favor of reducing the width of that path. Also, if there is going to be lighting on that path that that path that that lighting be turned off after commuting hours and not stay on all night. She does not want benches there. Again that is literally in my outdoor living space. She would also strongly echo the comments that were made by the neighborhood that this path is not going to be used by people from the neighborhood to go to Newton Center and vice versa. It is not pleasant. It is not safe. When she walks to Newton Center she walks down Hagan Road to either Sheldon or Philbrook. She does not want to spend any time walking along Rte. 9 even if the sidewalk is improved. It is not comfortable. It is not safe to cross over that intersection with Olde Field Road. It is unrealistic to think that this is a path that is going to be used by anybody other than residents of the property which is extremely important. It is not going to be a public multi-use path. That has not been her experience as somebody who lives in the neighborhood and walks to Newton Center. The architect at one point there was a question regarding noise this. She would be very close to the property and she is really concerned about the noise from mechanical equipment. She would be in favor of hearing from Acentech at a future public hearing about their noise calculations and recommendations. She really wants to understand how the mechanical equipment is going to affect her experience of using her yard. She does not understand a lot about those noise calculations, but would really like to understand that better and hear more about what is going to be done over time to ensure that there isn't noise pollution in our backyards, particularly along Hagen Road, because we're the closest.

Barry Bergman, 18 Walter Street, Newton, stated he had a couple of quick items. The first is he thinks it is very disingenuous the chart that was put up comparing the Boylston Road project to Dunstan East and the other ones. The property over here on Boylston has wetlands and nature and it's not the same type of property. Secondly, the flooding issues haven't really been mitigated in these discussions. He thinks that the real answer is to make this a real win-win situation for both Toll Brothers and for the City is to reduce the footprint. That is Rick Lipof has said in previous meetings there should only be 70 units. If you can reduce the footprint, and take more steps to mitigate the flooding, then everyone wins. He thinks that's what's fair, rather than have this be just for Toll Brothers to maximize its profit.

Chair Rossi closed the public comment.



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The next hearing for this project will be April 10, 2024.

Mr. Rossi concluded the meeting.

Adjourned 10:06 p.m.

**ZBA DECISIONS can be found at [www.newtonma.gov/ZBA](http://www.newtonma.gov/ZBA)**