



June 19, 2020

Town of Lynnfield Planning Board
55 Summer Street
Lynnfield, MA 01940
planningoffice@town.lynnfield.ma.us

By Email: Re: Hannah's View Estates Subdivision

To the Lynnfield Planning Board and Residents of Lynnfield,

I am writing to follow up our prior letter with additional feedback on the proposed Hannah's View Estates Project. In our prior letter, we commented on the unusual nature of a town permitting authority considering a development proposal on a parcel enrolled in Chapter 61 before the required right of refusal (RFR) process was undertaken. In our letter, we urged the Planning Board not to consider the application out of fears that "pre-permitting" would necessarily inflate the value of the parcel (as compared to its raw land state) thereby placing the Town at a significant disadvantage at exercising its rights and work against its self-interest. I further stated that in my 30 years of experience in land conservation and involvement in dozens of Chapter 61 unenrollment projects, I had never seen a permitting entity consider a project before the required qualifying offer was acted upon, implying there was something inherent in the law/procedure that would prevent this.

We have since done additional research, spoken to Chapter 61 experts and consulted with our land conservation partners at the Essex County Greenbelt Association and concluded that it appears there is not a formal requirement in the law that would prevent a project from seeking permits on Chapter lands before the RFR process was concluded. This said, in seeking legal counsel on this issue, we have been informed that such an action would be contrary to the intent of the legislators who created the Chapter 61 regulations, which was to provide incentives for preservation of open spaces and forested land. As you are well aware, towns are forced to give up significant tax revenues when land is put into Chapter 61 Forestry, for as long as that land remains enrolled. Recognizing the burden this puts on Town governments, and the fact that the intent of Chapter 61 would be meaningless if the land eventually gets developed, legislators included a critical provision to give towns the option to acquire the property for continued conservation purposes *before* it can be sold and developed. While differing legal interpretations exist as to what the town can or cannot do, we want the record to show we believe strongly that the Planning Board has the ability to forego any decision-making on this parcel before official Notice is given.

As a potential mechanism to follow the intent of the law and protect the town's interests, we learned that local permitting authorities typically have worked together and with partners to utilize a myriad of ways to procedurally forestall consideration of a permit application, and/or deny a project for cause as a strong inducement for landowners to present the required qualifying offer to the town before any consideration of a proposed development or other non-qualifying change in use. As stated, my organization and our partners are willing to work with your community to engage the public, explore the feasibility of raising the necessary funds, and identifying a partner to assign the RFR to.

As stated in our previous letter, the Ipswich River Watershed Association is very concerned about development on this parcel due to the potential to negatively impact both the water quality and quantity of the Ipswich River, as well as the Lynnfield Center Water District's public water supply sources. The parcel is located in close proximity to the river, is surrounded by LCWD's watershed protection lands, and falls within the state-designated zone-II wellhead protection area. While we often find development projects can be conditioned to protect the resource interests cited above, we believe the proposed scale, type, and location of development cannot be conditioned to adequately provide for these protections. I

reiterate the strong interest among local conservation groups, including ours, to work with the Town in pursuing conservation alternatives on this critical parcel that would greatly benefit the Town in the long run. We hope the Planning Board will take proactive actions to allow adequate time for this opportunity to develop.

I also ask the Planning Board to acknowledge the highly significant conservation value of the property in question. This property forms part of the single largest tract of undeveloped land in the entire upper half of the Ipswich River Watershed. Including the adjacent conservation land owned by the Town and the restricted land owned by the Lynnfield Central Water District, the total size of undeveloped land is more than 500 acres. To put it in historical terms, the Town of Lynnfield is looking at a once in a lifetime opportunity to create a permanently-protected area for the benefit of both present and future generations of residents, as well as contributing to the protection of a highly significant regional resource.

Should the permitting process continue, we would like to share some of our standard requests that should be required for projects in sensitive locations such as this such as this. These comments focus on water quantity and water quality:

Water Quantity

The project should be conditioned to minimize water use to the greatest extent possible, especially non-essential uses such as outdoor water use which does not recharge the groundwater. This is particularly important now that the State's newly promulgated water withdrawal regulations prohibit any increase in regulated withdrawals from the highly stressed Ipswich Basin. As such, Lynnfield will likely *be required by the State to live within its current permitted volume in perpetuity such that any new water demand in the town will need to come from existing allocations*. The Town of Lynnfield should immediately begin planning to ensure that new development is conditioned so as not to increase water demand of any kind in the community. In this case, the developer is proposing to utilize individual private wells so as not to increase demand on the town's public water supply. Despite the town's limitations on its own sources, the town should not allow private wells to serve the proposed development for several reasons.

First, each of the proposed wells in a development like this will likely use in excess of 100,000 gallons per year. Collectively, this amount of water could threaten the reliability of the LCWD's sources as they will likely be drilled into the same strata of water-bearing rock. As importantly, this will further stress the groundwater resources, which provide critical base flow to the Ipswich River and for downstream communities during periods of low precipitation. As you may know, the Ipswich River is the most flow-depleted river in Massachusetts due primarily due to groundwater withdrawals.

Second, because private wells are exempt from water conservation standards and local restrictions, having two classes of water users within the same or neighboring communities leads to non-compliance issues amongst regulated users. We have seen throughout the watershed that there develops a strong resistance to water conservation wherever these two classes of water users exist.

Third, because of water restrictions and supply limitations, more and more unregulated private wells are being installed in the watershed. Not only do people on private wells tend to use much more water than those on regulated public systems, they tend to use much of this water at the same time as there is the least water availability to sustain public water supplies and the flow of the river. We ask that permitting authorities help slow down this trend of allowing unregulated water withdrawals, which is exacerbating the river's low flow problems and reducing the region's water resiliency. In this case, we ask that any development be mandated to connect to the LCWD or other regulated public water supply system.

We offer the following specific recommendations to ensure water use by the proposed development does not further stress the local and regional water supply, regardless of whether the homes are served by public or private sources:

- The project at a minimum should offset 100% of its projected water use. This can be achieved through minimization of water use within the project (e.g. ultra-efficient fixtures, minimize outdoor water use) and by the developer off-setting any additional use by working with town officials to reduce water use in other areas of town, whether through a water bank or similar program (e.g. pay a fee for leak detection, upgrade of fixtures in municipal buildings, support a public rebate program, etc.).

- The project should minimize production of stormwater through site design (e.g. minimization of impervious areas) and infiltrate 100% of its stormwater runoff on site under *all* designed storms.
- Landscapes should be planted with drought-tolerant native species which do not require irrigation beyond the establishment phase. Automatic irrigation systems should not be allowed on individual residential lots or in common areas, whether during the development and construction of the site or any future date. These systems are guaranteed to leak over time, and even in normal use will use a lot of water. Moreover, so called moisture sensing technology often proposed for these systems to mitigate these concerns are subject to failure and generally do not work over time.
- The amount of lawn cover should be minimized and where required, planted with drought tolerant turf grasses such as fescues. Runoff volumes and rates from the site should equal pre-development conditions.

Water Quality

The most effective tool to minimize impacts of the subdivision on ground and surface water quality and to meet the State's Zone II wellhead protection area mandates to the greatest extent possible. We offer the following recommendations:

- The project should adequately treat 100% of its runoff on-site under *all* design storms.
- Landscapes should be managed organically without the use of synthetic fertilizers or pesticides.
- Use of salt and chemical deicers on the common and individual driveways should be prohibited in favor of sand and environmentally safe deicers.
- Any shared or individual wastewater system should be the most advanced possible and be designed to remove nutrients and treat pharmaceuticals and hazardous household waste to the greatest extent possible.
- A third party should be contracted with, and an escrow should be required to maintain stormwater and wastewater treatment systems in perpetuity. (It is a virtual guarantee that these systems will fail in the future if managed by the owners).

While some of these water quantity and quality measures exceed minimum regulatory requirements, they are readily achievable using modern Low Impact Development Standards and should be required as a general practice in environmentally sensitive areas such as this. The Ipswich River Watershed Association and its Greenscapes Coalition, of which Lynnfield is a member, can advise the developer and/or community on the implementation of these measures at low cost and stand ready to assist you in any way to achieve these protections.

Finally, we welcome comments in response to this Letter on the part of the Planning Board. We hope to work with you and support you on this difficult issue. On our part, the Ipswich River Watershed Association will continue to seek further clarity on the legal and policy questions you raised before we communicate with the Selectmen and consider launching a public campaign to inform residents about the historic nature of this opportunity.

This has been a tough year so far on many fronts. Let's aim for a positive outcome on this one for both the community and the wider region.

Sincerely,



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Executive Director

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cc: Robert Dolan, Town Manager
John Scenna, Lynnfield Center Water District