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2021 JUN 14 PM 1:56

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June 14, 2021

Via Email to: [kbuckland@wareham.ma.us](mailto:kbuckland@wareham.ma.us)

Members of the Wareham Planning Board  
c/o Kenneth Buckland  
Director of Planning and Community Development  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Re: *Approval Not Required Plan Submission, 0 Rt. 25, Parcel ID 115-1000*

Dear Members of the Wareham Planning Board:

The Approval Not Required ("ANR") plan submitted on June 8, 2021 for the property located at 0 Rt. 25 (Parcel ID 115-1000) (the "Plan") is on the agenda for your meeting tonight. The Plan is different from the plan submitted previously in that it is a simple "perimeter plan" – a plan that shows the existing boundaries and ownership of a parcel but does not divide the parcel or show a subdivision. Given the reluctance of certain Board members at the May 24, 2021 meeting to endorse the plan previously submitted for the property, I am writing to remind the Board that both the plain language of M.G.L. c. 41, § 81P and established case law require the endorsement of perimeter plans as ANR plans.

Section 81P is clear:

Any person wishing to cause to be recorded a plan of land situated in a city or town in which the subdivision control law is in effect, who believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board of such city or town in the manner prescribed in section eighty-one T, and, if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person authorized by it the words "approval under the subdivision control law not required" .... **Such endorsement shall not be withheld unless such plan shows a subdivision.**

M.G.L. c. 41, § 81P (emphasis added).

Members of the Wareham Planning Board

June 14, 2021

Page 2

Simply, if a plan does not show a subdivision, a planning board must endorse it. It is true that a plan of land showing no new lines of division of ownership may be recorded under M.G.L. c. 41, § 81X with a surveyor's certificate to that effect. But, the fact that there is a right to record such a plan under § 81X does not undermine the separate right to obtain Planning Board endorsement of a perimeter plan under § 81P.

This is settled law. Both the Supreme Judicial Court ("SJC") and the Appeals Court have expressly recognized the eligibility of perimeter plans for endorsement as ANR plans under Section 81P. See Cumberland Farms, Inc. v. Planning Board of West Bridgewater, 64 Mass. App. Ct. 902 (2005) ("the argument that perimeter plans, because they do not contain new lines indicating a division of land, are ineligible for submission and endorsement under § 81P[,] flies in the face of decades of contrary practice"); Reagan v. Planning Board of Braintree, 37 Mass. App. Ct. 956, 957 n.2 (1994) ("It is hard to conceive of a one-lot perimeter plan as depicting a subdivision, and, unless it does, the planning board has no discretion."); see also Cape Ann Land Dev. Corp. v. City of Gloucester, 371 Mass. 19, 20-23 (1976); Stampfl v. Zoning Board of Appeals of Norwood, 33 Mass. App. Ct. 354, 355-356 (1992); Samson v. San-Land Dev. Corp., 17 Mass. App. Ct. 977, 978 (1984); Wolk v. Planning Bd. of Stoughton, 4 Mass. App. Ct. 812 (1976). **There is no reported decision by either the SJC or the Appeals Court in which a planning board has been upheld in refusing to endorse a perimeter plan.**

Please do not hesitate to call me at (617) 502-6286 if you have any questions before Monday night's meeting. Thank you very much.

Sincerely,



Elizabeth F. Mason

cc: David Fletcher  
David Kane, Longroad Energy  
Vanessa Kwong, Esq., Longroad Energy  
Richard P. Bowen, Esq., Wareham Town Counsel