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AUG 17 2021

**BILLERICA PLANNING BOARD**

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Billerica Planning Board

Michael Riley, *Chairman*

Matt Battcock, *Vice Chair*  
Patricia Flemming, *Secretary*  
Gary DaSilva

Christopher Tribou  
Blake Robertson  
Janet Morris

**Planning Board  
Minutes**

February 23, 2021 @7:00 p.m.  
Held via remote zoom  
Videod by BATV

Can be Viewed: <https://billerica.cablecast.tv/CablecastPublicSite/show/3216?channel=3>

Members	Present	Absent
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	
Denise McClure, Acting Interim Director	X	

**Pledge of Allegiance**

**Special Meeting-PUD 480 Boston Road-Special Permit**

**Attendees**

- James Dangora Jr.-Attorney for applicant
- Tim Williams-Engineer Allen & Major
- Phil Paradise BETA
- Jim Sylvania
- Alfred Rossi RD Management
- Eric Moran RD Management
- Nick Griffin cube3.com
- Thomas Lane-Town Counsel

**Mike Riley**-We are here last because last year the Planning Board denied a special permit. The proponents appealed it and went to the land court and on the 23rd of December. Judge Foster remanded it back to the board, mutually agreed between both parties to come back here tonight. What we will do is we will hear from the proponent and we will go through the board and we will give the public obviously the public care and they can speak will give each member of the public 2 minutes to speak and I'll give go through that before we go to the public hearing so with that, I'll take a motion to open the public hearing

<b>A motion to open the Public Hearing- PUD 480 Boston Road SP</b>
Motioned by: Matt Battcock
Seconded by Gary DaSilva

Members Vote	In Favor	Opposed
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

**Jim Dangora Jr**- the board took a vote and voted 4 in favor 3 opposed to the prior submittal. While we did get a majority vote, we did not get the supermajority that was required under the zoning act as written at the time. As the chairman indicated the appeal has been filed, the matter is working its way through the court and we are here pursuant to Judge Fosters order of remain. What is interesting is that since we were last together the state legislature has passed a bill that reduces the voting threshold from a supermajority to a majority. That bill signed by the Governor on January 6th or January 7th is entitled to build to encourage new development and usher in a recovering economy and by the language contained in that bill, the purpose of the bill is to drive economic recovery, generate economic investment, create jobs, and improve housing stability. The prior project that was submitted, which is subject to the pending litigation, checks all the boxes, its intended to generate economic investment here in Town and it is intended to create jobs and help improve housing stability, so this project and the prior project as presented in the current project checks all those boxes. Despite changing the law, the applicant has made some significant changes to the original proposal and those changes are being offered to you this evening in the spirit of compromise and as an act of good faith. I ask that all prior submittals that were incorporated into to prior Public Hearing be incorporated into this remand hearing as well.

The five reasons cited in your decision by the minority members. So, what they did is they went back to the drawing board and an addressed all five reasons that was cited and supported the denial. I do believe that these changes address all those issues set forth in the prior decision. The first significant substantive change is in the reduction of the number of residential units. If you recall the prior plan called for 230 units, that proposal met all the requirements in the zoning bylaw with respect to density, height etc. however again in the spirit of compromise they have offered to reduce the number of units from 230 units to 200 units. Also, important here is that by eliminating those 30 units we have increased the residential parking ratio from 1.25 which is what the by law requires a 1.495 or 1.5%. Reason #2 cited in in your decision that although you would you agree that the parking met the bylaw, the preferred parking ratio would be the 1.5. There will be 43 handicap spaces, 18 of those will be van accessible. The dog park, pool, the two landscaped courtyards and

fitness center will remain. The modified plan still calls for 10% of Affordable units with a mix of affordable housing units for seniors, and persons with disabilities. The applicant also remains committed to providing that pedestrian connection between Rose Hill Manor and the north end of the proposed development that will give residents of Rose Hill Manor the ability to access the site, support the local businesses and freely walk back and forth between the two developments. The applicant remains committed for purposes of this exercise to upgrade the sidewalk on the South side of Tower Farm Rd pursuant to the plan that has been submitted.

This change that calls for the reduction of the Kmart space presently is about 84,000 square feet the modified plan proposes that that space be reduced by 41,000 square feet. They feel it is an ideal size for a grocery store. This plan here calls for a 2.3-acre reduction and impervious area so and that is a major improvement over existing condition. Our last stop on this project would be a stormwater management permit from the Board of Health but quickly with respect to stormwater management that the plan has presented, improves stormwater management significantly over existing conditions generally. Tim Williams has designed a scheme that that adds 38-foot catch basins, it adds water quality inlets it adds to underground infiltration systems so these stormwater devices coupled with the 2.3 acres and the reduction in impervious surface will reduce the rate of runoff then will significantly improve the quality quantity of stormwater for all storms. Attorney Dangora went over the 18 plans that were provided to the Planning Board

**Tim Williams-** We have made some significant changes, specifically up near the Kmart building and one of the things I did want to point out is that we have also included a sidewalk that will take you from the 12,000 square foot retail and the 2 restaurant parcels, directly across the center. We have created a landscape island which will divide the parking lots up and dumps you out right next to the small retail shops adjacent to the Big Lots. Another concession that was made during the previous hearings was the connection from the front of the future restaurant/retail space over to Rose Hill Manor. So, there will be a sidewalk that runs from the sidewalk along the reposition Kmart building across and tie into the sidewalk you could just see it North of the property line the sidewalk associated with Rose Hill Manor so there will be a direct pedestrian connection over to those facilities and in the Saint Teresa's.

### Questions from the Board

**Chris Tribou** Did you contact the other residents if they wanted trees put onto their property to mitigate regarding privacy concerns

**Jim Sylvia-** I have reached out to a number of the neighbors along Tower Farm Rd and those conversations are just starting, but we certainly think that there's opportunities there to mitigate the impacts of the project for those for those folks.

**Chris Tribou-** Could you tell me like the bedroom composition of the units that were removed

**Eric Moran-**We maintained the same unit composition as the previous plan, just with the reduce unit count

**Matt Battcock-**With a grocery store going where Kmart is, that would be significant drop in traffic on whereas people would not be going to the grocery store every day. I like how you reduced the units.

**Pat Flemming-** What are we doing for the Firetrucks and what children that are in the apartments, are they going to get a bus stop or walk? And how many bedroom apartments

**Mike Riley-**We did get a letter of approval from the Fire Department. We could put a bus stop as a condition

**Eric Moran-**They would be a mix of studio and 1- and 2-bedroom apartments

**Janet Morris**-I would like to know the number of apartments too. I feel like this project is still too tall and to dense for the neighborhood. I still do not think it fits in with the neighborhood. The residents are still against this. We want something there but not this big. The money that was given for the gazebo, a \$5,000 is a shameful negotiation. The sidewalk seems to be the smallest sidewalk in town.

It is still a 4-story building. And only half of its three the other half is still 4 so yes we definitely want development there but we don't want to see commercial being reduced while residents are going up and the reason we need so much parking is because it's too big. I would like to ask our attorney Thomas Lane if this is not passed and it goes before the judge, I want to know what the judge can vote on or tell the town that it has to do there's been rumors that the town loses everything and you know it starts at square one, I want the facts and so through the chair if it's OK, I want to hear from our attorney if this goes back to the court what is it that this town could be for lack of a better word stuck with

**Attorney Lane**-This is on remand right now and depending on the decision of the board, the judge has kept control over the case and the judge still has jurisdiction over the case. So, again depending on the decision, if the decision is appealed by either party, it goes back in front of the court. This is a zoning trial under 40A section 17 which requires a de novo trial where the judge would make factual findings the application that was before the board, would be the application that would be presented to the judge and the judgment then take factual evidence on and make it determination if the board acted in in party the legal standard is where the board acted arbitrary and capricious in making their decision. As for the allegations of the plaintiffs in the legal lawsuit which is a standard allegation being made but it would be de novo trial with the judge would make factual findings based off of the evidence that was presented by both the applicant and you know anyone in behalf of the planning board and the judges then rendered decision at that point.

**Janet Morris**-So it could not come back as a 300 or 400 residential building correct? It is the plan we see now is what we would receive if the judge ordered it as such

**Attorney Lane**- This was a remand application and again under the order of remand a new application, which incorporated the earlier applications was submitted to the court. That would be the remand application that the court would then look at that was before the judge to render decision.

**Janet Morris**-That to me was a big concern because I think a lot of people make decisions based on fear. I did hear it at the last few meetings, if we do not approve this, who knows what we are going to get, you know if we don't approve this, they could do this. Well, here is the facts. This is what we would get, and I think it's very important to have everybody know that, so that when we are approving this, if it happens or not approving it, that we don't give up because this by law is flawed and just give up, and say well you know, it's like we have to let this one and I say no, I say let's work for the residents who have elected us and who have trusted us to make these decisions on their you know their neighborhoods and have spoken out and in large numbers in even at 5:00 o'clock today I'm still getting emails, they are speaking out. This does not fit our town; we have a historic town, we have a Town, and this does not fit our Town, so I hope that people who will speak on this remember this. This is coming in under a flawed by law, we all agree it is a flawed by law because we have a special subcommittee working on it. I am not going to be a vote that says, you know like when we go down Middlesex Turnpike and we say UGH that one got in because it was under the 40D, we were not there yet. I can tell you guys; I am not going to be the vote that says when I'm driving Boston Rd ugh, that building got in under the flawed PUD language because we didn't try to stop it.

**Blake Robertson**- During Mr. Dangora' opening comments, he made a statement about meeting good faith and then he wanted to incorporate all prior, trying to show what are the implications of that. What's the intent of that portion of your opening statement?

**Jim Dangora Jr.**-We here or like indicated, in an attempt to compromise, in an attempt of good faith. We spent several hearings during the prior proceeding discussing the minute detail of this project out of focus on

this evening are the changes to the plan. There is no hiding meaning to it, I just wanted to give you an overview of the changes.

**Blake Robertson**-What is perplexing is why not just focus on the current plans which incorporate all those changes without overtly and expressly incorporate things in the past, that is what confuses me. I do not understand why that was necessary and so I am just perplexed but by that. The stack of drawings dated 22 January 2021. I just want to make sure that those are accurate and those are your intended plans as stated.

**Tim Williams**-That's correct the plans submitted on January 22, 2021, are the most current plans proposed for this site redevelopment.

**Blake Robertson**-I am absolutely thrilled that it is a 3-story residential structure.

**Mike Riley**-If this goes back to the courts, these conditions that are attached to this proposal are not part of the proposal they are the conditions. So that is something that we do not want to lose we have had especially with the changes that have been made we have had enormous amount of support as well. We represent all of people alright in in where we are not elected to sit back and allow a court to do our job. We are going to have differences in opinions. If this pass, I would like the board to support this as well. We have a severe shortage of affordable housing in Billerica, I am going to ask that the affordable component that we get Billerica Resident preference.

**Jim Dangora Jr**-There would be no objection of that being added as a condition.

**Nick Griffin**-The breakdown is 20 Studio units, 94-1-bedroom units and 86-2-bedroom units.

**Janet Morris**-During the presentation it was said that it was kind of a gift to give us the 10% affordable housing that it is saying in there. But with the new bylaw that was passed, the 5250 it's the majority vote not the supermajority you have to have 10%. I just wanted the public to know

### Public Comments

**Kelly Sardina**-just went over the timeline that we're speaking so I hope you're holding on this one I have one question to ask the chair are people allowed to give somebody else thier minutes after minor after someone's time is up it can somebody else give me their minutes

**Mike Riley**-No

**Kelly Sardina**-Are the stores that are there now, will be they staying during the construction? I noticed in the plans, the draining pipe behind Market Basket, it is not in the plan, are you replacing it? And the trucks entering over by the post office, that will cause a problem with traffic and they will be exiting on Tower Farm.

**Steve Strykowski**-RD Management has been an absentee landlord. They said they were going to put automatic doors and they never did. Kmart had barrels in the stores from rainstorms. He spoke about the asphalt stopping ½ before you step up and anyone in a wheelchair will have problems. Please set an extreme set of guidelines

**Therese English**-This is a good example of smart growth. The renderings are beautiful, and I am in support of this.

**Herve Abrams**-I am glad that there were compromised to scale down the building and to increase the parking. They went above and beyond the bylaws and I appreciate that. I hope that they maintain the property if this gets approved.

**Justin Damon**-I want to ask the board to keep negotiating, to keep lowering the number of units, I think we need to balance out the housing to retail ratio. I would like to see this cut this down in half. I am also curious about the buffer on Tower Farm Road. Someone told me that the buffer would be reduced. I also curious about the number of jobs created to the number of jobs lost.

**Terry Soloski**-Concerned about the location of the building on Tower Farm Road. Why can't we entertain it on the otherside? What will this do to our future of the wastewater

**Mary Jones-7 Susan Drive**- I was told it is a 3-story building, now I hear it is a 4 story. That height is too big for that location.

**Kathleen Peetfields**- I have talked to a lot of residents and most of them are not for it. They should reduce the units. There will be a lot more traffic, going to the center is tuff enough now. The amount of water that will be used and if it can handle that many units. People depend on that Market Basket.

**John Meneghini**-It is not clear if this is a 3 or 4 story building.

**Tim Williams**-The proposal is to have a 4-story building, although the side of Tower Farm will be 3

**Scott Rogers-Whittier Road**-I was a TM when this has passed several years ago. We all know that this is a flawed bylaw. I am concerned and I see the water tower and I will now see a building. I would like to see the entire project shorter and perhaps more to the water tower. This is going to be a massive wall looking out the window.

**George Grande**-Owner Billerica smoke shop- I would like to see the area and our community thrive because it is very important however the mall is in dire need of redevelopment and our local businesses are continually competing with the economic development that is occurring in surrounding communities. The proposed redevelopment plans have numerous benefits for the community, it will help local businesses drive with influx of new customers, it will also generate additional jobs tax revenue in much repeated affordable housing for seniors and local families. The developer has reduced the Kmart space from 84,000 square feet to 43,000 square feet to attract the high-end tenants in reduce the apartments from 230 to 200 with 10% designed for affordable living therefore I urge you to approve this plan, in light of the concession's developer has made in many positive impacts this project will have. My father was the owner of fun time amusements from 1975 to 1997 and I opened the smoke shop in 1994 My daughter Malena works with me now, so the mall has played a significant role in three generations of my family in my family in US stores have played a significant role in the community as well thank you for your consideration

**Anthony Cemetore-16 Tower Farm Road**-Nobody has ever approached me if it should be shrubs or trees and I want to know why we have not been approached. I do appreciate the mall is trying to make it more appealing to the neighborhood. It is still way too big. If it were 2 story, it would be better. There is no reason it must go on Tower Farm Road. It is hard to hide a 4-story building. If it were 2 stories, we would not be having this conversation.

**Michael Parker**- With the approval of this project is the proponent going to remove the proposed subdivision of the property. Because in the sense that subdivision could rightfully give you the ability to put more buildings on that property. You could put 4 more buildings on that property. That there is no additional commercial or retail reduction in lieu of residential hi run construction we have just taken away somewhere between 80 and 90,000 square feet of commercial space and only adding 18,000 of commercial space to word

and net negative for commercial and if we keep taking away from commercial our taxes will continually decrease at this property.

**Dan Burns-** I appreciate the board and the developer had been working on trying to find a compromise, you have got a good start, but I think that there is more work to be done. Work on the size and scope of this project, I think as others have said that they are concerned with the height of this building and the and the overall size and it would be great if we could get this reduced. I do not think anyone disagrees that putting some housing here is understandable, but it is the overall size and scope that we would like to see get addressed. We need to take the neighbors' concerns and the impact on them into serious consideration and to ensure that the parking there is adequate and including for visitors, and that was always something that I did not see in the design that we had enough just barely enough for the you know at 1.5 for all the units, but not much for visitors and people are going to come and visit. I am concerned because shared parking under the PUD by law clearly states that you have to have very limited overlap during the peak times of the businesses would operate which you know because 5:00 to 10:00 o'clock at night while the businesses are trying to do their job and especially the restaurants. We would be trying to steal their parking spots with people parking so some to consider. We to get some something back from the units from the developer on this. When we did 3 North, we have got the entire Alpine St neighborhood sewage, including hooking up every house in that neighborhood. Millions of dollars of benefits to the town. When we did the Aspen apartments over on Range Way; same thing we got sewage put down Rangeway Rd, we got sidewalks put in on Range Way and we had the traffic lights to.

**Lynn McHugh-**The one thing I would like to raise tonight for the call is to hear what the plans are for the rear of the mall we are at a significantly lower elevation behind the mall and there has already been clear cutting of the trees by either the town or the mall owners to the rear and so we would like to hear what the plans are four shrubbery trees fencing etc. to the rear

**Bill Forbes-**I appreciate some of the changes being talked about here but I think it keeps getting back to the same issue for the immediate abutters and that is the height the location relative to Tower Farm Road, it be great if this thing was a two story building and push further to the to the West and northwest bring it closer to talk to Boston Rd and that would I think satisfy a lot of residents here. We also have an ongoing water issue here.

**Susan Rogers-Whittier Road-**A review of the sidewalks, there was some talk about these sidewalks on Tower Farm Road being finished there so that people could have better access to the facilities on and off Boston Rd. What about sidewalks coming and going on Tower Farm Rd. We have lived here for over 40 years that a lot of the runoff from the snowmelt causing ice and wash from mall and the road is deterioration. There are no sidewalks on one side of the road just wanted if we could discuss that I watched it because it was in previous meetings I didn't hear much about that on Tower Farm Road tonight and the access to and from the mall from Tower Farm Rd because coming and going and trucks delivery the renditions that were in the local newspaper regarding trees and plantings that Mr. Dangora, I believe had mentioned will continue to be added in green space, the only thing is with the 40 years we've lived here the mall investor said that they would take care of greenery, trees, and maintenance. Come by and look, there's a lot of dead trees not a whole lot of maintenance ever in the landscaping Department and just wondered how this proposal is going to change that. Trees need water and they cannot live very well if their roots are all underneath hot top.

**Steve English-Buckingham Drive-**You stated that there is a housing shortage, what are the cost per unit that you assume that this is going to be. We have really talked about resources, one of the big problems with resources is both sewage and water. Over an 8-year timeframe in Billerica, we have not hit our target. That target, by according to Massachusetts is 65 GPCD we have not hit that except for once over eight years, and I am tired of every year hearing I cannot water my lawn I cannot water my garden, I cannot water anything. As parking on the plan that I noticed on the plant you have a lot of parking spaces back behind the units or I am sorry behind the shopping center itself, are those included as part of the parking and the reason I asked that

question is that is invalid because you have to have trucks come in there in order to make sure that you have a place where the trucks can unload. As far as business is affected, what businesses will be affected during this all-transition. Restaurants, can we support restaurants in that area we had a bunch of restaurants that have closed on recently that we cannot even support. Another issue is Janet Morris brought the issue about transportation. Transportation is a real tough issue. For two reasons, first, you have all these units in the center of town which means if anyone's commuting outside of that city, they must go outside of town. I used to live in Tewksbury for eight years and when they put condos in there, try anytime on route 38 to go anywhere, it is ridiculous, so it is terrible. Try that in Wilmington, it is the exact same thing. So, who is going to support the transportation i.e., buses and who is going to also take care of the issues that we are going to run on tower farm Rd down to 129 whenever we wind up having all the extra transportation over that also a four-story building will not fit in the neighborhood it just does not look right compared to maybe a three story or two story?

**Mike Rae-**Something to this about some of the history of that site I mean, we had a dairy there then we had a developer come in and strip all of soil off and it was a desert for a couple of years. Then a developer came in 1975 and put in the mall and everybody thought it was great. But as time went by the building deteriorated, and I think the present owners of that mall have done a great job bringing it back and what they want to do here but even give us more to like, just the greenspaces alone are a great improvement I think it looks great and I think that bent over backwards to work with you people it made all kinds of concessions. I do not know how they can do that and still make money with this deal but at any rate, I don't think we want to go back to court again. I would like to know what we are paying in legal fees to defend the previous court action. Anyways that is another story, I hope you would prove this and i look forward to listening to the rest of the program.

**Fred Shue-** I am a concerned resident, I've been on Tower Farm Road for 40 years and I have the same issues as all the other residents. We want something up there; we think the project is still too big. The big issue I think is the size the amount of traffic they'll be kids their kids are going to stand in the building they're going to travel across the parking lot they want to go across the town we will be stopping at the crosswalks every time someone pushes the button it's going hold up traffic you don't have gridlock there another thing is a big issue is stormwater they've been saying stormwater they don't fix it they don't fix it they haven't right now you look at all the mounds of snow there they want more they do one points going say their trucking it out of there there's just piling it now one starts melting it all comes down to farm Rd the residents up there get flooded bad but ice on telephone Rd they still haven't done anything about it so that's bunch of the issues that the same as everybody else we do want something there at a smaller scale restaurants if you put 200 people there that they put two restaurants there the residents won't get there because the people that that live there be able to get there before everybody else I just think it's a wrong place I entertain it somewhere else with no problem or downscale it so it fits the neighborhood in the traffic

**John Burrows-** I appreciate you all coming back together to work on something better for the community. Like I said, part of the problem is, you have not been a good landlord for years, you left a bad taste in people mouth. You revamped them mall, you know that Kmart, when it was going to get condemned when the border health went in there, they are going shut it shut the whole place down. If you look at some of the projects in town, you know what the stress on our infrastructure is. The project on Rangeway Rd since it's open it's had the Police Department there 338 times. \$5000 great for gazebo but if you wanted to, I could have given you a hotline number at Home Depot and they would have donated the wood. \$5000 is not much, this projects about 248323 square feet of residential I have it as it should be about \$60 million project. You look at about what maybe 2 units rent money. They are going to donate to a gazebo. Other communities I have seen him donate buses you know to shuttle people down to the train to North Billerica train station, have a commuter shuttle to take last stress off the Center. I mean you guys are almost there, you know it is your property. I appreciate you working with you just not there, yet I truly would love to support this project you all well done some great work I think just a little more tweaking and I could fully support this



**Diane Donovan-** I am not one of the abutters but what happened on the Turnpike with the apartments up the street. Is this going to be the history of what is going on with the town now, all these developments coming in and all these apartments. I have another concern; we are very short on senior housing. Could it be 20% instead of 10 %, I mean as it is now, you know my husband put in an application for the senior housing and he has a friend who went in, but she had to wait six years to get into senior housing. I know there is no tax revenue from senior housing, but I think something could be done more for that that is all I have to say.

**Sheri Cargenal- 44 Tower Farm Rd-** I been very involved in this from the beginning. my main concern is the height, if we must have something in there the height is a problem. Traffic, we already know is going to be a problem. If this does go through, I would try to have the trucks take a right to come down to make them go to the top of the Tower Farm to go on to Boston Rd instead of coming down to Allen. We do have a lot of traffic, we have a lot of construction trucks, we have a lot of commercial trucks and really, it is a residential area. We all know somethings going there, you are not going to make everybody happy, but you know turn it down a little, maybe you'll make some people happy I'm not for it, I'd rather see just stores but that's just my opinion thank you thank you

**John Klesehinsky-33 Broadway St-**I am really excited about this project, you have come along way. We are going to have a walkable area, more sidewalks to restaurants, a lot less asphalt, a lot more green space. I think it is going to be a big improvement to the center of town, and I appreciate everybody's work getting us to this point and I hope to support it thank you thank you

**John Gagliardi- 2 Whiting St-** It was five years ago tonight, the town meeting met in town Hall. It was voted 179 to 3 to approve funding of the new high school, and five years later we now have a beautiful building. I was thinking about it and you know it is really amazing what can happen when you say yes. it seems like we said yes to that five years ago and things have become stagnant. there has been a certain group of people in town, that seemed to draw a line in the sand and have just decided to say no to everything else that would move the town forward and make this nice. there is an appeal to a broader base of a person to come live here want to do frequent businesses here. So, I would mimic all the people that have spoken before me in favor of this project I would ask you to vote in favor of this project tonight I think it is amazing what can happen when you say yes. I think that if you if you do say yes tonight, I do think we will all be very surprised by what happens with this project and we are very pleased by so once again. I do ask you please vote yes on this tonight

<b>A motion to close the Public Hearing- PUD 480 Boston Road SP</b>
Motioned by: Matt Battcock
Seconded by: Pat Flemming

<b>Members Vote</b>	<b>In Favor</b>	<b>Opposed</b>
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

### Comments from the Board

**Gary DaSilva**-The need for housing there, it will revitalize this whole area. It will look fantastic

**Matt Battcock**-I agree with Gary. The proponent listened to the residents. This will be a positive for Billerica

**Pat Flemming**-Listening to the neighbors, their concerns are very good, I think that this property needs to be cleaned up. I am for it

**Janet Morris**-I do have an issue with the height. I would be on board if it was a 2 story.

What I heard was most people complaining about the height and I to have an issue with the height. I could get on board if this were a two-story building, see it closer to the center of town but this broken by laws are being taken advantage of. I am disappointed that we cannot have the courage to bring this back and try to win for the residents. I'm really disappointed, I also heard when you guys had your special committee meeting that it was discussed that you guys would like to start at two stories, why is it OK to start at two stories? What are we going to lose if this doesn't pass, 10% affordable housing? no they have to do that if they want majority a sidewalk I'm sorry that's acceptable \$5000 for the gazebo I can't somebody said go to Home Depot you can get it donated it's ridiculous the grocery store OK so Linda pandemic started can I tell you 40,000 people went to the grocery store I waited in line for over an hour the stores were packed thought that was a one-time deal it's no 21 inches the couple weeks ago again lines through the grocery store we already have 40,000 residents. We must take care of our existing residents. There is so many apartments coming online we do not know the effect yet. Why can't we try and fight this out or at least ask for it to be 2 floors. You guys already know this, but 10% affordable housing gets you out of the 40B. I hope you guys would try to fight and send this back or at least be not send it back and ask the developer, please take it down to two. I am going to reiterate; I am not going to drive by this and say I was part of it. I am not going to say this was the mistake of the planning board because they did not want to fight it. I am sorry I am a no, thank you

**Blake Robertson**- I think that we need to give some credence to Ms. Sardines question or at least investigate it, about this crushed drainpipe that is not on the not on the drawings. That is very concerning, and I do not know how we can validate that, but I think that is something that was worth looking into. Also, the question was right raised by Justin Damon about the buffer in the access road, the apparent discrepancy. We must revisit the plans here, it does say on the zoning summary table that this is going to be 4 stories or 45 feet high, both requiring waivers, both of which we can deny and both of which I will not support. But the reality is, we have ten other drawings that show that this is only a three-story structure. What can we believe, these are the drawings we were given? It is a three-story structure, that's what this says, that's what we should take for granted that's what it should be limited to as a minimum. I would like a condition added that this is only a three-story residential building. There is a lot of discussion about affordability, and I agree and we here in Billerica, we must take care of our own. I think that we need to support affordable housing, but I think that we should increase the affordability percentage to 15%, that is consistent with the other overlays that we have. We had several people that talked about the fact that we need to refresh or renew the site. A large number of folks advocating that are both here tonight and then also a large number of folks who provided a written comment. I think that we can continue to make some improvements. What I would like to do, is put a condition that we are going to set aside 5% of gross rent at least receipts. It is going to be dedicated to repair and maintenance of the site and what I mean by This site is it is a pre-existing retail the new retail and the housing. We will get an enforcement officer who is going to help identify projects like the ongoing roof leaking issue like the asphalt that was described by our disability friend, like the sidewalk issue that our disability friend brought up highlighted. Those projects can be addressed with those funds and we will get a quarterly report to the Planning Board, just to see how that is going and then our efforts to help the town are making bearing fruit. I would like another condition, in that condition is to limit residential occupancy the 10% until at least one of those two new eating establishments are open for business. I think it is a fair thing,

it's going to meet the needs of what folks are demanding and requesting in the town and if our if our proponents are or serious, this shouldn't be a hard thing to do at all.

Mike Riley-I do not have a lot to add. We do have a lot of people who are in support of this project. I think it will revitalize not only the mall, but it will help bring a reputation of Billerica, that we are open for business. Our residents, especially our seniors deserve a place to go, they deserve a place to walk safely. As far as what we lose, I mean we are at a 75 ft set back right now, I think I think they went from 50 to 75. The underly zoning allows 3 stories, we are asking them to go down the two when the underlying zoning says 3. So, I am not going to beat a dead horse, I support it. The mall came to us willing to make a reduction if but not the timing, this proposal would have already been under way. It is not for the time into the economic development bill, this would have been underway. So, with that I have no more comments.

<b>A motion to approve the PUD 480 Boston Road SP with the conditions</b>
Motioned by: Matt Battcock
Seconded by Chris Tribou

**Janet Morris**-Can we talk about more conditions?

**Matt Battcock**-Now we can talk about it

**Denise McClure**-I can go through the draft decision, it's the same that we did previously but I can go through the conditions that the board discussed that the applicant agreed to She went through the draft conditions with the board

<b>Members Vote</b>	<b>In Favor</b>	<b>Opposed</b>
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson	X	
Janet Morris	X	

**Mike Riley**-The motion was seconded, so I can say so moved with the conditions

**Blake Robertson**-Point of Order-My conditions need to be added.

**Mike Riley**-You did not bring up these conditions up in the public hearing

**Matt Battcock**-Those conditions need to be voted on

**Janet Morris**-Can we ask Attorney Lane if that necessary

**Matt Battcock**-It has been seconded, we need to vote

**Mike Riley**-Mr. Lane, Mr. Robertson, after the public hearing was closed had brought up some conditions that he was interested in. Can we get some advice from you on that?

**Attorney Lane**-I believe that would be something more up to the applicant. If they are willing to consider those conditions. Again, not to make things difficult, technically they should be brought up before, but he did raise them as part of his discussion. Of that other thing and I think it's his discussion, his feelings on the project, so I believe it's up to Mr. Dangora and the applicant, whether they want to consider those conditions or not

**Mike Riley**- So my concern was just because the public hearing was closed so we can go back to the proponent and ask

**Attorney Lane**- You can ask the applicant if they are willing to go along with some conditions or any of those conditions it up that is up to the applicant.

**Jim Dangora Jr**- I do believe that one of Mr. Robertson's conditions relates to putting an income stream aside for future repairs and the applicant does not agree to that. The other condition Mr. Robertson wanted was, the timing with respect to the retail and the residential and the applicant can't agree to that condition either.

**Mike Riley**-Don't we have a condition already?

**Jim Dangora Jr**.-There is a condition in the in the decision that that addresses the timing of the residential and the timing of the retail yes

**Gary DaSilva**-Mr. Chair, there was a motion made and a second, and we should not be discussing anything besides motion

**Janet Morris**-Mr. Chair, you did not follow up on the resident's questions, there was actually a motion to remove the subdivision a motion from a resident....

**Matt Battcock**-Through the chair there is a motion to take a vote

**Mike Riley**The plaintiff is not interested in those conditions. We have a motion and a 2<sup>nd</sup> on the floor

Members Vote	In Favor	Opposed
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson		X
Janet Morris		X

**Mike Riley**-We wish you the best of luck

**Janet Morris**-What did we just vote?

Mike Riley-We voted for the project and the conditions

Janet Morris-We voted the conditions, not the project.

Mike Riley-Lets do it again Matt

<b>A motion to approve the PUD 480 Boston Road SP with the conditions</b>
Motioned by: Matt Battcock
Seconded by Chris Tribou

Members Vote	In Favor	Opposed
Michael Riley, Chairman	X	
Matthew Battcock, Vice-Chairman	X	
Patricia Flemming, Secretary	X	
Gary DaSilva	X	
Chris Tribou	X	
Blake Robertson		X
Janet Morris		X

Janet Morris-You do not know how to run a meeting

Mike Riley-Janet we do not need your comments

<b>A motion to adjourn</b>
Motioned by Gary DaSilva
Seconded by Chris Tribou

Members Vote	In Favor	Opposed	Left before vote
Michael Riley, Chairman	X		
Matthew Battcock, Vice-Chairman	X		
Patricia Flemming, Secretary	X		
Gary DaSilva	X		
Chris Tribou	X		
Blake Robertson		X	
Janet Morris			X