



# BELLINGHAM PLANNING BOARD

10 MECHANIC STREET  
BELLINGHAM, MASSACHUSETTS 02019  
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[PlanningBoard@bellinghamma.org](mailto:PlanningBoard@bellinghamma.org)

April 27, 2021

## 161 & 169 MAPLE STREET DEVELOPMENT PLAN APPROVAL DECISION

### A. BACKGROUND

**Applicant:** Will Boyle, LMP Properties, LLC  
256 Summer Street, P.O. Box 28  
Dover Foxcroft, Maine 04426

**Owner:** John D. Raymond, Jr., Manager, LMP Properties, LLC  
256 Summer Street, P.O. Box 28  
Dover Foxcroft, Maine 04426

**Public Hearing:** The Public Hearing opened October 22, 2020 at 7:00 PM. Notice for the public meeting was published in *The Milford Daily News* on October 8, 2020 and October 15, 2020. The Public Hearing was continued to November 12, 2020, February 11, 2021 and April 8, 2021 and April 27, 2021, when the Public Hearing was closed.

**Date of Vote:** April 27, 2021

**The Premises:** The project location, also referred to herein as the "Site" or the "Premises", is located at 161 and 169 Maple Street, Assessors Map 26-01 and 26-01A, approximately 255,983+/- square feet of land, zoned Suburban.

**The By-law** §240-16 Development Plan Review

**The Proposal:** To construct site improvements to the existing bulk storage and mulch processing operation.

The Proposal was documented with the following materials:

1. Application for Development Plan Review, received September 22, 2020, including a narrative and project description.

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2. Certificate of Ownership Authorization, received September 22, 2020.
3. Waiver Request, received September 22, 2020.
4. Certificate of Municipal Taxes and Charges, received September 22, 2020.
5. Certified Abutter's List, Town of Bellingham, dated August 17, 2020.
6. Certified Abutter's List, Town of Bellingham, dated August 26, 2020.
7. Approval Not Required, Plan of Land, by Land Planning Inc. dated October 25, 2018.
8. Order of Conditions, Bellingham Conservation Commission, issued June 3, 2020.
9. Site Development Plans, 161 & 169 Maple Street, by GZA GeoEnvironmental, Inc., last revised April 2, 2021 (also known as the Approved Plan).
10. Stormwater Management Report, by GZA GeoEnvironmental, Inc., last revised March 4, 2020.
11. Staff Checklist, James Kupfer, Town Planner, dated October 6, 2020.
12. Response to Board and Staff Review, by Baker, Braverman and Barbadoro, P.C., dated November 5, 2020.
13. Request for waiver from certain provisions of the Fire Code, by Baker, Braverman and Barbadoro, P.C., dated March 5, 2021.
14. NFPA 1, Fire Code 2015 Edition.
15. Inventory of Potential Pollutant Sources, 161, 169 and 174 Maple Street, by JD Raymond Transport, Inc.
16. J.D. Raymond Companies, 2020 Safety Manual,
17. Deputy Chief Milot, Response to the request for waiver from certain provisions of the Fire Code, dated March 10, 2021.
18. June 2017 Sound Survey Measurements, and Evaluation of Proposed Sound Wall, by Cavanaugh Tocci, dated July, 31, 2017.
19. Peer Review of Sound Survey, by Tech Environmental, dated March 19, 2021.
20. Response to Comments, by Baker, Braverman and Barbadoro, P.C., dated April 2, 2021.
21. Other miscellaneous documents on file at the Planning Board offices.

**B. DETERMINATIONS**

Following its public hearing on the Applicant's proposal and requested relief, the Planning Board has made the following determinations:

1. The Applicant has previously filed an Approval Not Required Plan combining 161 and 169 Maple Street.
2. The Applicant received an Order of Conditions from the Bellingham Conservation Commission.
3. That the use proposed is limited to bulk storage of mulch and mulch processing.
4. That the Premises is located on Maple Street, which is a Scenic Road.
5. That the Premises is not located in a Water Resource District.
6. The performance requirements of the Zoning By-Law (e.g. Article IX Environmental Controls, Article X Parking and Loading Requirements, Article XI Landscaping Requirements) have been met, met through conditions as described hereinafter, or a waiver has been requested and granted.
  - a) §240.49 Light and Glare: No photometric plan was provided demonstrating compliance however the Applicant has stated that there will not be light on Site. If any exterior lighting is added, all light shall be consistent with "dark sky" standards, shielded and directed downward to maintain lighting on to the Site and shall comply with the Zoning By-law. The Board, may in its discretion require a lighting plan pursuant to §240.49(D) and further conditioned herein.
  - b) § 240.50 Air Quality: The Board has expressed concern over the uses on Site and their ability to produce emission of odorous gases in such quantities to be offensive when stored and processed in such large quantities, stored in close proximity to the public way, conservation land and nearby abutters, including residential abutters. The processing and storage of mulch material has produces strong and offensive odors which can be smelled significantly beyond the property line and has been witnessed to regularly travel further depending on the weather. Further conditions shall be provided herein to assure compliance with the Zoning By-law.

- c) §240.51 Hazardous Materials: According to the Applicant, no hazardous materials, as defined in this section, are proposed to be used or stored on Site as described by the Applicant in their submittal. However, despite numerous request, the Board is not in receipt of specific dyes and other chemicals used to treat and process the mulch on Site. Further conditions shall be provided herein to assure compliance with the Zoning By-law.
- d) §240.52 Vibration: The Applicant states that they shall not propose any use that produces vibration which is discernible to the human sense of feeling (except sound) at or beyond the boundaries of the premises for three minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m.
- e) §240.53 Electrical Disturbance: No electrical disturbance is proposed or will be permitted which adversely effects the operation of any equipment other than that of the creator of such disturbance.
- f) §240.54 Stormwater Management: The stormwater management shown on the Plan and drainage analysis has been designed to meet the Stormwater Management Standards set by the Massachusetts Department of Environmental Protection and Bellingham Zoning By-laws. The standards include removing solids from the stormwater, reducing rates of runoff from the site, and recharging the groundwater. The proposed system was peer reviewed and approved through an Order of Conditions with the Bellingham Conservation Commission.
- g) §240.58 Noise: The Applicant has failed to confirm compliance to the Bellingham Noise Bylaws. §240-48 Noise, identifies noise levels permitted per use and receiving zones permitted in the Town of Bellingham for each use.

In addition, §154-7 B, Applicability, states no development is allowed, or present or prospective activity allowed to take place on any of the Town's designated scenic roads, unless it is demonstrated that standards identified in §154-7 will not be exceeded at any location outside the property line of the premises, which the location includes any contiguous land committed to be conveyed to the Town as open space. It has been determined that the Site is on a Scenic Road and directly abuts conservation land and a golf course as well as residential homes.

The Board was unable to confirm compliance due to the Applicants unwillingness to provide sufficient documentation. This determination

was documented through the Applicants Sound Survey and further reviewed by the Town's Peer Review Engineer. The Sound Survey lacked specificity to Site conditions and operations that the Peer Review Engineer could not confirm compliance with the Noise Bylaws. The Applicant has proposed a noise barrier fence as shown on the Approved Plan. However, as determined through the Town's Peer Review, no evidence is documented demonstrating compliance with the Bellingham Zoning Bylaw. In addition, the proposed approximately 40 foot fenced entrance will remain open during business operations thereby limiting any reductions in sound mitigation provided by the fence. Therefore, the Board hereinafter has conditioned the approval to limit any noise disturbance from operational noise concerns.

Furthermore, the Applicant's claim that the use shall be considered under exemption §240-48(c)(4) "construction equipment in operation at an active construction site" was determined to be inaccurate. The Board determined that bulk storage of mulch and the processing of mulch is not the equivalent to an active construction site and therefore does not qualify for a noise exemption under §240-48(c)(4).

7. For the given location and type and extent of land use, the design, location, egress points, grading, and other elements of the development have been reviewed to:
  - a) improve pedestrian or vehicular safety within the site and egressing from it, as circulation has been reviewed by the Planning Board and emergency services and deemed adequate only with the implementation of certain conditions listed hereinafter. As proposed, the Approved Plan demonstrated multiple emergency response concerns that both the Planning Board and Deputy Fire Chief identified during the hearing process. The Applicant provided a truck turning exhibit shown in the Approved Plan which demonstrates the inability for trucks to exit south bound properly when mulch is on Site and no further improvements to Maple Street are provided. In addition, the Applicant sought multiple waivers from the NFPA 1, Fire Code 2015 Edition, which was denied. For safety purposes, the Fire Department requires the Applicant adhere to the Massachusetts Fire Code and provide a 30 foot access roadway around the perimeter of the site as well as between the mulch piles. In addition, the Fire Department deems a physical low barrier wall a necessary safety tool for this type of use to sufficiently retain proper access throughout the Site. The fully painted surface, as proposed by the Applicant does not suffice. The Fire Department shall consider a three-sided low barrier wall around the pile with one side a painted

surface to provide the Applicant proper access. The Board, in agreement, shall condition such requirement herein;

- b) reduce the visual intrusion of parking areas viewed from public ways or abutting premises. The Board recognizes that employee parking is at 174 Maple Street however equipment is sited on Site regularly. The Applicant proposes a fence along the frontage of the Site as well as landscaping as shown on the Approved Plan;
- c) reduce the volume of cut or fill and the Site has been graded to match the cuts and fills, as much as possible and it is not anticipated that an Earth Removal Special Permit will be required;
- d) reduce the number of removed trees 8" trunk diameter and larger, as minimal additional tree clearing is necessary.
- e) reduce soil erosion; and reduce hazard or inconvenience to pedestrians from storm water flow and ponding by engineering the Site to be designed to comply with the DEP Stormwater Handbook and the Town of Bellingham Stormwater Regulations as well as the inclusion of a Stormwater Pollution Prevention Plan and Operation and Maintenance Plan consistent with the Town of Bellingham requirements;
- f) provide adequate access as emergency services has reviewed and approved the plan with conditions hereinafter. As stated above, the Approved Plan depicted multiple emergency response concerns that both the Planning Board and Deputy Fire Chief identified during the hearing process. The Applicant has requested a waiver from the Fire Code which was denied. The Fire Department requires the Applicant adhere to the Massachusetts Fire Code and provide a 30 foot access roadway around the perimeter of the site as well as between the piles. In addition, the Fire Department deems a physical low barrier wall a necessary safety tool for this type of use to sufficiently retain proper access throughout the Site. The fully painted surface outlining the footprint of the mulch piles, as proposed by the Applicant does not suffice. The Fire Department shall consider a three-sided low barrier wall around the pile with one side a painted surface to provide the Applicant proper access. The Board shall condition such requirement herein;
- g) provide alternative utility service and drainage as the Board's peer review engineer has reviewed and deemed the plan acceptable as proposed and demonstrated in the Stormwater Management Report;

h) provide adequate capacity on impacted streets to accommodate the Site. The Applicant did not provide a traffic study however the Board expressed concerns over site line adequacy and safety on the public way as appose to volume. Both the existing Site entry gate and stormwater management gate reside on the property line along Maple Street. The Board determined that stopping on a heavily utilized public way for gate entry was a great concern. Further, given the limited site lines and the limited visibility of the Applicant's entrance from the northbound lane on Maple Street, the Board expressed concern that both the Applicant's employees and heavy equipment traverse Maple Street between the Applicant's properties during daily operations. Lastly, the Board expressed concern for vehicles existing the Site southbound as the Applicant has not committed to a precise location for the storage of mulch and therefore may hinder the turning movements of large vehicles as demonstrated on the Plans. The Board therefore conditions the Applicant to provide a safe operation plan for accessing without stopping on a public way.

8. The Board finds that compliance with the below conditions are necessary to mitigate impacts related to the construction and use resulting from the project.

**C. DECISION**

Based on the above determinations and as conditioned herein, the Planning Board finds that the proposal meets the requirements of the Zoning By-Law, and by a vote of 5 to 0 in favor, accordingly, grants the Applicant and its successors and assigns as owner and/or operator of the premises, a Development Plan Approval subject to the following conditions:

1. This Approval is limited to the improvements as noted on the Approved Plan, as conditioned herein. The Applicant shall construct upgrades to the Site as shown on the plans by GZA GeoEnvironmental, Inc., dated November 2018 and last revised April 2, 2021 and as conditioned herein. All conditions must be adhered to. Any changes to such Plan must be reviewed and approved in accordance with the Bellingham Zoning By-laws. All such changes shall be reviewed by the Board for determination as to whether or not the changes are considered minor or major. If the Planning Board determines that any change to the plan is a major alteration to the Approved Plan, a public hearing shall be required for a modification to this permit. A minor change shall be reviewed and approved at a regularly scheduled meeting.
2. Prior to the start of construction, sediment and erosion controls shall be installed and be subject to the inspection and approval by the Town Planner.

3. Construction hours for all construction or staging activities on-site shall be Monday through Friday, from 7:00 am to 5:00 pm. Construction activity shall also be permitted on Saturdays from 7:00 am to 4:00 pm. No construction activity shall take place outside the specified permitted hours or on Sunday or New Years' Day, Memorial Day, July Fourth, Labor Day, Thanksgiving, Christmas, or other legal holiday. Work outside of these hours may be considered upon review and approval by the Building Commissioner prior to any work outside of these hours commencing. Upon review and approval by the Building Commissioner the Applicant shall notify the Police Department of the time and date of work commencing.
4. All construction related parking shall be conducted on-site. No parking of any vehicle associated with the Project shall park on nearby parcels including those vehicles arriving early. There shall be no staging of vehicles on nearby parcels.
5. During construction, no run-off shall be directed down the entry driveway onto Maple Street or onto abutting properties. The Applicant shall maintain any drainage or sediment controls in good working order and maintain the construction site free of dust that would create a hazard or nuisance to adjacent properties and the public way.
6. The Stormwater Management Operation and Maintenance Plan (O&M), last revised March 4, 2020, included as part of the Drainage Report, is hereby referenced and made part of this decision. The Applicant shall permit the Board or its agent to inspect the premises on reasonable notice to determine compliance with said O&M plan.
7. The Board in confirming adequate access for emergency services requested the Applicant, given the very specific and unique use, review the Fire Code and demonstrate compliance. During that process the Applicant requested three waivers from the Fire Code to the Fire Department. The Fire Department declined two of the waivers requested by the Applicant due to health and safety concerns when responding to an emergency on the Site. The Board then requested the Applicant demonstrate compliance on the Plan, with the understanding that the Fire Department has declined the two waiver requests. The Applicant has declined to demonstrate compliance to provide adequate access for emergency services. Therefore, in order for the Board to confirm compliance the Board shall condition approval on the following:

In accordance with the Development Plan decision standards, guidance by the Bellingham Fire Department and in compliance with the NFPA 1, Fire Code 2015 Edition, the mulch piles on the Site shall be no more than 60 feet



in height. The height shall be confirmed by the installation of a 60 foot pole installed on the Site. The Site shall have 30 foot access drives around the perimeter of the Site as well as each mulch pile. The piles shall have a low barrier wall around a minimum of three sides of each mulch pile to prevent pile spill and creep to the emergency access way. The low barrier wall shall run the length of the full three sides and the type and size shall be approved by the Fire Chief prior to installation. The fourth side shall have a painted stripe in order to confirm the retention of the 30 foot emergency access way while still providing operators access to the mulch piles.

8. The use involves emission of odorous gases; however, the Board herein conditions the use to mitigate the odorous emissions in order for such quantities to not be offensive and confirm compliance with Bellingham Zoning Bylaw §240-50, Air Quality or any Board of Health regulations adopted pursuant to MGL Chapter 111, Section 31C, including but not limited to those specified odors. In order to assure that emissions shall not be in such quantities that are offensive or impair the public comfort and convenience, the Applicant shall provide an independent assessment during the first peak season months of April through May, after the issuance of the Certificate of Completion for the Site. The assessment shall identify odorous emissions and include a recommended action plan to remediate odorous emissions which have the potential to be discharged beyond the property line of the Site. The report shall be provided to the Planning Board for review six months from the date of Certificate of Completion for the Site improvements approved here in. The Applicant shall have 60 days to remediate the odorous emissions identified. Failure to comply with this condition shall be considered a violation of Bellingham Zoning Bylaw §240-50, Air Quality, and may result in a fine, zoning enforcement action, or any other remedy available to the Town. Each day that such violation continues shall constitute a separate offense. Ongoing monitoring reports shall be submitted annually to the Planning Board in compliance with this condition and the Bylaws stated above. Violation of this condition may result in a fine, zoning enforcement action, or any other remedy available to the Town.
9. The Site shall not create a nuisance to abutters or to the surrounding area, or create any hazard, including, but not limited to, fire, explosion, fumes, gas, smoke, odors, obnoxious dust, vapors, offensive noise or vibrations, flashes, glare, objectionable effluent, or electrical interference, which may impair the normal use and peaceful enjoyment of any property, structure or dwelling in the area. Violation of this condition may result in a fine, zoning enforcement action, or any other remedy available to the Town.

10. The Applicant shall install a timber sound barrier wall as shown on Sheets C-2 and C-3 of the Project Plans, at a height of no less than eight (8) feet from grade.
11. §240-48 Noise, identifies noise levels permitted per use and receiving zones permitted in the Town of Bellingham for each use.

In addition, §154-7 B, Applicability, states no development is allowed, or present or prospective activity allowed to take place on any of the Town's designated scenic roads, unless it is demonstrated that standards identified in §154-7 will not be exceeded at any location outside the property line of the premises, which the location includes any contiguous land committed to be conveyed to the Town as open space.

In response to the requirement of the Development Plan decision standards criteria to demonstrate compliance, the Applicant provided a Sound Survey completed by Cavanaugh Tocci ("CTA") in 2017. The Board then hired Tech Environmental to conduct a peer review of the Sound Survey. Tech Environmental determined that the CTA Sound Study does not demonstrate compliance with the Town of Bellingham Zoning Noise Bylaws or the Town of Bellingham Scenic Roads Noise Bylaw. Furthermore, the CTA Sound Study does not provide any documentation or calculations to justify the effectiveness of any proposed wall. In addition, the Board is concerned that the proposed wall has a large opening along the frontage (the gate) which may hinder the walls effectiveness.

As a result, the Board requires further information to confirm compliance with the Town of Bellingham noise bylaws. The Applicant has stated "the Applicant does not intend to engage additional sound study". Therefore, in order for the Board to confirm compliance the Board shall condition approval on the following:

In order to assure that noise levels shall not exceed permissible levels found in the Town of Bellingham Zoning Noise Bylaws or the Town of Bellingham Scenic Roads Noise Bylaw, the Applicant shall provide an independent assessment during the first peak season months of April through May, after the issuance of the Certificate of Completion for the Site. The assessment shall include a Sound Study as described by the Town's Peer Review Engineer along with a recommended action plan to remediate impermissible noise which has the potential to be discharged beyond the property line of the Site above the permissible levels of the Town of Bellingham Zoning Noise Bylaws or the Town of Bellingham Scenic Roads Noise Bylaw. The report shall be provided to the Planning Board for review six months from the date of Certificate of Completion for the Site improvements approved here in.

The Applicant shall have 60 days to remediate the violations identified. Failure to comply with this condition shall be considered a violation of Bellingham Zoning Bylaw and may result in a fine, zoning enforcement action, or any other remedy available to the Town. Each day that such violation continues shall constitute a separate offense. Ongoing monitoring reports shall be submitted annually to the Planning Board in compliance with this condition and the Bylaws stated above. Violation of this condition may result in a fine, zoning enforcement action, or any other remedy available to the Town.

12. Snow and ice removal shall be the responsibility of the Applicant or a successor and shall be performed in accordance with the approved O&M.
13. Given the location of the Site within the Charles River Watershed, Phosphorous-based fertilizer shall not be used on the Site.
14. All exterior lighting at the Site shall be dark sky compliant and shall not allow spillover of light onto adjoining properties in accordance the Town's Zoning Bylaws. A photometric plan shall be provided to the Town Planner and reviewed and approved by the Planning Board at a regularly scheduled meeting that is deemed to be in compliance with the Town's Zoning Bylaw §240.49 Light and Glare, prior to the issuance of a Certificate of Completion.
15. The Applicant shall replace the seven (7) trees and one (1) stump to be removed along the Site frontage as shown on Sheet C-1 of the Project Plans, with the four (4) Red Maples, the three (3) Shadblow Serviceberrys, and the other landscaping shown on Sheet L-1 and Sheet C-2 of the Project Plans. The Applicant shall also plant up to an additional eight (8) Red Maples on either the eastern or western side of Maple Street in a location suitable to the Town Planner. For a two-year period following planting of such landscaping, vegetation on Sheets C-2 and L-1 of the Project Plans shall be evaluated at the end of the growing season by a landscape architect. Annual reports of such evaluation will be submitted to the Planning Board.
16. Prior to issuance of a Certificate of Completion, the Applicant or Tenant shall deliver to the Town Planner an updated complete list of hazardous materials proposed to be used or stored at the building to the extent required under §240.51 of the Bellingham Zoning Bylaws or other applicable law.
17. As recommended by the Applicant, the gate on the Project Plans shall remain open during business operation, and the Applicant shall ensure that trucks serving the business enter the site shown on the Project Plans without stopping on Maple Street. The Applicant shall install two "Truck Crossing"

signs and two "Ahead" signs on Maple Street approximately five hundred feet in each direction from the entrance to 169 Maple Street.

18. The Applicant shall not operate the portions of its business that involve processing beyond the period between 7:00 a.m. and 6:00 p.m. or dusk, whichever comes first, on all days except Sundays and legal holidays, when it shall be from 12:00 noon until 6:00 p.m., the definition of "Daytime" hours in Section 240-48D of the Zoning Bylaw. Additionally, the Applicant shall make all efforts to schedule offsite trucking (trucks leaving and entering the site) no earlier than 6am and all trucks on site by 6pm, Monday through Fridays, 6am to noon on Saturday, no Sundays. However, upon approval of the Photometric Plan conditioned above, trucks leaving and entering the site, parking, and loading shall be allowed between 7:00 a.m. and 9 p.m. Monday through Saturday, no Sundays.
19. Prior to the commencement of construction, the Applicant shall schedule a preconstruction meeting with the Town Planner and the Board's designated inspector. The Board's inspector shall be permitted to conduct routine inspections, as may be reasonably determined by said inspector, while construction is ongoing relative to this permit and all corresponding Decisions for this Site. The Applicant shall deposit with the Town, sums necessary to fund the inspections contemplated hereunder. Such inspectional fund shall be governed under M.G.L. c. 44 §53G or such other applicable statutory method as may be appropriate.
20. As required by the Bellingham Department of Public Works, any and all access and utility easements that may be necessary shall be in a form approved by Town Counsel prior to the issuance of the Certificate of Completion, such approval shall not be unreasonably withheld.
21. This Decision is binding on the Applicant's successors, assigns, agents, and employees. This approval shall insure to the benefit of and binding upon LMP Properties, LLC provided there is no change in use for the Premises. The Planning Board shall be notified in writing of any changes in affiliates and successors in title and additional users of the Premises.
22. The use shall be limited to storage, processing, and distribution of bulk products including mulch. Any change of use or increase of intensity of the permitted use may require a public hearing to either modify the existing permit or to issue a new permit.
23. The Applicant shall comply with §240-16B(5) and (6) regarding As-Built Plans and follow the policies of the As-Built handbook.


24. This Decision shall not be effective until it is recorded by the Applicant at the Registry of Deeds, with proof of such recording to be supplied to the Board and the Building Inspector.

**D. RECORD OF VOTE**

I vote to **APPROVE (AS CONDITIONED)** the **161 AND 169 MAPLE STREET DEVELOPMENT PLAN APPROVAL**.

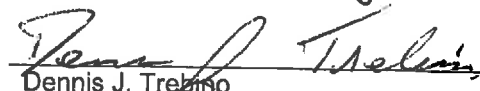
**Bellingham Planning Board**

**April 27, 2021**

  
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William F. O'Connell, Jr., Chairman

  
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Brian T. Salisbury, Vice Chairman

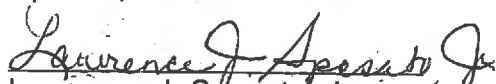
  
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Phillip Devine

  
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Dennis J. Trebino

  
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Elizabeth Berthelette

Appeals of this Decision may be made within thirty days, in accordance with the provisions of G.L. c 40A, §17.

This Decision, together with all plans referred to in it, was filed with the Town Clerk on April 28, 2021.

  
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Lawrence J. Sposato, Jr.  
Bellingham Town Clerk