

22:2, Dec. 14, 2009.¹ Seventy-five homes of the Development were slated for low and moderate income housing, twenty-five percent of the total Development. Id. Each single-family home included a private well and septic system. Appellee's Mem. at 5. The multi-family homes were to share a multitude of the same. Id. Each home was to be built on approximately one-half acre, with the remaining undeveloped acreage placed at the center of the Development. See Brushy Brook (LR-6A Owner, LLC) v. Town of Hopkinton Local Bd. of Review, SHAB No. 2010-3, at 2-3 (Mar. 1, 2013) (Decision). The large parcel of land was zoned RFR-80, which yielded a minimum lot size of roughly two acres per home. Appellant's Mem. at 4. A yield plan was submitted by Christopher Duhamel, a civil engineer retained by LR 6-A, that claimed that the parcel could support 111 units if the entire property was developed. Planning Bd. Hr'g Tr., 43:17-25, Jan. 20, 2010.² If Brushy Brook is built as originally proposed, the Development will increase the Town's housing stock by ten percent. Planning Bd. Hr'g Tr. 13:23-14:1, Jan. 6, 2010.³

From November 2009 to November 2010, the Planning Board held fourteen hearings to address the Application. See generally Planning Bd. Hr'g Tr., Nov. 24, 2009; T1; T3; T2; Planning Bd. Hr'g Tr., Feb. 3, 2010; Planning Bd. Hr'g Tr., Mar. 3, 2010;⁴ Planning Bd. Hr'g Tr., Apr. 7, 2010;⁵ Planning Bd. Hr'g Tr., May 18, 2010; Planning Bd. Hr'g Tr., June 2, 2010;⁶

¹ All references to the transcript of the December 14, 2009 hearing before the Planning Board are referenced as T1.

² All references to the transcript of the January 20, 2010 hearing before the Planning Board are referenced as T2.

³ All references to the transcript of the January 6, 2010 hearing before the Planning Board are referenced as T3.

⁴ All references to the transcript of the March 3, 2010 hearing before the Planning Board are referenced as T4.

⁵ All references to the transcript of the April 7, 2010 hearing before the Planning Board are referenced as T5.

Planning Bd. Hr’g Tr., July 22, 2010;⁷ Planning Bd. Hr’g Tr., Aug. 18, 2010;⁸ Planning Bd. Hr’g Tr., Sept. 15, 2010; Planning Bd. Hr’g Tr., Oct. 20, 2010;⁹ Planning Bd. Hr’g Tr., Nov. 23, 2010. The Planning Board ultimately involved GZA Geoenvironmental, Inc. (GZA) to provide a third-party expert review of the Application. T4 at 5:1-4; 9:13-20. Traffic concerns were reviewed by Bryant Associates. Id. at 6:17-20. Preliminarily, GZA stressed concerns about the proposed density of Brushy Brook. T5 at 7:9-11; 8:23-9:5.

GZA’s final report was submitted on June 2, 2010, and hearing resumed on July 22, 2010. T6 at 2:10-13; see generally T7. The Town Planner, Jim Lamphere (Mr. Lamphere), testified that the smallest lot permitted by existing zoning was 60,000 square feet—in comparison, LR 6-A proposed lots of 20,000 square feet. T7 at 77:6-11. Mr. Lamphere suggested that the Planning Board attempt to arrive at a figure that would be sufficient to both LR 6-A and the Town. Id. at 95:9-24. Additionally, there was testimony regarding the sustainability of current roads with increased traffic patterns, the Development’s close proximity to a hunting area, Arcadia, and the ability to successfully provide water supply and septic systems for residents. Id. at 9:22-11:2; 13:8-20:23; 21:7-33:16.

After this hearing, LR 6-A revised its proposal to reduce the number of homes from 300 to 270. T8 at 9:25-10:2. This reduction also decreased the number of “affordable” homes to sixty-eight, keeping twenty-five percent of the development “affordable.” Id. at 11:8-10. The “affordable” homes were to now be integrated throughout Brushy Brook. Id. at 11:10-16. LR 6-

⁶ All references to the transcript of the June 2, 2010 hearing before the Planning Board are referenced as T6.

⁷ All references to the transcript of the July 22, 2010 hearing before the Planning Board are referenced as T7.

⁸ All references to the transcript of the August 18, 2010 hearing before the Planning Board are referenced as T8.

⁹ All references to the transcript of the October 20, 2010 hearing before the Planning Board are referenced as T9.

A also included a twenty-five foot buffer zone between the Development and Arcadia to combat the concern that Brushy Brook was too close in proximity to the hunting area. Id. at 10:12-21; 12:4-18. Finally, the revised approval included an agreement to widen certain roads to support an increased traffic pattern. Id. at 10:22-11:7. On August 18, 2010, this revised proposal was presented by LR 6-A, along with expert testimony that contradicted GZA's opinions and explained the revised proposal. See generally T8. GZA was directed to review the contradicting testimony in order to assist the Planning Board in comprehending the differing opinions. Id. at 86:7-9; 87:2-12.

In October of 2010, Mr. Lamphere again advised the Planning Board that the density proposed did not support the objectives of the Town and that the parcel was better suited for a development that preserved the rural nature of Hopkinton's surroundings. T9 at 9:18-13:11. He additionally referenced an October 2009 memorandum from Barry Ricci (Mr. Ricci), Superintendent for the Chariho School District. Id. at 27:15-18. The memorandum estimated that Brushy Brook would produce an additional 171 students. Id. at 27:18-20. Mr. Ricci opined that the school system could not absorb the additional students because there were no empty classrooms. Id. at 27:22-28:4. Finally, Mr. Lamphere indicated that Hopkinton was moving steadily toward the ten percent minimum for low and moderate income housing, currently at an estimated 8.3 percent. Id. at 33:5-23. The Chairman of the Planning Board, Alfred DiOrio, stressed concerns about the effects of the density of the Development, including traffic, sewage, water supply, and schooling for children. Id. at 56:8-57:16.

A

The Planning Board Decision and LR 6-A's Appeal to SHAB

The Planning Board concluded that the proposed density of Brushy Brook was far too high for the Town to sustain. Planning Bd. Decision at 119-24. Speaking to sustainability, the Planning Board recognized that the Town would have to expend additional resources to accommodate for the education of 171 additional students. Id. at 122. However, after acknowledging that the Planning Board was “more than justified in denying the Application outright,” id. at 125, the Planning Board ultimately decided to grant master level approval with six conditions. First, the Planning Board approved a density that would range from 93 to 116¹⁰ units, plus a density bonus of twenty-five percent permitted under the Town’s Inclusionary Zoning Ordinance. Id. at 113. With the density bonus, the Application was approved for a total of 116 to 145 units of single-family homes. Id. Second, LR 6-A was required to reconfigure Brushy Brook in order to place more of the open space at the border of the Development and Arcadia. Id. This condition was imposed in order to insulate Arcadia and protect the future residents of Brushy Brook. Id. Only these two conditions were challenged on appeal.

On December 22, 2010, LR 6-A filed a timely appeal of the first two conditions to SHAB. SHAB Decision at 10. Oral arguments convened on December 11, 2012, and SHAB took the appeal under advisement. Id. SHAB invited both parties to submit post-hearing memorandum. Id. On January 29, 2013, during a public deliberation, SHAB held unanimously that both conditions imposed by the Planning Board were consistent with Hopkinton’s Approved Affordable Housing Plan (Affordable Housing Plan or Plan) and affirmed the Planning Board Decision as written. Id. at 11-12. In its written Decision further explaining its findings, SHAB

¹⁰ The exact amount was to be determined during the preliminary stage of review via a yield plan. Planning Bd. Decision at 113.

noted that it focused on two competing interests: “(1) the prospect of adding 68 low and moderate income homes to move Hopkinton closer to the 10% threshold and (2) the clear burdens that the project would impose upon the municipality’s infrastructure and resources.” Id. at 14. SHAB cited to Hopkinton’s Affordable Housing Plan, acknowledging that the Town faces additional barriers in reaching the affordable housing requirement due to:

“lack of substantial infrastructure in the form of town water and sewer, substantial wetlands, a variety of soil conditions and geographical features that do not lend themselves to development . . . and large amounts of the available land (25% of the Town’s acreage) set aside for recreational, open space or uses not compatible with housing or under Town control.” Id. at 15 (quoting Hopkinton Affordable Housing Plan at 20) (internal quotation marks omitted).

The Affordable Housing Plan also makes clear that developers and the Town should be concerned with the impact developments have on the school system. Id. (citing Hopkinton Affordable Housing Plan at 20).

In supporting the density cap, SHAB referenced Hopkinton’s Inclusionary Zoning Ordinance, an ordinance that is in place to promote low and moderate income housing and give weight to the need to achieve the ten percent minimum. Id. at 16. In weighing this need, SHAB discussed the impact that the heavily-dense Development could have on a rural community with a small budget. Id. SHAB noted that the Development would require the expansion of the school system and additional negative impacts on the infrastructure of Hopkinton. Id. at 14-16. In conclusion, SHAB found that the Planning Board Decision was supported by ample evidence on the record and consistent with the Town’s Affordable Housing Plan. Id. at 17.

LR 6-A appealed SHAB’s Decision to this Court on March 21, 2013. In its Memorandum, LR 6-A argues that SHAB erred in concluding that the Planning Board Decision is consistent with Hopkinton’s Affordable Housing Plan. Appellant’s Mem. at 51-57. First, LR 6-A contends that the SHAB Decision is basically devoid of any detailed discussion on whether

the Planning Board Decision is in fact consistent with the Town's Affordable Housing Plan. Id. at 51; 55-56. Second, LR 6-A posits that SHAB failed to give adequate weight to Hopkinton's need to reach the ten percent requirement and Brushy Brook's ability to assist with this need. Id. at 52-53; 57. As additional support, LR 6-A claims that SHAB's discussion of the relevant interests in the Town's Comprehensive Plan are irrelevant, and "'Rural' municipalities will never meet even the minimal Ten Percent statutory standard without incurring some cost in terms of having to accommodate families." Id. at 55-56. LR 6-A also argues that the Town's Affordable Housing Plan does not restrict the density bonus to twenty-five percent in order to subsidize the creation of affordable units. Id. at 53-55. Finally, LR 6-A maintains that environmental issues were prematurely adjudicated at the master plan level of review. Id. at 58-61.

In opposition, Hopkinton alleges that SHAB was correct to determine that the Planning Board Decision was consistent with the Town's Affordable Housing Plan. Appellee's Mem. at 50-52; 55-59. More pointedly, the Town argues that a yield plan did not indicate that the proposed density was permissible under the Town's existing zoning ordinances. Id. at 51; 65-68. However, the Town, in an attempt to move closer to the ten percent minimum, used its Inclusionary Zoning Ordinance to provide LR 6-A with a density bonus. Id. at 65-66. As a result, Hopkinton explains that this percentage is not arbitrary. Id. at 65-68. Hopkinton posits that an increased density bonus is not permissible because it will cause negative environmental and economic impacts in Hopkinton. Id. at 58-59. Finally, Hopkinton argues that SHAB adequately addresses the environmental issues at this stage of review, merely addressing enough to make sufficient findings of fact and leaving the more detailed investigations to later stages of review. Id. at 59-65.

II

Standard of Review

An applicant whose comprehensive permit application is either denied or granted with conditions that make operation of the development infeasible has the right to appeal the decision of the local review board to SHAB. G.L. 1956 § 45-53-5(a). The standard of review which SHAB must apply has been articulated by the General Assembly in pertinent part as follows:

“In hearing the appeal, the state housing appeals board shall determine whether: . . . (ii) in the case of an approval of an application with conditions and requirements imposed, whether those conditions and requirements make the construction or operation of the housing infeasible and whether those conditions and requirements are consistent with an approved affordable housing plan, or if the town does not have an approved affordable housing plan, are consistent with local needs.” Sec. 45-53-6(b)(ii).¹¹

Subsection (c) enumerates a list of factors that SHAB may consider in making its determination:

“(1) The consistency of the decision to deny or condition the permit with the approved affordable housing plan and/or approved comprehensive plan;

“(2) The extent to which the community meets or plans to meet housing needs, as defined in an affordable housing plan, including, but not limited to, the ten percent (10%) goal for existing low and moderate income housing units as a proportion of year-round housing;

“(3) The consideration of the health and safety of existing residents;

“(4) The consideration of environmental protection; and

“(5) The extent to which the community applies local zoning ordinances and review procedures evenly on subsidized and unsubsidized housing applications alike.” Sec. 45-53-6(c).

A decision made by SHAB may be appealed to the Superior Court. Sec. 45-53-5(c). The Superior Court is not permitted to substitute its judgment for that of SHAB as to the weight of the evidence relating to questions of fact. Sec. 45-53-5(d). The Superior Court may only

¹¹ In the case of a denial, SHAB need not consider feasibility of any alternative proposals. Sec. 45-53-6(b)(i).

remand the case for further proceedings, or reverse or modify the decision, if substantial rights of the appellant have been prejudiced because of conclusions made by SHAB which are:

- “(1) In violation of constitutional, statutory, or ordinance provisions;
- “(2) In excess of the authority granted to the state housing appeals board by statute or ordinance;
- “(3) Made upon unlawful procedure;
- “(4) Affected by other error of law;
- “(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
- “(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Id.

On appeal, the Superior Court is required to consider the record of the hearing before SHAB, but may admit additional evidence deemed necessary for the proper disposition of the dispute. Sec. 45-53-5(c).

III

Analysis

The purpose of the Rhode Island Low and Moderate Income Housing Act (the Act) is to provide eligible individuals and families with opportunities to find affordable housing throughout the state. Sec. 45-53-2. Under the Act, parties seeking to construct affordable housing may apply for comprehensive permits by submitting a single application to a local zoning board, rather than separate applications to the applicable local boards. Sec. 45-53-4(a). The comprehensive permitting process is “a streamlined and expedited application procedure,” Town of Burrillville v. Pascoag Apartment Assocs., LLC, 950 A.2d 435, 438 (R.I. 2008), intended to encourage the construction of affordable housing. In order to be eligible for a comprehensive permit, the applicant must guarantee that at least twenty-five percent of the new homes he or she plans to build will be designated as affordable. Sec. 45-53-4(a).

Prior to issuing a comprehensive permit, a local review board must make the following positive findings, supported by legally competent evidence: (a) the proposed development is consistent with local needs as identified in the municipality's Comprehensive Community Plan; (b) where the proposed development is not in compliance with the provisions of the municipality's zoning ordinance, whatever local concerns are affected do not outweigh the need for affordable housing; (c) all affordable housing units proposed are integrated throughout the development; (d) the proposed development as shown on the final plan will not have a significant negative impact on the environment; and (e) the proposed development will not have a significant negative impact on the health and safety of current or future residents of the local community. Sec. 45-53-4(a)(4)(v). A local review board is also permitted to deny the application and may do so for any of the following reasons: (a) the municipality has an Approved Affordable Housing Plan, is meeting housing needs, and the proposal is inconsistent with the Affordable Housing Plan; (b) the proposal is inconsistent with local needs, including the needs identified in an Approved Comprehensive Community Plan, or local zoning ordinances and procedures; (c) the proposal is not in conformance with the municipality's Comprehensive Community Plan; (d) the community has plans to meet the goal of having at least ten percent of the year-round housing units designated as affordable; or (e) concerns regarding the environment and the health and safety of current residents have not been adequately addressed. Sec. 45-53-4(a)(4)(vii).

A local review board must grant approval to a comprehensive permit application at all three stages of the comprehensive permitting process before an applicant can begin construction. Sec. 45-23-39(b). The three stages of the comprehensive permitting process are the master plan review stage, the preliminary plan review stage, and the final plan review stage. Id. At each

stage, an applicant is required to submit the items and documents required by local regulations pertaining to each stage. See §§ 45-23-40(a)(1); 45-23-41(a)(1); 45-23-43(a)(1). An applicant at the master plan stage is ordinarily required to provide information concerning natural and built features of the surrounding neighborhood; existing natural and man-made conditions at the development site; freshwater wetland and coastal zone boundaries; floodplains; the proposed design concept, including public improvements and dedications; construction phasing; and potential neighborhood impacts. Sec. 45-23-40(a)(2).

At the preliminary plan stage, an applicant is typically expected to provide engineering plans depicting the existing site conditions; engineering plans depicting the proposed development project; a perimeter survey; and all permits required by state or federal agencies.

At the final plan stage, an applicant for a comprehensive permit must provide all materials required by the Planning Board when preliminary approval was given, as well as construction schedules and financial guarantees, certification by the tax collector showing that all property taxes are current, and, for phased projects, the final plan for phases following the first phase. Sec. 45-23-43(a)(1).

As discussed above, if a local review board approves an applicant's comprehensive permit application with conditions, the applicant may appeal the decision to SHAB. SHAB must determine whether the conditions are consistent with the town's approved affordable housing plan or, if the town is without such a plan, local needs. Sec. 45-53-6(b)(i). SHAB also must determine whether the imposed conditions are infeasible or not.¹² Id. at § 45-53-6(b)(ii).

¹² LR 6-A does not contest whether the challenged conditions imposed by the Planning Board are infeasible. In fact, LR 6-A submitted a revised proposal that incorporated all of the imposed conditions after the Planning Board Decision was issued, exemplifying that the conditions were feasible. See Planning Bd. Minutes, Apr. 1, 2015. LR 6-A claims that the conditions are arbitrary and unnecessary as the proposed Application is already consistent with the Town's

Subsection (c) of § 45-53-6 lays out five factors to consider in determining whether the conditions are consistent. Hopkinton has an approved affordable housing plan; therefore, SHAB's review was limited to determining whether the imposed conditions were consistent with such plan, using the factors in subsection (c) as guideposts.

A

Consistent with Affordable Housing Plan

In reviewing the Planning Board Decision, SHAB properly focused on whether the imposed conditions were consistent with Hopkinton's Affordable Housing Plan. SHAB Decision at 14-16. SHAB recognized that the Town has two competing interests under its Plan: (1) achieve the ten percent threshold for low and moderate income housing, and (2) do so without burdening the Town's infrastructure and resources. Id. at 14. In balancing these interests, SHAB affirmed the Planning Board Decision in full. Id. at 17. LR 6-A argues that SHAB's Decision was arbitrary or categorized by an abuse of discretion. Appellant's Mem. at 1-2; 51-57; 61-62. This Court disagrees.

SHAB did acknowledge that the Town has yet to meet the ten percent threshold and that approximately twenty-five percent of the Town's acreage is set aside for recreational or open space uses. SHAB Decision at 14-15. Therefore, there is not an abundance of developable land to assist the Town in reaching the ten percent threshold. See id. However, when weighed against the negative impact to the Town's infrastructure, the weight of these factors waned. At the time of the Planning Board Decision, the Town had achieved approximately 8.3 percent of the ten percent requirement. T9 at 33:5-23. The Town's Plan recognizes that, "as a small rural community with a predominately residential tax base, [the Town] can only commit small annual

Affordable Housing Plan. Appellant's Mem. at 1-2; 51-57; 61-62. As a result, the Court finds it unnecessary to consider the feasibility of the imposed conditions.

dollar contributions to the efforts to produce affordable housing, at least for the foreseeable future.” SHAB Decision at 16 (quoting Planning Bd. Decision at 44) (internal quotation marks omitted). Therefore, the Plan aims to phase in the required affordable housing over a twenty-year period through 2025. T9 at 33:5-9. With some years left until 2025, Hopkinton has apparently not reached the point of desperation in regard to affordable housing requirements.

The Plan itself foresees the type of balancing that the Planning Board and SHAB undertook. The Affordable Housing Plan states that “Hopkinton faces a series of typical barriers to the provision of affordable housing including lack of substantial infrastructure in the form of town water and sewer, substantial wetlands, a variety of soil conditions and geographical features that do not lend themselves to development” SHAB Decision at 15 (quoting Affordable Housing Plan at 20) (internal quotation marks omitted). Hopkinton also must consider “local concerns about growth management including school system impact, the increasing cost of development, and steady upward regional pressure of the price of housing.” Id. (quoting Affordable Housing Plan at 20) (internal quotation marks omitted). In considering these concerns, SHAB acknowledged that the Development as proposed would require the expansion of existing schools in order to accommodate approximately 171 new students. Id. at 16. SHAB concluded that this would cause “significant and immediate burdens” to the Town. Id. SHAB placed significant weight on the fact that the Town’s rural infrastructure could not support the Development at the proposed density. See id. This Court does not have the authority to reevaluate the interests at hand and is limited to determining whether the factual determinations are supported by the record. See § 45-53-5(d). The Decision did not prejudice substantial rights of LR 6-A because the Decision was supported by ample evidence on the record that the Application was inconsistent with the Town’s Plan.

Moreover, the density approved was not arrived at arbitrarily. SHAB found that the Planning Board correctly, and to the best of its ability, granted a density bonus under the Town's Inclusionary Zoning Ordinance, a provision that was adopted to help promote low and moderate income housing. SHAB Decision at 16. The Inclusionary Zoning Ordinance permits up to a twenty-five percent density bonus for affordable units. Id. Applying this bonus to the fullest extent, LR 6-A would be permitted to build between 116 and 145 homes. These figures are not arbitrary as LR 6-A contends. Rather, they were arrived at by analyzing current yield plans for the parcel and applying the twenty-five percent density bonus. In addition, both Decisions make clear that the exact number of homes will be determined during the preliminary review stage after a more accurate yield calculation is presented.¹³ Id.

LR 6-A argues that Inclusionary Zoning is not relevant here and that the Plan does not provide for a cap on density bonuses. The Town's Affordable Housing Plan directs Hopkinton to amend its current Inclusionary Zoning Ordinance to "ensure an automatic yearly increase in Hopkinton's Fair Share 10% subsidized units." Affordable Housing Plan at 30. The Plan goes on to state: "Hopkinton already allows up to a 10% bonus on the final value of units if applicants are willing to create affordable housing. Under inclusionary zoning that density bonus could be increased to 20% or even 25%." Id. The Plan also emphasizes an interest in directly tying density bonuses to the production of affordable units. Id. at 6. Here, the number of affordable units represents twenty-five percent of Brushy Brook. A twenty-five percent density

¹³ The Court finds LR 6-A's comparison to Kaveny v. Town of Cumberland Zoning Bd. of Review, 875 A.2d 1 (R.I. 2005) unavailing. There, a yield plan showed that the parcel could support 111 units, and SHAB affirmed the local board's approval of 160 units without any discussion of how it arrived at this figure. Id. at 8. SHAB's decision in Kaveny lacked indication as to why the local board approved an additional forty-nine units on top of the yield plan. Id. Here, however, the Planning Board and SHAB arrived at a figure by applying the current yield plan and a density bonus that was provided for under an Inclusionary Zoning Ordinance.

bonus directly correlates to this affordable production. While the Court refrains from deciding whether there is a ceiling on density bonuses, it finds support for the imposed twenty-five percent cap in the Town's Affordable Housing Plan, current yield plans, and infrastructure concerns addressed above. In conclusion, SHAB's Decision to affirm the Planning Board Decision was neither arbitrary nor characterized by an abuse of discretion.

B

Premature Findings on Environmental Impacts

LR 6-A argues for reversal of SHAB's Decision on the basis that it was based on premature findings on environmental impacts. Appellant's Mem. at 58-60. More pointedly, LR 6-A claims that environmental issues should not be considered at the master plan level of review but should be reserved for later stages. *Id.* In support, LR 6-A cites § 45-53-4(a)(4)(v)(D), which states that "[t]here will be no significant negative environmental impacts from the proposed development as shown on the final plan, with all required conditions for approval" (emphasis added). Sec. 45-53-4(a)(4)(v)(D).

Section 45-53-4(a)(4)(vii) states that a local board may deny an application:

“(A) if city or town has an approved affordable housing plan and is meeting housing needs, and the proposal is inconsistent with the affordable housing plan; (B) the proposal is not consistent with local needs, including, but not limited to, the needs identified in an approved comprehensive plan, and/or local zoning ordinances and procedures promulgated in conformance with the comprehensive plan; (C) the proposal is not in conformance with the comprehensive plan; (D) the community has met or has plans to meet the goal of ten percent (10%) of the year-round units... low and moderate income housing; or (E) concerns for the environment and the health and safety of current residents have not been adequately addressed.” (emphasis added).

Furthermore, the local board's findings must be supported by “legally competent evidence on the record.” Sec. 45-53-4(a)(4)(v). While § 45-53-4(a)(4)(v)(D) does point to significant environmental issues being resolved by the final plan, it in no way undercuts that environmental

issues can be addressed before the final stamp is sealed. Section 45-53-4(a)(4)(vii) makes clear that a local board can outright deny an application for failing to adequately address environmental concerns. Furthermore, all findings by the local board must be based on legally competent evidence. Sec. 45-53-4(a)(4)(v). In order to make these determinations, some environmental evidence must be presented and considered. As a result, this Court holds that environmental issues were not prematurely considered. While environmental issues do not need to be conclusively determined at the master plan stage of review, a generalized plan must be presented to address such issues. See Town of Smithfield v. Bickey Dev. Inc., No. 11-1017, 2012 WL 4339200, at *10 (R.I. Super. Sept. 19, 2012) (McGuirl, J.) (stating that “the master plan does not require specific engineering plans” but “at least a general plan as to the Project”). As a result, substantial rights of LR 6-A have not been prejudiced by the consideration of environmental issues at this stage of review.

IV

Conclusion

Based on the findings and conclusions of this Court as stated above, the Decision of SHAB is affirmed in full. SHAB’s Decision is not arbitrary or characterized by an abuse of discretion. The Decision is supported by ample evidence on the record that the infrastructure of the Town would be negatively burdened by a Development with a heightened density. This Court further finds that environmental findings were not prematurely considered but analyzed in order to fully balance the Town’s goals under its Affordable Housing Plan. Substantial rights of LR 6-A have not been prejudiced. Counsel shall submit an appropriate order and judgment consistent with this Decision for entry.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: LR 6-A Owner, LLC v. Town of Hopkinton Planning Board, et al.

CASE NO: PC-2013-1328

COURT: Providence County Superior Court

DATE DECISION FILED: April 22, 2016

JUSTICE/MAGISTRATE: Carnes, J.

ATTORNEYS:

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