

Town of Johnston  
Planning & Economic Development

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*Memorandum*

**TO:** Johnston Planning Board

**FROM:** Thomas E. Deller, AICP, Town Planner and Administrative Officer

**DATE:** January 19<sup>th</sup>, 2021

**RE: PB 21-03 - Retail Distribution Facility - 2120 Hartford Ave - Public Hearing for a proposed Major Land Development Master Plan and Unified Development Review. AP 54 Lots 39,40, 42, 54, 61, 75, 89, 90 & 93 - Zoned - B-3 - Applicant - Bluewater Property Group**

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**Background**

An application has been filed to develop a retail distribution facility, of up to six-stories, with a ground floor area of approximately 823,522 square feet, and a total area of up to 3,864,972 square feet on a parcel of 195.49 acres. The majority of the property will remain undeveloped. A solar facility presently located on AP 54 Lot 42 will be relocated to another property; this relocation will require Planning Board approval.

The property is zoned B-3 which is intended to encourage and enable large-scale development. The proposed development will be set back from Hartford Avenue with more than half of the site remaining in its natural state. Two access points are proposed from Hartford Avenue.

The 823,522 square foot ground floor will consist of shipping and receiving areas with truck dock bays; casing, sorting, and labeling of goods assembled via material handling equipment from upper stories which will be staffed; and, employee support spaces. The 379,570 square foot Mezzanine/Platform level will consist of automated robotic sorting equipment which will handle materials from above. This area will have limited employee presence. Levels 2, 3, 4 and 5, each approximately 665,470 square feet, will consist of material storage, and robotic sorting and transportation of materials to the ground floor with limited employee presence.

The applicant is seeking approval of the major land development Master Plan and the granting of dimensional variances from certain provisions of the Zoning Ordinance pursuant to Unified Development Review. The applicant is also requesting waivers, as permitted, from certain requirements of the Zoning Ordinance and the Land Development & Subdivision Review Regulations

The following variances or waivers are being sought through Unified Development Review or as permitted in the Zoning Ordinance:

**Section 340-22. Freshwater wetlands.** Requires that no wetlands may be altered without the approval of RIDEM and the Johnston Town Council. The applicant will be altering wetlands, subject to RIDEM approval.

**Section 340-27.2**

**B. Landscaping Standards. (1) General Requirements. (a).** landscaping of the site should consist of a minimum of 15% of the site.

**B. Landscaping Standards. (2) Site Protection (d)** Requires that tree and other plant specimens that are “large for their species, rare to the areas, or of horticultural or landscape value” should be saved and if removed, replaced on site with species of comparable size and type. The Board may grant a waiver to this requirement.

**Section 340-27.2**

**C. Waivers.** The Board may grant waivers to the minimum landscaping standards. The following waivers are being sought:

- a. A waiver to space trees at intervals greater than 35 feet.
- b. A waiver to have less than the 10 square feet minimum of landscaping for each parking space.
- c. A waiver so that parking rows do not have to be terminated with landscaped islands.
- d. A waiver so that parking area do not have to include deciduous trees.

**Section 340-29. Table of Uses and Required Off-Street Parking.** Note 3. Requires one electric vehicle charging station per 100 employees. Applicant requests permission to install based on demand.

**Section 340-86. B. (3) Dimensions and Setbacks.** The zoning ordinance does not set a maximum building height for retail distribution facilities; however, office uses are limited to 90 feet. The applicant is requesting 120 feet in height.

**Section 340-88. Parking.**

**A. Requirements.** If retail distribution is classified as “light manufacturing use”, given the building size, 7,735 parking spaces would be required; the applicant is proposing 1,794 parking spaces.

**Section 340-89. Loading zones.**

**B. Commercial/retail and lighting manufacturing.** If retail distribution is classified as “light manufacturing use”, given the building size, 97 loading spaces would be required; the applicant is proposing 69 loading spaces.

**Section 340-90. Buffer Zones.** The applicant is proposing to create a buffer zone only in those locations where the existing vegetation is disturbed. While the applicant has indicated that they are seeking a variance to this provision of the ordinance, staff believes what the applicant is proposing is in conformance with the ordinance.

**Section 340-91. Performance Standards.**

**A. Architectural Form.** The ordinance requires that buildings that are visible for Hartford Avenue must be developed in the “spirit and character of a town center”. A variance is requested.

The applicant is also seeking waivers from the Land Development and Subdivision Regulations. It should be noted that the Regulations anticipate that waivers may be required and authorizes the granting of waivers if the waiver does not conflict with the intent of the Regulations, the Zoning Ordinance and the Comprehensive Plan. The following waivers are requested:

**Section III, Article A. General Requirements. No. 2 Character of Land.** Does not permit construction activity within any wetland or wetland buffer area.

**Section III, Article F. Drainage Improvements. No. 10. Preservation of natural features.** Requires the preservation of any trees over 8 inches in diameter.

**Major Land Development Master Plan Check List** - Requires a Class 1 Survey with all monumentation.

**Request**

The petitioner is seeking Master Plan approval of the Major Land Development with several waivers to the Regulations and under Unified Development Review is requesting the listed variances be granted.

**Review**

The Major Land Develop plan has been reviewed and the following has been found:

Regulations	Comments
<p><b>Land Development Regulations.</b>  <b>Section IV. Article E. No. 2</b>            a. Application and Master Plan             b. Copy of Tax Map with parcel highlighted.            c. Abutters List &amp; Radius Map            d. Application Fee            e. Comments from:                Municipal Departments                 Adjacent communities                State Agencies                 Federal Agencies  <i>Note to the <b>Board</b>, this is the Master Plan stage, drainage, traffic, wetlands, soil erosion and other engineering requirements are required at the Preliminary Plan stage.</i>   <i>Note to the <b>applicant</b>, at the Preliminary Plan</i></p>	<p>Conforms - Note: There is a conflict between the Regulations and the Checklist. The Master Plan stage does not require a Class1 survey and monumentation.            Conforms            Conforms            Conforms             Police, Fire, Engineering and Public Works have been contacted. No comments at this time.            Not applicable            Preliminary discussions have been held; no comments at this time.            Not applicable</p>

<p><i>stage, in addition to all requirements, an outdoor lighting plan will be required.</i></p>	
<p><b>Zoning Ordinance</b>  <b>Article XIV - Interchange Business District</b>  <b>Section 340-83. Purpose.</b></p> <p><b>Section 340-85. Uses.</b></p> <p><b>Section 340-86. Dimensions and Setbacks.</b></p> <p><b>Section 340-87. Specific Offsets.</b></p> <p><b>Section 340-88. Parking.</b></p> <p><b>Section 340-89. Loading zones.</b></p> <p><b>Section 340-90. Buffer Zones.</b></p> <p><b>Section 340.91. Performance standards.</b>  <b>A. Architectural form &amp; appearance.</b></p> <p><b>B. Open Space requirements.</b></p> <p><b>C. Signs.</b></p> <p><b>D. Streets.</b></p> <p><b>Section 340-22. Freshwater Wetlands.</b></p> <p><b>Section 340-27.2 Landscaping design standards.</b></p>	<p>Conforms</p> <p>Conforms</p> <p>Conforms to all setback requirements. Seeking a variance for building height.</p> <p>Conforms</p> <p>Seeking variances and/or clarification of requirements.</p> <p>Seeking variances and/or clarification of requirements.</p> <p>Staff believes the proposal conforms; lack of clarity in the ordinance may require Board granting of a variance.</p> <p>The ordinance requires that the building must follow the spirit and intent of a town center design; this is not possible with a retail distribution facility. Ordinance gives final approval of building design to the Board. Variance requested.</p> <p>Conforms</p> <p>Proposed signs are not included in the application. Subject to review at later stages. No public streets proposed. Design standards for proposed private streets will be reviewed for approval at Preliminary Plan stage. If applicant is proposing to give the private streets a name, the name is subject to approval by Public Works. Any signage associated with the street name must be produced in accordance with town standards and installed by the applicant.</p> <p>RIDEM approval will be sought for any work in a wetland or wetland buffer. Applicant is seeking a variance to this provision with respect to Town Council approval.</p>

<p><b>B. Landscaping standards.</b></p> <p><b>(1) General requirements.</b></p> <p><b>(2) Site protection and general planting requirements.</b></p> <p><b>(3) through (15)</b></p> <p><b>C. Waivers</b></p> <p><b>Section 340-29. Note No. 3.</b></p>	<p>Conforms. The applicant is seeking a variance because the ordinance is not clear if natural, undisturbed vegetation is considered landscaping. It is the practice that undisturbed areas count as part of the required 15% landscaping.</p> <p>Given the size of this proposed development, it is possible that the applicant will need to remove trees or species that are rare to the area. The Board should grant a waiver to this requirement. Subject to review at Preliminary Plan stage.</p> <p>The applicant is seeking waivers to several of the requirements in B. Landscape standards. This request seems reasonable, and will be discussed below.</p> <p>The ordinance requires 1 electric charging station for every 100 employees on a shift. A variance has been requested with the applicant indicating that said stations will be installed upon actual demand. Staff believes this is a reasonable request and needs to properly conditioned on any approval.</p>
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**Unified Development Review**

**Section 340-22. Freshwater wetlands.** This section of the zoning ordinance prohibits development in wetlands or wetland buffers. It does, however, state that any alteration may not take place “without prior approval of the Rhode Island Department of Environmental Management”. When wetlands are present on a site, the Board grants all approvals subject to RIDEM approvals. The applicant acknowledges in the addendum to the application that they will comply with this requirement. Given this assurance by the applicant, further approval by the Town Council should not required.

**Section 340-27.2**

**B. Landscaping Standards. (1) General Requirements. (a).** Landscaping of a development parcel must cover at least 15% of the site. The applicant, in their request for a variance or waiver, states that it is unclear if undisturbed land can be counted as part of the required 15%. It has been the practice of staff to count undistributed land as part of the required landscape area. In fact, number (4) Additional Landscaping of this section states “All areas of the site not occupied by buildings and required improvements shall be landscaped . . . unless the existing natural landscaping and terrain are to be maintained and otherwise approved by the Board”. It is staff’s opinion that the Board should approve the existing natural vegetative state as part of the required 15% landscaping requirement.

**B. Landscaping Standards. (2) Site Protection (d)** This application proposes the development of approximately 75 acres of a 195-acre site. Because of the scale of the building

and the support parking, it is not possible to selectively save trees or plant specimens in the construction area. At the preliminary plan stage, the Board will review a landscaping plan for this project. If any specimen trees or plants are identified, the Board may require the applicant to plant similar varieties of trees and plants.

The Board is authorized to grant a waiver to the requirements of this section when the applicant demonstrates that site and design conditions warrant that the requirement be waived. It is staff's opinion that the scale of the development warrants a waiver of this requirement.

**Section 340-27.2**

**C. Waivers.** The Board may grant waivers to the minimum landscaping standards. The following waivers are being sought:

- a. A waiver to Space trees at intervals greater than 35 feet.
- b. A waiver to have less than the 10 square feet minimum of landscaping for each parking space.
- c. A waiver so that parking rows do not have to be terminated with landscaped islands.
- d. A waiver so that parking area do not have to include deciduous trees.

It is not clear in the addendum to the application as to why the applicant is seeking this waiver, but a review of the site plan shows that the western parking area is designed for the parking of tractor trailers and is not landscaped, while the parking lot to the east is designed for cars and does appear to meet these requirements. Tractor trailers present greater issues in parking lot design. Turning radius severely limit parking and travel lane layout and if the zoning requirements were enforced a greater area of the parcel would have to be disturbed and more pavement would be introduced. Additionally, there is a security issue; the trailers, when parked need to be unobscured for security purposes.

The Ordinance does allow the Board to grant a waiver to these requirements. Staff believes that the request is reasonable and that the Board should grant the waiver and indicate to the applicant that at the Preliminary Plan stage the landscaping plan will be reviewed in detail to insure adequate landscaping and where possible, conformance with the ordinance.

**Section 340-29. Table of Uses and Required Off-Street Parking.** The applicant is seeking to delay installation of electric vehicle charging stations until there is a proven demand. While electric vehicle use is limited at this time, vehicle manufactures are developing a variety of electric vehicles and the need for charging stations will grow in the coming years. Staff has no objection to delaying this requirement to some future date based on demand and suggests that the Board permit the applicant to have five years to conform to this requirement.

**Section 340-86. B. (3) Dimensions and Setbacks.** The zoning ordinance does not set a maximum building height for light manufacturing which is the most appropriate category in which to class a retail distribution facilities; the applicant is requesting 120 feet in height. The question is, was the omittance of a building height for light manufacturing just an oversight or was no height required to allow the ultimate in flexibility to design a building to meet the needs of the proposed use. Staff believes the latter. Given the proposed use, the building as designed is appropriate and in accordance with Section 340-91A. (3) the Board should approve “. . . the overall project proposal in terms of height, size, style . . .”.

***Section 340-88. Parking.***

***A. Requirements.*** A majority of the proposed building is a warehouse and robotic equipment to move the retail product from storage to shipping. It makes no sense to require parking for space that has little to no staffing. If this project were to be in an Industrial Zone, one space for every two employees would be required. The proposed 1,794 spaces would support a staff of 3,588 employees. Additionally, the applicant has pointed out that if the B-3 parking requirement were used to calculate parking for the first floor of the building, the area where most employees will work, only 1,652 parking spaces would be required. Staff believes the applicant has met the requirements to show that the required parking creates a hardship for this development.

***Section 340-89. Loading zones.***

***B. Commercial/retail and lighting manufacturing.*** The proposed development will have 69 loading docks and 378 spaces for the parking of truck trailers; the B-3 Zone requires 97 loading spaces. While the applicant is asking a variance to the loading space requirements, it is staff's opinion that when the loading docks and the truck trailer parking is taken into consideration, the proposed development meets and exceeds the zoning requirement.

***Section 340-90. Buffer Zones.*** The applicant is proposing to create a buffer zone only in those locations where the existing vegetation is disturbed. While the applicant has indicated that they are seeking a variance to this provision of the ordinance, staff believes what the applicant is proposing is in conformance with the ordinance.

***Section 340-91. Performance Standards.***

***A. Architectural Form.*** There is a conflict in our ordinance as it requires that buildings that are visible for Hartford Avenue must be developed in the "spirit and character of a town center", yet it permits light manufacturing which cannot meet that requirement. It is staff's opinion that given the proposed use, the building as designed is appropriate and in accordance with Section 340-91A. (3) the Board should approve "... the overall project proposal in terms of height, size, style ...".

**Land Development and Subdivision Review Regulations**

The applicant, in accordance with the provisions of Section V. Article C. of the Regulations, is seeking waivers from the Land Development and Subdivision Regulations. It should be noted that the Regulations anticipate that waivers may be required and authorizes the granting of waivers if the waiver does not conflict with the intent of the Regulations, the Zoning Ordinance and the Comprehensive Plan. The following waivers are requested:

***Section III, Article A. General Requirements. No. 2 Character of Land.*** While the Regulations state that no construction activity is permitted within any wetland or wetland buffer area. However, the Section of the Regulations on what is required when an application is filed, anticipates that work may happen in a wetland or wetland buffer. Even state law anticipates that development may happen in a wetland or wetland buffer. This proposed development, given the scale of the project, will impact wetlands; however, the developer has committed to minimize that impact and to work with RIDEM. The requested waiver to the General Requirements to allow work in a wetland or wetland buffer should be granted as the request is "reasonable and within the general purposes and intent of the provisions of the Regulations", and the "literal enforcement of the provision is impracticable and will exact undue hardship" because this project could not be developed if the waivers were not granted.

***Section III, Article F. Drainage Improvements. No. 10. Preservation of natural features.***

While it is unknown if there are any trees over 8 inches in diameter in that portion of the site to be developed, it is likely that there are some trees that would meet this requirement. Given that scale of this development, the removal of trees in excess of 8” in diameter is “reasonable and within the general purposes and intent of the provisions of the Regulations”, and the “literal enforcement of the provision is impracticable and will exact undue hardship” because this project could not be developed if the waivers were not granted.

***Major Land Development Master Plan Check List*** - There is a conflict between our regulations and the application checklist. The Regulations, Section IV Article E. 2. a. states that the Master Plan must show the “Approximate location of boundary lines, easements, rights of way” and additionally, does not require monumentation. This conflict will be addressed in the updated checklist which will be submitted to the Board for review and approval in the coming months.

**Comments/Concerns:**

As this is a Master Plan submission, the plans are not detailed to an extent that raises many Comments or Concerns. The following points are made:

- PWSB approval – In the coming months, the Town will be selling its water system to the PWSB; once transfer takes place, all plans for water service will need approval from the PWSB.
- Internal Private Road – The internal circulation road must be built to the standards of the Land Development and Subdivision Review Regulations.
- Signage – No signage has been submitted as part of this application. Signage plans for the project, when developed, must be submitted to the Board for review and approval.
- Illumination Plan – As part of the Preliminary Plan submission, the applicant must submit an illumination plan which depicts sustained lighting across the site.
- An Administrative Subdivision plan must be submitted as part of the Final Approval merging all lots into one.
- Staff reserves the right to offer further comments at the meeting.

**Recommendation**

State law and the Land Development Regulations require that the Board must consider the requested variances identified in the Unified Development Review application prior to acting on the Master Plan. And if the variances are granted, the Board must condition their granting on the receipt of Final Approval of the Major Land Development project.

*Unified development review*

Staff has reviewed the application as submitted and finds the following as it relates to the requested variances:

1. The parcel has wetlands and will need extensive grading to allow the development of the project.



2. A majority of the building will be used solely for the warehousing of retail project with limited staffing.
3. The applicant has presented a series of facts specifically to this development that substantiate the need for the waivers and variances requested.
4. The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant.
5. The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
6. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of this Ordinance or the Comprehensive Plan upon which this Ordinance is based.
7. The relief granted is the least necessary and if denied would constitute more than a mere inconvenience.
8. Where permitted by the Ordinance, the Board grants the requested waivers as they are the least necessary for the project.
9. The variances are granted to the extent consistent with the express representations by Applicant on the stenographic record and are subject to any conditions or stipulations discussed during the hearing. The applicant shall not deviate from the plans submitted to the planning department or expand the project beyond the relief testified to at the public hearing. The Town reserves the right to future inspection for compliance with the relief requested and granted.

And recommends that the Board grant the variances and waivers subject to the Final approval of the Major Land Development.

#### *Preliminary Plan*

The staff believes that this application for a Master Plan approval conforms to all the requirements of the zoning ordinance with the approval of the Unified Development Review; that the requested waivers to the Regulations should be granted as the literal enforcement would result in undue hardship; the plans, as proposed, are designed to minimize impact on existing development and traffic; the proposed development conforms to the purpose and intent of the B-3 zone; and, the major land development plan as submitted should be approved. Staff recommends approval of the Master Plan conditioned on the presentation by the applicant and this staff report.