

## KEY ISSUES TO IMMEDIATELY DISCUSS AND RESOLVE

### Disclaimer

My name is Tom Quinn. I am the author of this white paper that investigates the current issues relating to the Jacobson project and why this application should be voted down. It is necessary to be clear that this white paper, and the comments/positions contained within, are my personal opinions as a citizen and neighbor of this project, not as a member of the Planning Board. I have recused myself from the Transformations case and will not participate in Board discussions or deliberations. As the comments made herein are my own, they in no way represent the views or opinions of other Planning Board members or the Board as a whole. No current Board members or alternates were consulted in the writing of this white paper. Lastly, any comments contained herein are specific to the Transformation proposal and are not intended to opine about any other current or future applications before the Board.

Dear Planning Board members,

I am hoping it may be helpful to share some of my perspective on the Jacobson case as someone who is sitting out in the audience observing the proceedings. It has been interesting and frustrating to say the least, especially of late.

First, I get the impression that less and less new and relevant information is being presented by the applicant each meeting. This simply wastes everyone's time. There are only a few key issues that are immediately relevant and they are not being discussed as they should be. The issues, as I see them, are presented in this letter.

Second, it is clear to me that both the applicant and abutters/residents are growing frustrated and digging in with both explicit and implicit legal threats being tossed around. I do not see how this case does not end up in a courtroom no matter the decision. The focus should be on making the most legally defensible decision, not the easiest one.

Third, I find it ironic that the applicant has accused the PB of dragging this case out. We are over two years into the present case (Since CUP approval) and 14 months of that time, the planning board was waiting on the applicant to present an application. It is entirely possible that this case would be resolved by now had the applicant promptly submitted an application after CUP approval.

The fourth observation from the last meeting, and frankly prior meetings as well, is that the applicant is spending far too much time talking about things that really aren't that important or up for dispute at this stage. It really doesn't matter how good of a builder he is, how important it is to the Jacobson family to maintain farming at the site or rehashing for the Nth time bonus density calculations. Virtually none of this type of testimony is either relevant or a factor at this point in arriving at a legal and just conclusion to this application.

Fifth, it appears that all parties are disregarding the advice of Community Development in their letter to the applicant dated 11/4/25. In this letter CD told the applicant to be ready to defend the

proposal's compliance with the ordinances. In my opinion, this trajectory of this case hinges on a few key issues that so far, have not been directly addressed by either the applicant or PB.

The key issues, as I see them now, are listed below. If any of these few issues are deemed problematic or in conflict with the relevant ordinances, the PB should be ready to render a decision very soon, if not immediately. Some of these key issues are likely quite easy to resolve. Others may be more difficult. If any of these key issues are problematic or non compliant with relevant ordinances, this application must be denied.

#### Focused list of items to immediately consider and decide

##### CUP

1. Is the CUP valid? Currently there are conflicting legal opinions on the matter.
2. If the CUP is deemed valid, then the question needs to be whether or not the application still meets all the required conditions of CUP. It needs to.
3. Generally to obtain a CUP, the given project should not be materially more impactful in various ways than would a similar project otherwise and already allowed in the zone. This is explicitly expressed in section 3.18 C.1.d and implicitly expressed in 3.18 C.1.c.
4. The focus should be on new information obtained since CUP approval and on aspects that have changed from the CUP approved plan to the current plan. Right now there is new information and plan changes to consider. Strangely enough, the applicant does not feel this to be the case.
5. If, as the applicant suggests, nothing has changed or no new information has been presented since the CUP approval, why was there a 14 month delay with the application submittal? What were they doing if not preparing lots of new information?
6. There is no need to rehash anything that has not changed as the applicant is prone to do.
7. As I attempted to briefly explain at the 12/11/25 meeting, I believe the most critical difference currently is that there is now some detail related to the scope of excavation that wasn't available at the CUP stage. This additional information relates to the "Jakes Hill Rd" road profile. The amount of earth movement and related truck traffic to build the road alone is staggering by my estimate. (See 12/8/25 Quinn letter for extensive detail on this issue.) My estimates in that letter include the road only and do not include any other site work that will also be extensive. The applicant needs to provide their own estimates as to the scale of the whole excavation and how much construction truck traffic and other impact should be expected during a 4+ year build out. The applicant has far better tools to do this than I do. The applicant also needs to explain why the amount of excavation that is likely proposed with this application would not have negative effects materially greater than any other allowed use in the zone. The large amount of excavation activity and related heavy truck traffic bringing in and taking out earth materials could pose safety and health risks as well as excessive noise, vibrations and fumes for those in the vicinity of this project.
8. If the applicant is unwilling or unable to address the scale of excavation related to the project, the CUP requirements should be deemed "no longer met".



9. The recent letters and concerns from the SAU and APD should be considered and discussed as well.
10. If the PB feels that changes to the plan or new information received means CUP conditions are no longer met, that should be sufficient to deny the application. If all continues to be in compliance, move on to key PRD issues.

#### PRD

1. The very first question that must be asked and answered is whether or not the PB believes this layout is "clustered". This is a key determination to make as this term is widely used in the PRD ordinances and regulations and it is a requirement. Some questions may be:
  - a. If the purpose of a clustered layout is to compact the development footprint, does this layout accomplish that goal?
  - b. Where is the identifiable center or core of the cluster or clusters?
  - c. How are frontage lots integral to any cluster?
  - d. Is this lot even of a nature that is even conducive to clustered PRD development with most buildable area on or close to frontage and clearly visible?
  - e. Does the Jacobson "cluster" resemble those of other previously approved and constructed PRDs?
2. If it is determined that a "cluster" exists, the PB must then look to the first, and in my opinion, most important PRD requirement found in the "Purpose" section of the ordinance. Namely that the "PRD shall not detract from the visual and ecological qualities of the environment". This basic requirement is virtually unchanged from 2019 to present. The ordinance in place in 2019 offered no guidance on how to evaluate this condition. Later versions did provide some qualities to look for in order to aid in a determination on this matter. However, since none of the qualities found in later versions of the ordinance were prohibited from being considered in 2019, and very likely were considerations in 2019, I believe it is entirely reasonable to consider them today as you consider this on a 2019 basis.
3. The applicant seems to believe any factors to make this determination found in later versions of the ordinance cannot be used in this case to evaluate the application. (See page 48 of applicants 12/11/25 slide deck) Do you agree?
4. If you agree with the applicant in that the qualities listed in later versions of the ordinance to evaluate whether there is visual impact cannot be used in this case, what qualities would or can you use today to make a determination?
5. If you do not agree with the applicant's position, you should ask the following and be able to answer "true" to all to prove that the PRD does not detract from the visual qualities of the environment (non inclusive):
  - a. Is frontage construction avoided?
  - b. Are mature tree retained throughout the development?
  - c. Are setbacks in excess of minimums prevalent in the proposal?
  - d. Are heritage stone walls preserved?
  - e. Is there a material amount of frontage land clearing?

- f. Is this PRD mostly or entirely shielded from view from the frontage?
- g. Does the layout maintain the rural nature and look of the area?
- 6. If any, most or all of these factors are answered in the negative, the logical conclusion is that the proposal does in fact detract from the visual and ecological qualities of the environment. The "shall not detract" PRD requirement would be violated.
- 7. Curiously, the applicant's attorney letter of 1/2/26 defended some areas PRD compliance (clusters specifically) but did not speak at all to the requirement that the project "shall not detract from the visual or ecological qualities of the environment". This is interesting and telling at the same time.
- 8. I personally find it impossible to conclude that this project does not have a large visual impact on the area especially given the amount of highly visible frontage construction and the extensive tree removal necessary for the solar component of the project.

### Conclusion

In fairness to the applicant, the Planning Board and the residents, it is of vital importance to answer the key issues in this letter immediately. Key compliance issues must be addressed first. If there is a problem with any of these issues, nothing else is worth discussing at this point.

I believe that the ultimate trajectory of this application can be quite quickly determined by simply focusing on the issues contained in this letter and again listed below.

- 1. Is the CUP valid? If yes;
- 2. Have any plan changes been made, or new information been offered, that would change the determination that CUP conditions continue to be met? If CUP conditions are still met then;
- 3. Is this PRD in fact "clustered"? If yes;
- 4. Does this PRD proposal NOT detract from the visual and ecological qualities of the environment as required?

I believe this proposal runs into multiple problems if one honestly looks at the requirements contained within these key issues. I also believe these determinations can be made in a single meeting and a path to approval or denial is clear.

Despite what the applicant might think, a scaled down version of a previously failed proposal does not mean the proposal is now compliant with the relevant ordinances. While the original scale was indeed a problem, it wasn't the only problem. In my opinion, this is a classic case of "applicant insanity" -doing the same thing over and over and expecting a different result.

The only issue at this point is compliance with relevant and key aspects of the ordinances.

Should this application fail yet again, the applicant would be wise to take a step back and consider other ordinance alternatives that may be more appropriate for a layout like this on these particular pieces of land. This application does not lend itself to PRD compliance. Going further along this road is nothing more than trying to put a square peg in a round hole.