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July 19, 2022

***By Electronic Mail***

Toni Mooradd, Chair  
Ipswich Planning Board  
Town Hall  
Ipswich, MA 01938

**Re: 55 Waldingfield Road – Property Tax Impacts**

Dear Chair Mooradd and Members of the Board:

I write on behalf of the Friends of Waldingfield regarding Ora's recent July 15, 2022 submission, in which Ora once again claims that there will be "positive fiscal impacts of the Project," and once again refuses to provide any evidence that this *will actually be true*.

Under Massachusetts law, to grant a special permit "there must be set forth in the record substantial facts which rightly can move an impartial mind, acting judicially, to the definite conclusion reached," *Gaunt v. Bd. of Appeals of Methuen*, 327 Mass. 380, 381 (1951). In *Gaunt*, the Court found that without such substantial facts in the record, "the action of the board of appeals was a nullity and that its decision must be annulled." *Id.*

Ora's legal burden and obligation — to quote directly from the Special Permit Bylaw — is to provide "sufficiently detailed, definite, and credible information" to show the "potential fiscal impact, including impact on town services, tax base, and employment." Section X.J.2.b.ii. By any objective measure, Ora has failed to do so.

First, Ora's repeated claim about tax base impacts is that the "value of the building and land will increase annually, based upon the work performed" and that this "will have a net fiscal benefit to the Town." These assertions are devoid of any numerical evidence of how much — or even *whether* — the Town will receive more than the \$39,000 in taxes being paid by the current owner. Ora has presented no evidence to support its assertion that "\$500 per square foot"<sup>1</sup> is a plausible renovation cost, or that it actually intends to invest anywhere near \$15 million dollars in rehabilitation costs alone. Put frankly, Ora's conclusory claims are neither detailed nor definite, making it impossible to know whether they are credible. As

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<sup>1</sup>Curiously, last month on page B5 of its written presentation to the Board, Ora claimed (again, without evidence) that the maximum cost was instead "\$450 per square foot".

Professor Yaro's recent testimony points out, the repeated and continued unwillingness of Ora to even *estimate* what the fiscal impact will be on the Town's tax base is a "red flag".

Second, Ora claims that a conservation restriction under G.L. c. 184, §§ 31-33 "will not reduce the value the Property" for local taxation purposes. Ora appears unaware that for nearly forty years the Massachusetts Supreme Judicial Court has held the **exact opposite**. In *Parkinson v. Board of Assessors of Medfield*, 398 Mass. 112 (1986), the SJC ruled that a property owner who donated a valid conservation restriction **was eligible for and entitled to an abatement of her property taxes** in proportion to the reduction in the development value of the property. Every assessor in Massachusetts is aware of this binding precedent. Ora's assertion to the contrary may be rhetorically convenient, but is legally wrong.

Third, Ora intentionally misstates Ms. Eddy's email to criticize her for a point she *was not making* about the reduction in land values. She expressly stated that if conserved land were also placed "into a *Chapter 61* conservation restriction tax program,"<sup>2</sup> its value would decrease "by at least 75% and by at most nearly 100%." That is simply a recitation of state law: the official Massachusetts Department of Conservation and Recreation guide to Chapter 61 confirms that for land maintained as open space in "pasture condition" — for which "public access is not required" — "[r]ather than being assessed for its development value . . . **the assessed value of the land is reduced by at least 75%.**"<sup>3</sup> Similarly, land under forestry (Chapter 61) or agriculture (Chapter 61A) use is valued based on "the estimated market value of agricultural products the land is capable of producing." DOR's *own comparison chart* — reproduced below — shows that, as Ms. Eddy correctly stated, the actual property taxes generated by Chapter 61 or 61A land are routinely **nearly zero**.

Of course, all of the above merely highlights the fact that Ora has not provided the Planning Board with *any* of the proposed legal instruments for establishing the conservation restrictions required under Section IX.H.5.c of the GEPD Bylaw, making it impossible to know what Ora actually intends to be bound by in this respect. Seeing these documents would enable the Planning Board and the public to properly evaluate the impact, value, and desirability of the proposed conservation restrictions.

Finally, it is telling that Ora does not dispute the central and crucial point of Ms. Eddy's email: that even under Ora's most optimistic scenario, its investments will likely generate only marginally higher tax revenues, but at the expense irreparably damaging the character of one of the Town's most historic scenic roads. And that if 55 Waldingfield sold to Ora for \$4.3 million or less, the net tax revenue would likely be *less* than the \$39,000 in taxes the current owner pays now.

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<sup>2</sup> As Ora is well aware, a single parcel of land can utilize *both* a Chapter 184 conservation restriction and a Chapter 61 tax reduction, and it is the rare landowner who uses the former but foregoes taking advantage of the latter.

<sup>3</sup> <https://masswoods.org/sites/masswoods.net/files/Ch61-v2.pdf>

**Comparison of Property Taxes for Forestland under Ch. 59 (no program),  
Ch. 61B & Ch. 61/61A Based on FY 14 Tax Rates**

Town	Number of Enrolled Acres	Land Assessment	FY 2014 Tax Rate	Ch. 59 (no program)	Ch. 61B	Ch. 61/61A
Boxford	6.45	\$288,400	\$15.47	\$4,462	\$1,115	\$5*
Taunton	18.00	\$145,600	\$14.61 (Res) \$31.19 (Com)	\$2,127	\$532	\$13
Falmouth	9.46	\$289,300	\$8.15	\$2,358	\$589	\$4*
Phillipston	72.16	\$179,700	\$16.29	\$2,927	\$732	\$58
Sterling	45.87	\$293,300	\$16.93	\$4,966	\$1,241	\$38
Charlton	13.68	\$105,500	\$12.66	\$1,336	\$334	\$8
Hawley	41.00	\$70,400	\$16.05	\$1,130	\$282	\$43
Montague	14.64	\$75,300	\$16.34 (Res) \$24.85 (Com)	\$1,230	\$308	\$12
Williamsburg	67.63	\$263,400	\$17.37	\$4,575	\$1,144	\$76
Chester	130.25	\$107,300	\$20.88	\$2,240	\$560	\$177
Southwick	24.00	\$93,700	\$17.06	\$1,599	\$400	\$26
Richmond	22.23	\$549,500	\$10.29	\$5,654	\$1,414	\$15
Monterey	92.00	\$746,900	\$6.08	\$4,541	\$1,135	\$36

\*Due to minimum acreage requirements, this value is calculated only for Ch. 61A Forestland

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Ora has failed to meet its legal obligation to provide detailed, definite, and credible information about the tax revenue it claims it will generate. The fact that Ora also appears unfamiliar with certain fundamental aspects of local property taxation law only underscores why it is essential that the Planning Board require Ora to provide *actual* evidence for its tax revenue claims, rather than simply aspirational rhetoric.

Please do not hesitate to contact me or my colleague Doug McGarrah if you should have any questions.

Sincerely,



Thaddeus Heuer

Cc (by email): Ethan Parsons, Director of Planning and Development  
 Andrea Bates, Assistant Town Planner  
 Anthony Marino, Town Manager  
 Tammy Jones, Chair, Select Board