



Contact  
MHP

**TOWN OF ACTON**  
P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**

---

TO: Board of Selectmen  
FROM: ACHC  
SUBJECT: Proposal to hire 40B consultant  
DATE: March 18, 2004

The ACHC has been contacted by a developer who is preparing conceptual plans for a very large Chapter 40B project. We are meeting with him on April 1 and hope to get more information on his plans. We have informed him that there is a process that we follow and have forwarded to him the details of the procedures.

In anticipation of this permit request being filed, ACHC has voted to seek your support for the hiring of a consultant to give technical assistance to the Town in reviewing the proposal, providing technical and financial review, negotiating with the developer, and advising the ZBA and other town boards. I have included information from the Mass. Housing Partnership Fund that details the Technical Assistance provided by them to municipalities dealing with Chapter 40B's. They grant up to \$10,000 to communities to help fund the expense and help with the selection of an appropriate consultant. This is the program that was used for the Towne School proposal; they funded the feasibility study for the Town at a cost of \$22,000.

This letter is a heads-up to the BOS, we are trying to get out in front of this proposal and be proactive. After the recent unpleasant experience on Franklin Place, the ACHC has no desire to be caught in the middle on this one. This potential development will be much more demanding than anything the ACHC or Town Staff has experienced in the recent past. In the late 1980's, the Town hired a consultant to help negotiate the proposed 135 unit North Acton Woods development which in the end was never constructed. It was a very constructive experience.

We would anticipate using New View funds to provide additional funding for the consultant should the MHP not be able to fully fund this service. We are seeking conceptual approval from the BOS for this expenditure without asking for a specific amount yet. After our meeting on April 1 we will be prepared to seek specific action from the Board. We will contact MHP in the meantime to gather more information on the assistance they could provide.

April 15



MASSACHUSETTS HOUSING PARTNERSHIP  
Community Housing Initiatives

## CH. 40B TECHNICAL REVIEW ASSISTANCE Program Guidelines

**PROGRAM SCOPE:** Massachusetts Housing Partnership (MHP), with support from the *Massachusetts Department of Housing and Community Development (DHCD)*, *Massachusetts Housing Investment Corporation (MHIC)* and *MassHousing*, provides technical assistance to Zoning Boards of Appeal (ZBA) reviewing applications for Comprehensive Permits pursuant to Massachusetts General Law (M.G.L.) c.40B.

The purpose of the program is to assist the Zoning Board of Appeals (ZBA) and other municipal Boards address specific Ch. 40B development proposals. MHP provides financial grants of up to \$10,000 to engage third-party, qualified consultants on behalf of the ZBA for municipalities reviewing Ch. 40B proposals. Consultants work with the ZBA and other Boards to increase local capacity to review applications. Communities receiving technical assistance from MHP have successfully negotiated comprehensive permits - on terms mutually agreeable to the town and the developer -- in about three-quarters of the cases. In other cases MHP's technical assistance has helped ensure that inappropriate 40B proposals are withdrawn or has given communities the confidence to deny 40B applications when warranted. MHP engages consultants on behalf of municipalities reviewing Ch. 40B requests for homeownership projects. For rental developments, municipalities directly select and engage the consultant from a list of pre-qualified candidates provided by MHP.

### PROGRAM PROCEDURES

#### Application Process:

1. Applicants, preferably the ZBA, may initiate the technical assistance request once the developer files the 40B proposal with the municipality.
2. Applicants must contact MHP to discuss each project prior to receiving an application. A two-page technical assistance application is required and must be signed by the chief elected official and ZBA Chair of the municipality. MHP reserves the right to reject applications that are submitted after the hearing has opened.

#### Consultant Services:

1. Pre-qualified development consultants educate municipal boards and staff about the Ch. 40B process, review applications with the ZBA, identify areas requiring further study or discussion with the developer, and facilitate productive discussions between the ZBA and the developer.
2. The municipality agrees that the MHP consultant is the "lead" consultant for the project and will review and approve the use of additional consultants requested by the municipality. Failure to do so may result in termination of the 40B TA award.

#### Uses of Technical Assistance Funds:

1. MHP staff will work with the applicant to determine the amount of the technical assistance award.
2. MHP's technical assistance does not take the place of services that are typically the financial responsibility of the developer, such as Peer Review of engineering, traffic, architecture and other technical issues.
3. Legal costs for municipal counsel and mediation are not within the scope of this program.
4. MHP pays consultants directly upon authorization of satisfactory work from the municipal contact.

#### Reporting & Evaluation:

1. MHP requests that the municipality notify MHP if TA funds are not needed after a grant is processed.
2. A copy of the decision is required from the ZBA upon completion of the hearing. Decisions may be sent directly to MHP.
3. MHP requires the submission of a *MHP Program Evaluation Form* that evaluates the technical assistance provided by the consultant.

*Please note: Because of limited program resources, MHP will not provide assistance to communities that have been certified by DHCD to have an affordable housing inventory that is at or above 10% or exceeds 1.5% of land zoned for residential, commercial or industrial use.*

**To speak to MHP staff about your 40B project and to request an application,  
contact Tatiana Xenelis at (617) 330-9955 x 292 or [txenelis@mhp.net](mailto:txenelis@mhp.net).**

Mass Housing Partnership \* 160 Federal Street 2<sup>nd</sup> Fl. \* Boston, MA 02110 \* Tel: 617-330-9955 Fax: 617-330-1919 \* [www.mhp.net](http://www.mhp.net)



*Real Estate Consulting & Brokerage*

March 19, 2004

Betty McNanus  
Executive Director  
Acton Housing Authority  
68 Windsor Avenue  
PO Box 681  
Acton, MA 01720

**RE: Proposed Apartment Project**

Dear Betty:

We would like to thank you for providing information as to the specific procedure that needs to be followed when proposing an affordable housing project within the Town of Acton. Our goal is to work in cooperation with the Acton Housing Authority in evaluating and structuring what we are confident will be a successful project while providing to the Town of Acton an affordable housing component.

Subsequent to our most recent conversation, I contacted our engineers and architects as to the status of their efforts. While you indicated that our first meeting would be very preliminary, we have reconsidered whether in fact whether we will have the proper plans and elevations completed so that we can accurately describe the proposed project.

Unfortunately, it has become apparent that we will not be ready for April 1<sup>st</sup> and respectfully request that we postpone our initial presentation until the next available meeting. As I understand, that meeting is scheduled for April 15<sup>th</sup>. It is our hope that we might even have ready the entire submittal package for your review, but at a minimum, we will be well prepared to present all of the key information about this project.

I sincerely apologize should our delay have caused you an inconvenience. Within the next 10-days, I will prepare a more formal letter providing greater detail as to the project. At your

**32 Elk Drive • Bedford, NH 03110  
(603) 472-3808 • (603) 471-0782 Fax**

Betty McNanus  
March 19, 2004  
Page 2

convenience, it would be greatly appreciated if you could confirm whether we can be included on your April 15<sup>th</sup> agenda.

I look forward to meeting with you and your board. Should you have any questions or concerns, please do not hesitate to call.

Sincerely,  
**EQUITY ALLIANCE CORP.**

A handwritten signature in cursive script, appearing to read "Joel Kahn". The signature is written in black ink and is positioned below the typed name.

Joel Kahn, CCIM  
President

cc: BOS  
ACTC

Plans in my office  
minutes

May 13, 2004

Walter Foster, Chairman, Board of Selectmen  
Don P Johnson, Town Manager  
Town of Acton  
472 Main Street  
Acton, MA 01720

**RE: The Woodlands at Laurel Hill  
Acton, MA**

Dear Selectmen Foster and Mr. Johnson:

On May 10, 2004, The Woodlands at Laurel LLC presented a plan to the Board of Selectmen for a proposed 296-unit apartment community to be located in Nagog Park, Acton, MA. On May 4, 2004, the owners met with various Department representatives to review the scope of this project.

Following that meeting, application has been made to MassDevelopment for site eligibility. Enclosed please find a copy of the Site Approval Application submitted to MassDevelopment. The application will provide you additional information regarding the proposed project. Should you have any questions or concerns or if you should require additional information, please do not hesitate to call.

We are anxious to maintain an open dialogue with the various Town departments and committees working with each to make this a truly successful project.

Sincerely,

**On behalf of The Woodlands at Laurel Hill  
EQUITY ALLIANCE CORP.**



Joel Kahn, CCIM  
President



**MassDevelopment**  
**PROJECT ELIGIBILITY APPLICATION**  
**Projects Applying for Comprehensive Permits pursuant to M.G.L. ch. 40B**

**General Information**

1. Name of Development: The Woodlands at Laurel Hill
2. Location of Site (Give the exact assessors map, block and lot numbers of the site, as well as its street number and the name of cross streets):

Map/Block/Lot: Map B-5, Lot #s 2,4,6,7,9,11 and 42

Street Address: 551-557 Great Road rear, 80-82 Nagog Park

City/Town; Zip Code: Acton, 01720

Cross Streets (if Applicable): Nagog Park is an existing private road within the Nagog Park office park. Nagog Park intersects Route 2A at a signalized intersection.

3. Developer (and applicant, if different legal entity):

Name: The Woodlands at Laurel Hill LLC

Street: 676 Elm Street, Suite 300

City/Town; Zip Code: Concord, MA 01742

Telephone: 978-369-4884

4. Legal Structure:
  - a.) Is the applicant/developer a Limited Dividend Organization  
Yes (prior to closing – organization documents in process)
  - b.) Limit on annual return on equity (if applicable) 10%

5. Type of financing applying for:

- a.)  Construction Loan
- b.)  Construction to Permanent
- c.)  Permanent Only

6. Project Description: The project is proposed as a 296-unit rental project to be located on a 20± acre parcel in Acton, MA. The site will have 11 three story buildings (some are a 3-4 split) and a 3,200 square foot clubhouse. The proposed amenities will include a fitness center, theatre, business center, and outside pool.

### Local Contact

Describe any local discussions/consultations that have taken place with the relevant governing boards of the community, noting dates of these meetings and comments that have been made to date. At a minimum, prior to any submitting a Project Eligibility Application to MassDevelopment, meetings must be held with the Chief Elected Official or Town/City Manager or their representatives.

1. Chief Elected Official (Mayor, Selectmen, etc.) /Town or City Manager

Name: F. Dore' Hunter, Selectmen: Roland Bartl, Town Planner;  
Don Johnson, Town Manager  
Telephone: 978-264-9612

Meeting Dates: 4/15/04 5/4/04

Comments: A complete overview of the project was presented. At the 5/4/04 meeting, a majority of the department heads attended to better understand the location and design of the apartment community. An information meeting with the Selectmen was held during a regularly scheduled public hearing on May 10, 2004.

2. Planning Board

Meeting Dates: 6/8/04

Comments: A meeting has been scheduled at an upcoming scheduled meeting to present an overview of the project. The Planning Director did attend the meeting that was held on 5/4/04.

3. Zoning Board of Appeals

Meeting Dates: \_\_\_\_\_

Comments: A meeting will be immediately scheduled upon submission of the formal application. It should be noted that the Building Commissioner (considered the staff liaison to the ZBA) did attend the 5/4/04 meeting.

4. Other (Specify) Acton Community Housing Corp

Meeting Dates: 4/15/04 \_\_\_\_\_

Comments: The board requested that we consider the addition of three bedroom units into the project. We indicated that this would be considered but the school district may object due to the impact of the additional children into their system.

### Site Information

1. Total Gross Area of Site:

Acreage: 19.4 Square Footage: 801,097

2. Total Buildable Area of Site:

Acreage: 17.66 Square Footage: 769,053

3. Current Zoning Classification: OP-1 Office District & Affordable Housing Overlay District

Current/Existing Use(s): vacant land

Planned Use(s) - Refer to Municipal Land Use Plan (if applicable):

The zoning district permits the following uses: Agriculture, Conservation, Municipal, Education, Religious, Child Care Facility, Office, Health Care Facility, Repair Shop, Technical Shop, Building Trade Shop, Warehouse, and Manufacturing. By special permit, the district permits: Full service retirement community, Hospital, Medical Center, Commercial Recreation, Adults Uses, and Scientific. The overlay district permits a Minor or Major Affordable Housing Development as provide for in Section 4.4.4.

4. a.) Is any portion of the site a designated wetlands areas?

Yes X No     

If yes, attach map of site noting all wetlands, including buffer areas.

b.) Is the site located with a designated flood hazard area?

Yes      No X

Note: (If applicable, include a copy of any Order of Conditions issued by the local Conservation Commission or Massachusetts Department of Environmental Protection relating to the site as an attachment).

c.) Are there any hazardous waste sites adjacent to or within a 1/2-mile radius of the site?

Yes      No X

d.) What were the prior uses of the subject property?

Describe: The property is considered undeveloped land though the parcel was partially cleared in preparation of an office building being constructed.

e.) Is the site or any building thereon listed, nominated or eligible for listing on the National Register of Historic Places?

Yes      No X

f.) Is the site within a designated municipal, state or federal Historic District?

Yes      No X

5. Describe the form of site control that you have including type of agreement and expiration date if applicable. (Attach copies of relevant executed agreements as Attachment 1):

a.) Owned by Developer (or Applicant, if different legal entity):

---

b.) Under Purchase and Sale Agreement

Nagog Development Company to Recreation Realty Trust

Date of Agreement: November 12, 2002 and as amended  
Expiration Date: March 31, 2006  
Purchase Price: See Below for transfer to the developing entity

Russell and Sally Leduke to Recreation Realty Trust

Date of Agreement: November 1, 2002 and as amended  
Expiration Date: July 1, 2006  
Purchase Price: See Below for transfer to the developing entity

Recreational Realty Trust to The Woodlands at Laurel Hill LLC

Date of Agreement: March 1, 2004  
Expiration Date: July 1, 2006  
Purchase Price: \$2,789,470

6. Most Recent "Arms Length" Sale:

Date: May 23, 1997                      Price: Unknown

Seller: Iron Bucket Liquidation Trust

Buyer: Nagog Development Company

7. Availability of Utilities (Describe whether any of the following will be provided as part of this development):

a.) Sanitary Sewer:      Yes \_\_\_      No X

Private Waste Water Treatment Facility to be constructed in Westford on abutting land controlled by Recreational Realty. The application to the ZBA will include the construction of this facility. The waste water treatment facility will service this project, the apartments proposed in Acton and other abutting land controlled by Recreational Realty.

Distance from Site: \_\_\_\_\_

Size Connector: \_\_\_\_\_

b.) Storm Sewer:      Yes \_\_\_      No X

Distance from Site: \_\_\_\_\_      Size Connector: \_\_\_\_\_

c.) Public Water:      Yes X      No \_\_\_

Distance from Site: At Site Size Connector: 10"

d.) Gas: Yes X No     

Electricity: Yes X No     

e.) Streets: Yes X No     

Sidewalks: Yes X No     

Curbs: Yes X No     

### Project Information

1. Size of Development:

a.) Total Number of Units: 296

b.) Number of Handicapped Accessible Units: 15  
handicapped and 88 adaptable

c.) Number of Buildings: 11 plus clubhouse

d.) Number of Stories (By Construction Type - See #4  
below): 3

e.) Number of Commercial Units: None

2. Total Gross Square Footage of Building Space: 338,960

Total Gross Square Footage of Commercial Space: 0

3. Project Type:

a.) New Construction X

b.) Rehabilitation     

4. Construction Type (if applicable, indicate number of each):

a.) Detached:     

b.) Townhouse:

- c.) Low-Rise (less than 35 feet): \_\_\_\_\_
- d.) Mid-Rise (between 35-70 feet):   X
- e.) High-Rise (more than 70 feet): \_\_\_\_\_

5. Fire Code Type (check all that apply):

- a.) Concrete Frame \_\_\_\_\_
- b.) Protected Steel \_\_\_\_\_
- c.) Masonry Bearing Wall \_\_\_\_\_
- d.) Wood Frame   X
- e.) Other \_\_\_\_\_

6. Type Fuel:

- a.) Gas   X
- b.) Oil \_\_\_\_\_
- c.) Electric   X
- d.) Other \_\_\_\_\_

7. Parking Spaces:

- a.) Detached Garages (specify):   127
- b.) Surface:   366
- c.) Total:   493

8. Initial Rent or Sales Schedule - Complete the chart below for each proposed unit type according to affordability restriction. In the box for number of bedrooms, indicate the bedroom breakdown by identifying the number of single room occupancies (SRO's), studios, 1BR, 2BR, etc.

Unit Type	# of Units	# of Bedrooms	# of Baths	Net Sq. Feet	Proposed Rent (per unit & aggregate)	Proposed Sale Price (per unit & aggregate)
Less Than 50% A.M.I.						
Less Than 60% A.M.I.						
Less Than 80% A.M.I.	37	One	One	850	1,240.00	
	17	Two	Two	1,065	1,488.00	
	21	Two	Two	1,290	1,488.00	
Market Rate	111	One	One	850	1,350.00	
	49	Two	Two	1,065	1,550.00	
	61	Two	Two	1,290	1,875.00	

**INITIAL CAPITAL BUDGET**  
**(Estimated Sources and Uses of Funds)**

<b>Development Funding</b>	<b>Total Funding</b>	<b>Source(s)</b>
Construction Debt:	\$41,856,023	HUD 221 (D)(4) Program
Permanent Debt:	\$41,856,023	HUD 221 (D)(4) Program
Public Equity/Soft Debt:		
Private Equity:	\$2,171,455	Investor Cash Contribution to be provided at Closing
<b>TOTAL PERMANENT SOURCES:</b>	<b>\$44,027,478</b>	

	Total Costs	Per Unit Costs
<b>Site Acquisition</b>	2,789,470	\$9,423.89
Hard Costs:		
•Site Preparation	2,000,000	6,756.76
•Landscaping	Included	Included
•Residential Construction	29,634,821	100,117.64
<b>Subtotal Hard Costs:</b>	31,634,821	106,874.40
Contingency	500,000	1,689.89
<b>Total Hard Costs:</b>	32,134,821	108,564.29
<b>Soft Costs:</b>		
•Permits/Surveys	2,368,000	8,000.00
•Architectural	303,016	1,023.70
•Engineering	175,000	591.22
•Legal/Title/Recording	75,000	253.38
•Insurance	50,000	168.92
•Security	0	0
•Developer's Fee	500,000	1,689.19
•Construction Manager/Dev Consul	200,000	675.68
•Property Taxes	50,000	168.92
•Construction Interest	2,333,671	7,884.02
•Mortgage Insurance Premium	209,500	707.77
•Appraisal	15,000	50.68
•Inspecting Engineer	209,000	706.08
•Financing/Application Fee	649,000	2,192.57
•Utilities	Included	Included
•Maintenance (Unsold Units)	Not Applicable	Not Applicable
•Accounting/Cost Certification	15,000	50.68
•Marketing and Rent Up	295,000	996.62
<b>Subtotal Soft Costs:</b>	7,447,187	25,159.43
Contingency / Reserves	1,656,000	5,594.59
<b>TOTAL DEVELOPMENT COSTS</b>	44,027,478	148,741.48

## Attachments

The following items are required to be attached to this application in order for it to be complete:

1. Evidence of site control
2. A town/city map noting the site location and its distance from police station, schools, fire station, recreation, public transportation, city or town hall.
3. A site description, including detailed written directions to the site noting the entrance to the site, relevant boundaries and any prominent landmarks that can be used for identification purposes. Confirmation and description of access to a public way must be included and identified on the submitted site plans. A photograph of the entrance of the site with an appropriate landmark must also be included.
4. Preliminary architectural plans and specifications for the proposed development.
5. Site plan including lot lines, existing streets and buildings.
6. Construction period sources & uses of funds.
7. 15-year operating pro-forma including debt service coverage.
8. Rent comparability study.
9. Utilities plan showing existing and proposed locations and types of sewage water, drainage facilities, etc.
10. State approvals or determinations applicable to the site/proposed project, if any, such as Conservation Commission Order of Conditions, MEPA Determination.
11. Site assessments, if any, performed under Chapter 21E.
12. Secretary of State filing evidencing status as a Limited Dividend Organization.
13. A check for the \$2,500.00 non-refundable application fee made payable to the MassDevelopment must be submitted with each application.

## **Applicant Certification**

The undersigned hereby certifies that he/she is Managing Member of The Woodlands at Laurel Hill LLC and that the information requested below for the project known as The Woodlands at Laurel Hill contained in this application to MassDevelopment is true and correct to the best of his/her knowledge.

Note: All non-residential uses, or proposed, within 1/2 mile of the subject site, which may create adverse effects upon subject, must be detailed. Such uses include, but are not limited to, land fills, industrial, know hazardous waste sites, and vacant land that been used for non-agricultural.

Signature of Developer/Applicant  Date 5/13/04

**In order for this Project Eligibility Application to be complete, the original with all attachments must be submitted to:**

Anthony E. Fracasso  
Senior Vice President, Investment Banking  
MassDevelopment  
75 Federal Street, 10<sup>th</sup> Floor  
Boston, MA 02110

**With one copy to each of the following:**

Director  
Massachusetts Department of Housing  
Community Development  
One Congress Street, 10<sup>th</sup> Floor  
Boston, MA 02114

**And**

Each of the parties listed in the Local Contact section of this Application

May 13, 2004

Betty McNanus  
Acton Community Housing Corp  
68 Windsor Avenue  
PO Box 681  
Acton, MA 01720

**RE: The Woodlands at Laurel Hill  
Acton, MA**

Dear Ms. McNanus:

On behalf of The Woodlands at Laurel Hill LLC, we would like to thank you for arranging the opportunity to meet with you and the Acton Community Housing Corporation to introduce the above referenced project. We also truly appreciate the suggestion made by your organization and in specific, the idea that we meet with the Selectmen at their next scheduled public hearing.

Subsequent to our meeting, we have had a meeting with Roland Bartl along with the various department heads to introduce all of them to the project. We have also met with the Selectmen at their May 10<sup>th</sup> meeting.

At this point, we would like to have our first formal meeting with the Acton Community Housing Corp. As part of the submittal requirements, enclosed please find 13 copies of the following:

- ✓ The Site Approval Application submitted to MassDevelopment.  
Contained within this document you will find:
  - Location of project, name of applicant, form of entity, and owner of record.
  - Density
  - Housing types
  - Proposed subsidy program
  - Number and percentage of affordable units
  - Preliminary development pro forma

Betty McNanus

May 13, 2004

Page 2

- ✓ Existing condition plan showing topography and environmental features, roads, drives, buffers, and major environmental features
- ✓ Conceptual site plan showing building footprints, parking, roads, drives, buffers, and major environmental features

Our consultants are still busy preparing plans and the supporting documentation that will be part of the Zoning Board of Appeals application. As a result of their time restraints, the Zoning and Subdivision Rules and Regulations conformity analysis and traffic analysis have yet to be completed. Please advise if it is acceptable that these be provided at a later date.

Please let us know if you have any questions or concerns or require additional information. I look forward to hearing from you as to when we will meet with the Acton Community Housing Corp to further our discussions.

Sincerely,

**On behalf of The Woodlands at Laurel Hill LLC  
EQUITY ALLIANCE CORP.**

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Joel Kahn, CCIM  
President



*Real Estate Consulting & Brokerage*

May 13, 2004

Betty McNanus  
Acton Community Housing Corp  
68 Windsor Avenue  
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Acton, MA 01720

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Joel Kahn, CCIM  
President



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Fax (978) 266-1408

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**

---

TO: Board of Selectmen  
FROM: Acton Community Housing Corporation  
SUBJECT: Preliminary comments on The Woodlands at Laurel Hill  
DATE: 5/6/04

On April 15, Joel Kahn of Equity Alliance made a presentation to the ACHC on behalf of his clients (Omni Corp.) for a proposed 352 unit apartment complex located off Nagog Park, in both Acton and Westford. Preliminary designs and concepts were presented and discussed. The developers will be using Mass Housing Finance Agency as the subsidizing agency who will be contacting the Board of Selectmen in the near future to receive assurance that the Town of Acton is aware of this proposal. The appointment on Monday, May 10 will give them an opportunity to present preliminary information on the proposal to the Board.

ACHC has not taken a position on this proposal and will not until after the final plans are developed and presented first at a Public Information Session and subsequently to ACHC prior to filing a comprehensive permit with the ZBA. However we do have some preliminary concerns that need to be raised in the preliminary stages of this development so that the developers can incorporate them into the final planning.

Here is a list of the major issues:

1. Density ACHC believes the proposed number of units per acre (15) is too dense.
2. Parking ACHC believes the proposed 450 parking spaces are too few for the number of units.
3. Perpetuity ACHC expects to have the deed restrictions for the affordable units extend into perpetuity or until such time as the Town approves a change in the term.
4. Foreclosure Protection ACHC insists that the affordable units be protected from foreclosure by having the deed restriction be "senior" to any liens on the property but in no case should the Town sign a Regulatory Agreement that would allow any foreclosures on those units.
5. Income eligibility ACHC requests the household income eligibility for 25% of the units be set at 70% of the Area Median Income (A.M.I.). This would allow a 10% eligibility window to include households from a minimum of 60% A.M.I. to a maximum of 80% A.M.I.

ACHC will continue to follow this development closely and will submit more detailed comments after we see the next iteration of plans.

COPY

MassDevelopment  
**PROJECT ELIGIBILITY APPLICATION**  
Projects Applying for Comprehensive Permits pursuant to M.G.L. ch. 40B

**General Information**

1. Name of Development: The Woodlands at Laurel Hill
2. Location of Site (Give the exact assessors map, block and lot numbers of the site, as well as its street number and the name of cross streets):

Map/Block/Lot: Map B-5, Lot #s 2,4,6,7,9,11 and 42

Street Address: 551-557 Great Road rear, 80-82 Nagog Park

City/Town; Zip Code: Acton, 01720

Cross Streets (if Applicable): Nagog Park is an existing private road within the Nagog Park office park. Nagog Park intersects Route 2A at a signalized intersection.

3. Developer (and applicant, if different legal entity):

Name: The Woodlands at Laurel Hill LLC

Street: 676 Elm Street, Suite 300

City/Town; Zip Code: Concord, MA 01742

Telephone: 978-369-4884

4. Legal Structure:
  - a.) Is the applicant/developer a Limited Dividend Organization  
Yes (prior to closing – organization documents in process)
  - b.) Limit on annual return on equity (if applicable) 10%

5. Type of financing applying for:

- a.)  Construction Loan
- b.)  Construction to Permanent
- c.)  Permanent Only

6. Project Description: The project is proposed as a 296-unit rental project to be located on a 20± acre parcel in Acton, MA. The site will have 11 three story buildings (some are a 3-4 split) and a 3,200 square foot clubhouse. The proposed amenities will include a fitness center, theatre, business center, and outside pool.

### Local Contact

Describe any local discussions/consultations that have taken place with the relevant governing boards of the community, noting dates of these meetings and comments that have been made to date. At a minimum, prior to any submitting a Project Eligibility Application to MassDevelopment, meetings must be held with the Chief Elected Official or Town/City Manager or their representatives.

1. Chief Elected Official (Mayor, Selectmen, etc.) /Town or City Manager

Name: F. Dore' Hunter, Selectmen: Roland Bartl, Town Planner;  
Don Johnson, Town Manager  
Telephone: 978-264-9612

Meeting Dates: 4/15/04 5/4/04

Comments: A complete overview of the project was presented. At the 5/4/04 meeting, a majority of the department heads attended to better understand the location and design of the apartment community. An information meeting with the Selectmen was held during a regularly scheduled public hearing on May 10, 2004.

2. Planning Board

Meeting Dates: 6/8/04

Comments: A meeting has been scheduled at an upcoming scheduled meeting to present an overview of the project. The Planning Director did attend the meeting that was held on 5/4/04.

3. Zoning Board of Appeals

Meeting Dates: \_\_\_\_\_

Comments: A meeting will be immediately scheduled upon submission of the formal application. It should be noted that the Building Commissioner (considered the staff liaison to the ZBA) did attend the 5/4/04 meeting.

4. Other (Specify) Acton Community Housing Corp

Meeting Dates: 4/15/04

Comments: The board requested that we consider the addition of three bedroom units into the project. We indicated that this would be considered but the school district may object due to the impact of the additional children into their system.

### Site Information

1. Total Gross Area of Site:

Acreage: 19.4 Square Footage: 801,097

2. Total Buildable Area of Site:

Acreage: 17.66 Square Footage: 769,053

3. Current Zoning Classification: OP-1 Office District & Affordable Housing Overlay District

Current/Existing Use(s): vacant land

Planned Use(s) - Refer to Municipal Land Use Plan (if applicable):

The zoning district permits the following uses: Agriculture, Conservation, Municipal, Education, Religious, Child Care Facility, Office, Health Care Facility, Repair Shop, Technical Shop, Building Trade Shop, Warehouse, and Manufacturing. By special permit, the district permits: Full service retirement community, Hospital, Medical Center, Commercial Recreation, Adults Uses, and Scientific. The overlay district permits a Minor or Major Affordable Housing Development as provide for in Section 4.4.4.

4. a.) Is any portion of the site a designated wetlands areas?

Yes X No     

If yes, attach map of site noting all wetlands, including buffer areas.

b.) Is the site located with a designated flood hazard area?

Yes      No X

Note: (If applicable, include a copy of any Order of Conditions issued by the local Conservation Commission or Massachusetts Department of Environmental Protection relating to the site as an attachment).

c.) Are there any hazardous waste sites adjacent to or within a 1/2-mile radius of the site?

Yes      No X

d.) What were the prior uses of the subject property?

Describe: The property is considered undeveloped land though the parcel was partially cleared in preparation of an office building being constructed.

e.) Is the site or any building thereon listed, nominated or eligible for listing on the National Register of Historic Places?

Yes      No X

f.) Is the site within a designated municipal, state or federal Historic District?

Yes      No X

5. Describe the form of site control that you have including type of agreement and expiration date if applicable. (Attach copies of relevant executed agreements as Attachment 1):

a.) Owned by Developer (or Applicant, if different legal entity):

---

b.) Under Purchase and Sale Agreement

Nagog Development Company to Recreation Realty Trust

Date of Agreement: November 12, 2002 and as amended  
Expiration Date: March 31, 2006  
Purchase Price: See Below for transfer to the developing entity

Russell and Sally Leduke to Recreation Realty Trust

Date of Agreement: November 1, 2002 and as amended  
Expiration Date: July 1, 2006  
Purchase Price: See Below for transfer to the developing entity

Recreational Realty Trust to The Woodlands at Laurel Hill LLC

Date of Agreement: March 1, 2004  
Expiration Date: July 1, 2006  
Purchase Price: \$2,789,470

6. Most Recent "Arms Length" Sale:

Date: May 23, 1997                      Price: Unknown

Seller: Iron Bucket Liquidation Trust

Buyer: Nagog Development Company

7. Availability of Utilities (Describe whether any of the following will be provided as part of this development):

a.) Sanitary Sewer:      Yes \_\_\_\_\_      No  X

Private Waste Water Treatment Facility to be constructed in Westford on abutting land controlled by Recreational Realty. The application to the ZBA will include the construction of this facility. The waste water treatment facility will service this project, the apartments proposed in Acton and other abutting land controlled by Recreational Realty.

Distance from Site: \_\_\_\_\_

Size Connector: \_\_\_\_\_

b.) Storm Sewer:              Yes \_\_\_\_\_      No  X

Distance from Site: \_\_\_\_\_      Size Connector: \_\_\_\_\_

c.) Public Water:              Yes  X       No \_\_\_\_\_

Distance from Site: At Site Size Connector: 10"

d.) Gas: Yes X No     

Electricity: Yes X No     

e.) Streets: Yes X No     

Sidewalks: Yes X No     

Curbs: Yes X No     

### Project Information

1. Size of Development:

a.) Total Number of Units: 296

b.) Number of Handicapped Accessible Units: 15  
handicapped and 88 adaptable

c.) Number of Buildings: 11 plus clubhouse

d.) Number of Stories (By Construction Type - See #4  
below): 3

e.) Number of Commercial Units: None

2. Total Gross Square Footage of Building Space: 338,960

Total Gross Square Footage of Commercial Space: 0

3. Project Type:

a.) New Construction X

b.) Rehabilitation     

4. Construction Type (if applicable, indicate number of each):

a.) Detached:     

b.) Townhouse:

- c.) Low-Rise (less than 35 feet): \_\_\_\_\_
- d.) Mid-Rise (between 35-70 feet):   X
- e.) High-Rise (more than 70 feet): \_\_\_\_\_

5. Fire Code Type (check all that apply):

- a.) Concrete Frame \_\_\_\_\_
- b.) Protected Steel \_\_\_\_\_
- c.) Masonry Bearing Wall \_\_\_\_\_
- d.) Wood Frame   X
- e.) Other \_\_\_\_\_

6. Type Fuel:

- a.) Gas   X
- b.) Oil \_\_\_\_\_
- c.) Electric   X
- d.) Other \_\_\_\_\_

7. Parking Spaces:

- a.) Detached Garages (specify):   127
- b.) Surface:   366
- c.) Total:   493

8. Initial Rent or Sales Schedule - Complete the chart below for each proposed unit type according to affordability restriction. In the box for number of bedrooms, indicate the bedroom breakdown by identifying the number of single room occupancies (SRO's), studios, 1BR, 2BR, etc.

Unit Type	# of Units	# of Bedrooms	# of Baths	Net Sq. Feet	Proposed Rent (per unit & aggregate)	Proposed Sale Price (per unit & aggregate)
Less Than 50% A.M.I.						
Less Than 60% A.M.I.						
Less Than 80% A.M.I.	37 17 21	One Two Two	One Two Two	850 1,065 1,290	1,240.00 1,488.00 1,488.00	
Market Rate	111 49 61	One Two Two	One Two Two	850 1,065 1,290	1,350.00 1,550.00 1,875.00	

**INITIAL CAPITAL BUDGET**  
**(Estimated Sources and Uses of Funds)**

<b>Development Funding</b>	<b>Total Funding</b>	<b>Source(s)</b>
Construction Debt:	\$41,856,023	HUD 221 (D)(4) Program
Permanent Debt:	\$41,856,023	HUD 221 (D)(4) Program
Public Equity/Soft Debt:		
Private Equity:	\$2,171,455	Investor Cash Contribution to be provided at Closing
<b>TOTAL PERMANENT SOURCES:</b>	<b>\$44,027,478</b>	

	Total Costs	Per Unit Costs
<b>Site Acquisition</b>	<b>2,789,470</b>	<b>\$9,423.89</b>
Hard Costs:		
•Site Preparation	2,000,000	6,756.76
•Landscaping	Included	Included
•Residential Construction	29,634,821	100,117.64
<b>Subtotal Hard Costs:</b>	<b>31,634,821</b>	<b>106,874.40</b>
Contingency	500,000	1,689.89
<b>Total Hard Costs:</b>	<b>32,134,821</b>	<b>108,564.29</b>
<b>Soft Costs:</b>		
•Permits/Surveys	2,368,000	8,000.00
•Architectural	303,016	1,023.70
•Engineering	175,000	591.22
•Legal/Title/Recording	75,000	253.38
•Insurance	50,000	168.92
•Security	0	0
•Developer's Fee	500,000	1,689.19
•Construction Manager/Dev Consul	200,000	675.68
•Property Taxes	50,000	168.92
•Construction Interest	2,333,671	7,884.02
•Mortgage Insurance Premium	209,500	707.77
•Appraisal	15,000	50.68
•Inspecting Engineer	209,000	706.08
•Financing/Application Fee	649,000	2,192.57
•Utilities	Included	Included
•Maintenance (Unsold Units)	Not Applicable	Not Applicable
•Accounting/Cost Certification	15,000	50.68
•Marketing and Rent Up	295,000	996.62
<b>Subtotal Soft Costs:</b>	<b>7,447,187</b>	<b>25,159.43</b>
Contingency / Reserves	1,656,000	5,594.59
<b>TOTAL DEVELOPMENT COSTS</b>	<b>44,027,478</b>	<b>148,741.48</b>

## Attachments

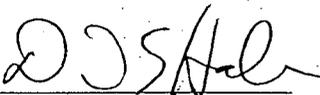
The following items are required to be attached to this application in order for it to be complete:

1. Evidence of site control
2. A town/city map noting the site location and its distance from police station, schools, fire station, recreation, public transportation, city or town hall.
3. A site description, including detailed written directions to the site noting the entrance to the site, relevant boundaries and any prominent landmarks that can be used for identification purposes. Confirmation and description of access to a public way must be included and identified on the submitted site plans. A photograph of the entrance of the site with an appropriate landmark must also be included.
4. Preliminary architectural plans and specifications for the proposed development.
5. Site plan including lot lines, existing streets and buildings.
6. Construction period sources & uses of funds.
7. 15-year operating pro-forma including debt service coverage.
8. Rent comparability study.
9. Utilities plan showing existing and proposed locations and types of sewage water, drainage facilities, etc.
10. State approvals or determinations applicable to the site/proposed project, if any, such as Conservation Commission Order of Conditions, MEPA Determination.
11. Site assessments, if any, performed under Chapter 21E.
12. Secretary of State filing evidencing status as a Limited Dividend Organization.
13. A check for the \$2,500.00 non-refundable application fee made payable to the MassDevelopment must be submitted with each application.

**Applicant Certification**

The undersigned hereby certifies that he/she is Managing Member of The Woodlands at Laurel Hill LLC and that the information requested below for the project known as The Woodlands at Laurel Hill contained in this application to MassDevelopment is true and correct to the best of his/her knowledge.

Note: All non-residential uses, or proposed, within 1/2 mile of the subject site, which may create adverse effects upon subject, must be detailed. Such uses include, but are not limited to, land fills, industrial, know hazardous waste sites, and vacant land that been used for non-agricultural.

Signature of Developer/Applicant  Date 5/13/04

**In order for this Project Eligibility Application to be complete, the original with all attachments must be submitted to:**

Anthony E. Fracasso  
Senior Vice President, Investment Banking  
MassDevelopment  
75 Federal Street, 10<sup>th</sup> Floor  
Boston, MA 02110

**With one copy to each of the following:**

Director  
Massachusetts Department of Housing  
Community Development  
One Congress Street, 10<sup>th</sup> Floor  
Boston, MA 02114

**And**

Each of the parties listed in the Local Contact section of this Application

**Betty McManus**

---

**From:** "Tavernier" <ntavern@comcast.net>  
**To:** "Acton Community Housing Corporation" <ACHC@acton-ma.gov>; "Board of Health" <BOH@acton-ma.gov>; "Board of Selectmen" <BOS@acton-ma.gov>; "Conservation Commission" <ConCom@acton-ma.gov>; "Economic Development Committee" <EDC@acton-ma.gov>; "Finance Committee" <FinCom@acton-ma.gov>; "Historic District Commission" <HDC@acton-ma.gov>; "Historical Commission" <HC@acton-ma.gov>; "Planning Board" <PB@acton-ma.gov>; "Recreation Commission" <RC@acton-ma.gov>; "Transportation Advisory Committee" <TAC@acton-ma.gov>; "Acton Public School Committee" <apsc@acton-ma.gov>; "Board of Assessors" <BAS@acton-ma.gov>  
**Sent:** Tuesday, June 01, 2004 9:38 AM  
**Subject:** ACHC Public Information Session

AFFORDABLE HOUSING PROPOSAL - NAGOG PARK AREA  
PUBLIC INFORMATION SESSION  
Tuesday, June 15 7:30PM  
Acton Town Hall, hearing room 204

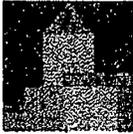
The Acton Community Housing Corporation, the Selectmen appointed board charged with overseeing affordable housing, is sponsoring a Public Information Session on the proposed Chapter 40B development called The Woodlands at Laurel Hill. Town board members and the public at large are invited to attend this meeting to learn first hand from the developers, Omni Properties, the specifics of the proposal. The meeting will be held in the Acton Town Hall upstairs hearing room 204 on Tuesday, June 15, starting at 7:30PM.

The ACHC will make a short presentation on Affordable Housing in Acton and the Chapter 40B local approval process. The developers will make a comprehensive presentation of the plans for the development. Following these presentations, there will be a question and answer session moderated by the ACHC.

The Woodlands at Laurel Hill is proposed to be a 296 unit rental development, with one-bedroom and two-bedroom units equally dispersed throughout. Twenty-five percent of the units will be affordable and will be rented to income eligible households. It is located at 80-82 Nagog Park on a 20+/- acre parcel of land that will utilize a private treatment plant for wastewater disposal. It is proposed to have eleven three-story buildings and a 3200 square foot clubhouse. The proposed amenities will include a fitness center, theatre, business center and outdoor pool.

If you have any questions, please contact ACHC at [achc@acton-ma.gov](mailto:achc@acton-ma.gov)

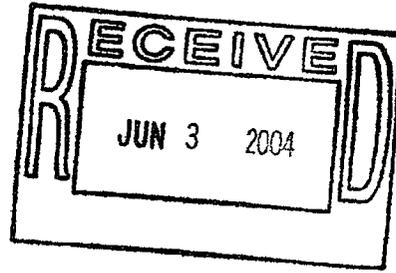
Nancy Tavernier, Chair  
ACHC



# MASSDEVELOPMENT

6/14/04 - (18)

BOS



**Northern Massachusetts**

**Regional Office**

600 Suffolk Street, 5<sup>th</sup> Floor  
Lowell, Massachusetts  
01854

Tel: 978-459-6100  
Fax: 978-459-1898

**Main Office:**

75 Federal Street  
Boston, Massachusetts  
02110

Tel: 617-330-2000  
800-445-8030

Fax: 617-330-2001

[www.massdevelopment.com](http://www.massdevelopment.com)

June 3, 2004

F. Dore' Hunter, Chairperson  
Acton Board of Selectmen  
472 Main Street  
Acton, MA 01720

Re: The Woodlands at Laurel Hill (the "Project")  
PROJECT ELIGIBILITY (Site Approval)

Dear Mr. Hunter:

MassDevelopment has received an application for a determination of Project Eligibility (Site Approval) submitted by The Woodlands at Laurel Hill, LLC (the "Applicant") for a proposed project for which the Applicant may submit an application to the Acton Zoning Board of Appeals for a comprehensive permit pursuant to M.G.L. ch. 40B. Based on the application, the Project involves the following characteristics:

- Applicant:** The Woodlands at Laurel Hill, LLC  
Joel Kahn  
676 Elm Street, Suite 300  
Concord, MA 01743
- Site:** 551-557 Great Road rear, 80-82 Nagog Park, 20+ acres  
Concord, MA
- Project:** The Woodlands at Laurel Hill  
A 296-unit rental project consisting of eleven three-story buildings and a 3,200 square foot club house with other proposed amenities including a fitness center, theatre business enter and outside pool.
- Subsidizing Program:** Massachusetts Development Finance Agency  
Residential Housing Finance Program

Low Income Units: 25% of the units will be priced affordable set aside for tenants with incomes not to exceed 80% of the area median income for a minimum period of 30 years.

Unit Mix: Market Rate: 111 1BR (850 sf) 49 2BR (1065 sf) 61 2BR (1,290)  
Affordable: 37 1BR (850 sf) 17 2BR (1,065 sf) 21 2BR (1,290)

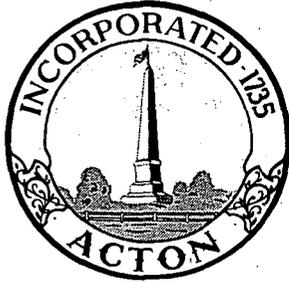
Your receipt of this notice shall commence a thirty-day review period for comments, which MassDevelopment shall consider prior to issuing a determination of Project Eligibility (Site Approval). Please provide me with written comments no later than July 2, 2004. Should you have any questions, I can be reached at 978-459-6100 ext. 11.

Sincerely,



Diane R. Sullivan

Vice President of Community Development



ACHC

TOWN OF ACTON  
472 Main Street  
Acton, Massachusetts, 01720  
Telephone (978) 264-9612  
Fax (978) 264-9630  
E-Mail BOS@town-ma.gov

F. Dore' Hunter, Chairman  
Board of Selectmen

June 30, 2004

Ms. Diane R. Sullivan,  
Vice President of Community Development  
MassDevelopment  
75 Federal Street  
Boston MA 02110

Re: The Woodlands at Laurel Hill (the "Project")  
PROJECT ELIGIBILITY (Site Approval)

Dear Ms. Sullivan:

The Acton Board of Selectmen is aware of the pending 296-unit development proposed for property at 80-82 Nagog Park in Acton. As of this date, no formal 40B application has been filed with the Board of Appeals but the developer, The Woodlands at Laurel Hill, LLC, has met with several boards and committees in Acton and has made a general overview presentation to the Board of Selectmen. The information that the Town has received thus far has been conceptual in nature so we are unable to comment with much specificity.

There are several broad areas of concern that have already been noted, however, and we bring your attention to these as part of our initial comments. These should not be considered as a complete, comprehensive list of the Town of Acton's concerns. Rather, they should be viewed in context as our preliminary observations, based on preliminary information.

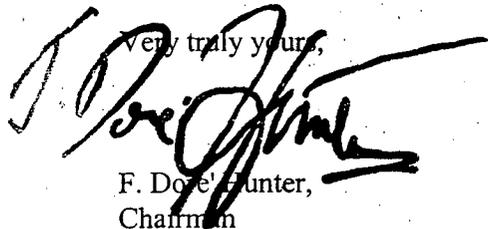
1. This is a very large project, with a substantial density on the developed portions of the site. These factors are further complicated by the fact that the project is partially situated in Acton and partially situated in Westford. (The notice from MassDevelopment seems to mistakenly have the site located in Concord.) The notice to Acton makes no reference to the 50-60-unit portion of the project that is in Westford. It is critical that MassDevelopment link these two segments of the project since many of the concerns for both Acton and Westford relate to how services will be provided to this remote location in both communities.
2. There is no access to the project from Westford. All of the access, including access to the Westford portion, will be forced to come through Acton. Indeed, in order for Westford to provide Police, Fire, Emergency Medical and School Transportation services to their residents in this project, they will need to come

through portions of Littleton and Acton to reach the locus. This is expected to create significant service problems and issues.

3. The entire project is accessed over a privately-owned, single access roadway (Nagog Park) that was designed to service the industrial park in which it is located. We are concerned that the limited access, compounded by significant traffic congestion from the industrial/commercial facilities in this industrial park, especially at rush hour, may cause major traffic impacts.
4. Much like the problems Westford will experience trying to access the site, Acton's Fire and Ambulance services are located a substantial distance from the site. The remoteness of both Acton and Westford Fire and Ambulance services, combined with the matter of rush hour traffic and the single means of access to the park, gives us concern that public safety response times may be seriously compromised for residents of the development.
5. Water service for the Acton portion of the project is expected to be provided by Acton's Water District. The Westford portion is expected to be serviced by private wells. We are concerned that there will not be sufficient water available for firefighting purposes on the Westford portion. The density of the proposed development on both sides of the town line compounds this concern.
6. Sanitary sewer services for the entire project are proposed to be provided through on-site treatment and subsurface disposal facilities located totally within the Town of Westford. We are concerned that this disposal might negatively impact nearby public drinking water supplies in both communities.
7. The current plans appear to indicate that a substantial area of land in Westford will be associated with this project but not developed as part of this proposal. If there is to be future development in Westford, with continued single-access only through Nagog Park in Acton, all of the above concerns will be magnified by orders of magnitude.

We hope you will find this helpful. If you have any questions, please feel free to call our Town Manager, Don Johnson, at (978) 264-9612.

Very truly yours,



F. Dore Hunter,  
Chairman



# MASSDEVELOPMENT

September 23, 2004

160 Federal Street  
Boston, Massachusetts  
02110

**The Woodlands at Laurel Hill, LLC**  
676 Elm Street, Suite 300  
Concord, MA 01742  
Attention: David Hale

Tel: 617-330-2000  
800-445-8030

Fax: 617-330-2001  
617-451-3429

**Re: The Woodlands at Laurel Hill (the "Project")  
PROJECT ELIGIBILITY (Site Approval)**

www.massdevelopment.com

**Dear Mr. Hale:**

Massachusetts Development Finance Agency ("MassDevelopment") has received the application submitted by The Woodlands at Laurel Hill, LLC (the "Applicant") for financing using either the MassDevelopment Tax-Exempt Bond Program for Rental Housing or the MassDevelopment Taxable Bond Program for Rental Housing (together, the "Bond Programs") and is pleased to provide you with this determination of project eligibility (site approval) for the above-referenced Project.

MassDevelopment has reviewed the fundability of the Project under the Bond Programs in accordance with 760 CMR 31.01. After receipt of your application, MassDevelopment provided written notice of the application to Mr. F. Dore' Hunter, Chair of the Board of Selectmen, Town of Acton. MassDevelopment has received comments from the Chairperson, Town of Acton concerning the Project within the thirty-day review period for comments and has considered those comments and the impact of such comments on the fundability of the Project under the above-referenced Bond Programs in accordance with 760 CMR 31.01 prior to issuing this letter.

MICHAEL ROHMNEY  
Governor

KERRY HEALEY  
Lieutenant Governor

ROBERT L. BEAL  
Chairman

ROBERT L. CULVER  
President/CEO

Based on the application, the Acton portion of the Project involves the following characteristics:

- Applicant:** The Woodlands at Laurel Hill, LLC  
676 Elm Street, Suite 300  
Concord, MA 01742
- Site:** 551-557 Great Road rear and 80-82 Nagog Park,  
approximately 20 acres in  
Acton, MA
- Project:** The Woodlands at Laurel Hill
- Acton Portion:** 296 rental units, consisting of 11 buildings and other amenities

**Subsidizing Program:** Either the Massachusetts Development Finance Agency Tax-Exempt Bond Program for Rental Housing or the Massachusetts Development Finance Agency Taxable Bond Program for Rental Housing

**Low Income Units:** 75 affordable units (25%) reserved for households earning less than 80% of area median income within the MSA, restricted for a term of at least 30 years.

**Unit Mix:** Market Rate: 111 1BR (850 sf) 49 2BR (1065 sf) 61 2BR (1290 sf)  
Affordable: 37 1BR (850 sf) 17 2BR (1065 sf) 21 2BR (1290 sf)

**Limited Dividend:** The Applicant must enter into a regulatory agreement with MassDevelopment whereby the Applicant's profit, cash flow and distribution of return to the Applicant or to the members, partners, shareholders, or other owners of the Applicant will be limited as set forth in MassDevelopment's equity and limited dividend policy. The Applicant's Operating Agreement provides for these limitations and for the execution of a Regulatory Agreement.

MassDevelopment has reviewed the materials submitted by the Applicant, including preliminary plans, market information, and financial projections, and conducted an on-site inspection of the Site and the adjacent Project site in Westford and has determined that the Project appears generally eligible under the requirements of both Bond Programs and likely could be financed under either, subject to final review of eligibility and approval. A site approval letter has also been issued this date for the Westford portion of the Project.

Based on the submitted materials and on-site inspection, MassDevelopment has determined the following:

1. The housing design for the Project is generally appropriate for the Site;
2. The Project appears financially feasible within the housing market in which it is located, based on comparable rentals figures provided by the Applicant;
3. Based on the preliminary pro forma submitted by the Applicant, the Project appears financially feasible based on the Applicant's estimated development costs; and
4. The Applicant meets the general eligibility standards of the MassDevelopment Tax-Exempt Bond Program for Rental Housing and the MassDevelopment Taxable Bond Program for Rental Housing.

This determination of project eligibility (site approval) is not a binding commitment for financing from MassDevelopment rather it is a project eligibility

(site approval) letter under the comprehensive permit (G.L. c. 40B) regulations. Any commitment for financing from MassDevelopment is subject to review of a final and complete financing application and subject to the approval of the Board of Directors of MassDevelopment.

If you have any questions, please feel free to contact me at (617) 330-2000

Very truly yours,

Massachusetts Development Finance Agency

By: Ann E. Howard

Name: ANN E. HOWARD

Title: CHIEF OPERATING OFFICER

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**  
**TOWN OF ACTON**  
P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

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TO: Board of Selectmen  
FROM: ACHC  
SUBJECT: Request for New View funds for consultant  
DATE: September 23, 2004

The ACHC is seeking approval from the Board to expend up to \$2000 from the New View account for the purpose of hiring a consultant to help us develop a position statement on the Woodlands at Laurel Hill (Nagog) development. Because this is a major housing initiative, we want to be sure our statement is professionally prepared with our concerns addressed in the context of the recent Housing Needs Assessment done for the Town. Our statement would relate primarily to affordable housing issues and would not touch on traffic or wastewater disposal concerns. We would expect to suggest conditions to the ZBA decision that would be consistent with Ch. 40B guidelines and would be credible and helpful to the ZBA approval process.

We propose to hire Judith Barrett of COG, Inc. at a rate of \$85 an hour with an estimated 15 hour task. We request a not-to-exceed authorization of \$2000 from the New View account for this proposal.

Thank you.

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**  
**TOWN OF ACTON**  
P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

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**SCOPE OF SERVICES**

**PREPARATION OF A WRITTEN POSITION STATEMENT  
FOR SUBMITTAL TO THE ACTON ZONING BOARD OF APPEALS  
FROM THE ACTON COMMUNITY HOUSING CORPORATION**

**“THE WOODLANDS AT LAUREL HILL – A CHAPTER 40B PROJECT IN ACTON”**

**INTRODUCTION**

In the near future, a proposed 40B application called The Woodlands at Laurel Hill will be filed with the Acton Zoning Board of Appeals for approval. The project is proposed to be 296 rental units, one and two bedrooms, and will be located at 80-82 Nagog Park in Acton. An additional section will be located in the Town of Westford adjacent to the Acton site.

The Acton Community Housing Corporation is a quasi-public body under the control of the Acton Board of Selectmen and is charged with facilitating affordable housing. Because of the magnitude of this Project, the ACHC is seeking professional assistance in the preparation of a written statement to be submitted to the Acton Zoning Board of Appeals. This statement will represent the voted position of the ACHC on The Woodlands at Laurel Hill and will include concerns and suggestions for improvement. ACHC's statement will focus only on affordable housing issues and will not address other community issues such as traffic, environmental, or fiscal impact.

**BACKGROUND**

A Community Development Plan, entitled “To Live in Acton” has recently been completed for Acton. It was supported by a grant from the EO 418 Inter-Agency Work Group. This plan identifies the current Housing Needs of the community. The ACHC anticipates evaluating this Project in the context of the Housing Needs assessment and measuring its success in meeting these needs. The Housing Plan also includes recommendations for action in managing Comprehensive Permits that will help meet the needs of the Town.

The Town of Acton is currently at an affordable housing unit count of 2.32%. The Commonwealth of Massachusetts expects each community to work toward the goal of 10% of all housing units. Acton has not been overrun with Chapter 40B requests and the 4 previous ones have been small scale projects of 8-16 units. This Project is the fifth Chapter 40B to be filed with the town since 1998. The ACHC has been supportive of each of the previous projects and expects to support this project also but with conditions.

The ACHC sponsored a Public Information Session to allow the developers to present the details to abutters, town board members, and interested members of the general public.

## **SCOPE OF SERVICES**

### **Task 1**

- Review Rules and Regulations for Comprehensive Permits, Acton Board of Appeals
- Review the full Comprehensive Permit application and supporting documentation submitted by the developers of The Woodlands at Laurel Hill to become familiar with the project.
- Review ACHC memo of 5/6/04 with preliminary comments on the project.

### **Task 2**

Compare the Housing Needs identified in "To Live in Acton" with the proposed project and determine which needs will be met by the project.

### **Task 3**

Meet with the ACHC one time to discuss the Project and get their input to the statement.

### **Task 4**

Prepare a draft statement that includes:

- A summary of the Housing Needs and recommendations that are pertinent to this project as identified in the Community Development Plan as an introduction to the full statement
- The support statement voted by ACHC
- Conditions and Concerns identified by ACHC with explanations
- Recommended revisions to the project that would help it meet the Housing Needs and ACHC's concerns

### **Task 5**

Submit draft statement to ACHC and make necessary revisions per ACHC feedback. Put in final format after ACHC approval.

### **Task 6**

If time and budget allows, attend the first ZBA hearing to consider preparing additional statements from the ACHC.

## **INFORMATION AND MATERIAL AVAILABLE TO CONSULTANT**

Rules and Regulations for Comprehensive Permits. Acton Board of Appeals. May 17, 2004

"To Live in Acton", Community Development Plan. June 30, 2004

Application for Comprehensive Permit for The Woodlands at Laurel Hill. TBD

ACHC memo of May 6, 2004 with preliminary comments on Project.

## **TIMELINE FOR CONSULTANT SERVICES**

October 1                      Receipt of quote for services

October 4                      Transfer of Acton information to consultant

October 8 Deliver full Comprehensive Permit package of material via FedEx to consultant (date of filing not known but expected by Oct. 8)

October 8 Meet with ACHC, 12:30PM at Acton Town Hall

2 weeks after Comprehensive Permit is filed Draft statement due to ACHC

Prior to  
Oct 20.

October 27 Final statement due to ACHC

ZBA Hearing #1 Possible attendance by consultant

X-Originating-IP: [216.200.145.36]  
X-Eon-Sig: AQGmlQJBXHnvHsHA3QIAAAAB,276984cb417078e4d340daf894dbe1b1  
Reply-To: <judith.barrett@post.harvard.edu>  
From: "Judith A. Barrett" <judith.barrett@cloverset.org>  
To: "Nancy Tavernier" <ntavern@comcast.net>  
Subject: Woodlands at Laurel Hill  
Date: Thu, 30 Sep 2004 17:28:45 -0400  
X-Mailer: Microsoft Office Outlook, Build 11.0.5510  
Thread-index: AcSnNHM8/SiLbekiTlaK1qsgMk/4VA==

Nancy,

Thank you for sending the request for proposals to assist the Acton Community Housing Corporation (ACHC) with developing and presenting its position on the Woodlands at Laurel Hill Chapter 40B development. Community Opportunities Group, Inc. (COG) will provide the services (Tasks 1-6) identified in your RFP for a not-to-exceed fee of \$1,785.00, which we propose to bill on an hourly basis at \$85.00/hour. If you have any questions or need additional information, please contact me at my home office or by email. I look forward to working with you again.

Judi Barrett  
Community Opportunities Group, Inc.  
129 Kingston Street, Third Floor  
Boston, MA 02111  
Boston Office: (617) 542-3300, ext. 308  
Home Office: (781) 834-7324  
Fax: (781) 837-0803

The Woodlands at Laurel Hill  
Notes from ACHC discussion on 10/7/04

Below is the vote taken by 4 members present. The intent is to use the requested conditions or revisions as leverage for our support but we felt we had to build a position statement around ACHC's general support for the proposal. We want language included that says we welcome the additional affordable housing this project will provide.

***"The ACHC has examined the affordable housing features of The Woodlands at Laurel Hill proposal and voted to recommend the project with specific revisions listed below in rank order." Voted 4-0 Yes***

**1. Household income not to exceed 70% AMI with a breakdown of the 25% affordable units to be: 10% at 50% AMI, 10% at 60% AMI, 5 % at 70% AMI.**

QUESTION: Need to ask developer how the rent was calculated, e.g. what is the family size used?

*utilities included*

Discussion:

- Prefer a project that would be 20% affordable at 50% of AMI
- Affordable Rents too high. Concerned that the affordable rents exceed current market rents for similar sized units. Also HUD fair market rents have recently been decreased e.g. \$1240/month for 2 BR which is proposed here as the 1BR affordable rent.
- If rents are held to the 80% AMI level, there will be a significant problem finding 74 moderate income families who can pay the maximum rent.
- Affordable families would have to pay more than 30% of their income to meet these maximum rents, perhaps as high as 50% of their income
- Section 8 standards for fair market rents should be the guideline for this HUD financed project
- Maximum household income to be served is 70% AMI. (all at 80% is a deal breaker for ACHC)
- ACHC recommends this breakdown of income groups within the 25% of affordable units:
  1. 10% of total units at 50% AMI
  2. 10% of total units at 60% AMI
  3. 5% of total units at 70% AMI

## 2. Deed restrictions for affordable units must be in perpetuity

Discussion:

Developer proposes 30 years for deed restrictions. That is a deal breaker for ACHC

Language in the Franklin Place decision which is based on the Wellesley V. Ardmore Apartments case should be used.

Franklin Place:

Perpetual Affordability Restriction: Prior to the issuance of any building permits, a Regulatory Agreement, in a form acceptable to Town Counsel shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) 25% of the units in the Revised Project will be sold and resold subject to a Deed Rider, in a form acceptable to Town Counsel, and (b) the Revised Project Owner's profit shall be limited to 20% of the total development cost of the Revised Project as defined by the Regulatory Agreement and applicable regulations. The Deed Rider, shall be attached to and recorded with the Deed for each and every Affordable Unit in the Revised Project at the time of each sale and resale, and the Deed Rider shall restrict each such affordable unit pursuant to this Decision in perpetuity in accordance with the requirements of M.G.L. c. 184, " 31-33.<sup>6</sup> After obtaining the ZBA's final approval of the Regulatory Agreement and Deed Rider, the Applicant shall use its best efforts to obtain any necessary governmental approvals for such a deed restriction to last in perpetuity, including without limitation the approval of the Department of Housing and Community Development (formerly the Executive Office of Communities and Development) (ADHCD@), if required pursuant to M.G.L. c. 184, ' 32 or other law. The Applicant shall submit to the ZBA written evidence of the Applicant=s efforts to secure approval of the perpetual restriction and all responses thereto. The absence of a response shall not be deemed a denial of the request to approve the perpetual restriction.

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Pursuant to G.L. c. 184, ' 31, an affordable housing restriction means Aa right, either in perpetuity or for a specified number of years, whether or not stated in the form of a restriction, easement, covenant or condition in any deed, mortgage, will, agreement, or other instrument executed by or on behalf of the owner of the land appropriate to (a) limiting the use of all or part of the land to occupancy by persons, or families of low or moderate income in either rental housing or other housing or (b) restricting the resale price of all or part of the property in order to assure its affordability by future low and moderate income purchasers or (c) in any way limiting or restricting the use or enjoyment of all or any portion of the land for the purpose of encouraging or assuring creation or retention of rental and other housing for occupancy by low and moderate income persons and families@ (emphasis@).

In any event, as this Decision grants permission to build the Revised Project under the comprehensive permit statute, G.L. c. 40B, ' ' 20 - 23 (the AAct@), and as the Applicant has obtained the benefits of a comprehensive permit, the Revised Project shall remain subject to the restrictions imposed by the Act so long as the Revised Project is not in compliance with the Town of Acton=s zoning requirements which otherwise would be applicable to the Site and the Revised Project but for the comprehensive permit=s override of local bylaws to promote affordable housing. Accordingly, this Decision and the Deed Rider shall restrict each such Affordable Unit so long as the Revised Project is not in compliance with the Town of Acton=s zoning bylaw, so that those units continue to serve the public interest for which the Revised Project was authorized.<sup>0</sup>

3. Density too great

change to Quality of life issues  
eg. no p lny space

QUESTION: Need to clarify how the density calculation is determined.  
Need to determine the density of abutting Nagog Woods

Discussion:

Consider asking that 4 times the average density in the area (Nagog Woods) might be an acceptable standard.

not rental

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7. See *Zoning Board of Appeals of Wellesley V. Ardmore Apartments Limited Partnership*, 436 Mass. 811 (2002) ("[I]t is anomalous to suggest, as the owner does, that the legislation provides a temporal, short-term fix of insufficient affordable housing at the expense of local autonomy. Rather, the Act reflects a legislative intent to provide an incentive to developers to build affordable housing in cities and towns that are deficient in affordable housing, and a developer's commitment to help a city or town achieve its statutory goal is the *raison d'Atre* for the override of inhibiting zoning practices. But if housing developed under a comprehensive permit is >affordable= only temporarily (fifteen years in this case, according to the owner), a city or town may never achieve the long-term statutory goals: each time an affordable housing project reverts to market rentals, the percentage of low income housing units in a municipality decreases, the percentage of market rate units increases, and access to a new round of comprehensive permits is triggered. We see nothing to suggest that the Legislature had in mind such an endless revolving cycle, or contemplated that over time an ever increasing number of multi-family buildings could be constructed on vacant land in areas zoned for single-family homes, as multi-family housing buildings were first added to and then subtracted from a town's statutory goal."

#### 4. 3BR units should be included

QUESTION: Is this an identified need for affordable housing or market housing?

Discussion:

Should we ask for market rate 3 BRs? We would consider asking for 4-6 affordable 3 BR units.

*no stock being produced  
diversity of housing options*      *responds to a need*  
*rentals are needed*  
*to home owner*

#### 5. Must be foreclosure proof

Discussion:

Need a covenant that would protect the affordable units from foreclosure. Must not sign any regulatory agreement that would not protect these units.

#### Other issues:

Who monitors the project, the marketing of the units, the income eligibility?

Who selects the tenants, is there a lottery?

See Affordability checklist...

**Betty McManus**

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**From:** "Tavernier" <ntavern@comcast.net>  
**To:** "Nancy Tavernier" <ntavern@comcast.net>; "Kevin McManus" <KevinM@NEHE.com>; "Betty McManus" <ahabetty@attglobal.net>; "Dan Buckley" <DJB01720@hotmail.com>; "Bob Whittlesey" <rbwhittlesey@verizon.net>; "Ryan Bettez" <bettezfamily@yahoo.com>; "Pam Shuttle" <pam.shuttle@state.ma.us>  
**Cc:** "Judith A. Barrett" <judith.barrett@cloverset.org>  
**Sent:** Thursday, October 14, 2004 3:25 PM  
**Subject:** answer to question on The Woodlands

FYI. This came from Joel Kahn today.

Nancy:

Sorry for the delay in responding. As to your questions:

1. We have been using the tables provided by MassHousing Rental Development Program. Of course, we will be updating our analysis to the new 2004 table recently released. The Boston PMSA (which includes Acton) currently allows rent (30% of 80% median) of \$1,488 for a two bedroom unit with a 3 person limit. The one bedroom rent is \$1,240.

2. Our density calculation is based on the entire project. The project, in both Westford and Acton, totals 352 units which is situated on a series of parcels in both Westford and Acton that total 45.72 acres. This equates to a density of 7.7 units per acre. The Acton side of the project consists of 296 units situated on 19.38 acres. It is our belief that the density is most appropriate when including all land within the Woodlands at Laurel Hill project.

I hope that I have answered your questions. Please do not hesitate to call or email should you need additional information.

Joel

Joel Kahn, CCIM  
Equity Alliance Corp

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603-472-3808  
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[jkahn@equity-alliance.com](mailto:jkahn@equity-alliance.com)

## MEMORANDUM

TO: Nancy Tavernier, ACHC  
FROM: Judi Barrett  
RE: Woodlands at Laurel Hill  
DATE: 10/21/04

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As you requested, I have reviewed the Laurel Hill comprehensive permit application, particularly with an eye toward citing evidence to support the ACHC's concerns. My review leads me to point out a number of issues.

1. Pro Forma Analysis. The ACHC should recommend that the Board of Appeals retain a qualified consultant to review the developer's pro forma. Although the Board of Appeals will likely request a pro forma anyway, the ACHC should be out front on this matter because your comments will include requests for project changes that may have a financial impact on the project.

Some of the development cost items are unusually high, others are questionably low. For example, the estimated cost of permits and surveys, \$8,000 per unit, is strikingly high but site preparation and the construction contingency seem very low. I also think the developer's allocation for architectural and engineering services is much too low, but the project's design is also quite unimaginative.

I did a cursory review of the operating pro forma in an attempt to consider the impact of alternative (lower) rent schedules for the affordable units. To expedite things, I loaded all of the developer's basic cost assumptions into the state's One-Stop application. The comprehensive permit suggests that the project will achieve the minimum required debt coverage ratio of 1.10 – if all of the operating cost assumptions are correct. The applicant's assumptions for management, marketing and operating reserves definitely should be reviewed. I modified some of these amounts and adjusted the 80% AMI rents to (a) HUD Fair Market Rents and (b) 70% AMI rents, and I was still able to carry a debt coverage ratio of 1.12-1.16 out to 12 years. It seems clear to me that the project can absorb some variety in affordable rents and still satisfy basic loan underwriting requirements.

Question: have the developers said they intend to apply for HUD 221(d)(4) mortgage insurance? I am curious about why they included a HUD underwriting analysis in the comprehensive permit application. HUD 221(d)(3) and 221(d)(4) have been inactive programs for a very long time.

2. Buyer/Seller Entities and Land Acquisition Price. Relationships between the seller and purchaser entities need to be reviewed, as does the land acquisition price. While the purchase price that Woodlands at Laurel Hill LLC has agreed to pay Recreation Realty is disclosed in the copy of the purchase and sale agreement in Exhibit 22, the purchase price that Recreation Realty agreed to pay Nagog Development Co. and the sellers in Westford has

been concealed. The application does not include an appraisal of the site's value. Since the acquisition price is a critical component of the development pro forma, it is important to know how the price was established.

3. Rent Assumptions. I have tried to contact MassDevelopment for three days now in an attempt to review the rent schedule they give developers/applicants for 40B project eligibility. Unfortunately, I have not been able to reach anyone. If Joel Kahn believes his rents are consistent with MassDevelopment requirements, the agency may be the problem here, not the developer. Neither the Housing Appeals Committee's web site nor MassHousing's has been updated since the new HUD FMRs were released so I cannot verify what other agencies are conveying to developers. However, the "old" rents – those which were applicable until a few weeks ago – are based on 30% of 70% AMI, including for the New England Fund. It seems to me that you are on solid ground insisting on lower rents, but again, it's not at all clear what MassHousing has told its project eligibility/site approval applicants.
4. Fiscal Impacts. What the developer calls "economic impact analysis" is a misnomer; he has attempted to present fiscal impact information. Although I agree that the number of school-age children will be small, I disagree with the average multiplier he used (about .112). The inclusion of affordable units in multi-family housing definitely changes the multiplier assumptions, but his methodology seems to ignore differences between market and affordable units. To speak credibly about fiscal impacts, you should acknowledge this – especially since you want the project to offer some three-bedroom units. Moreover, this project involves two tiers of two-bedroom units, one being considerably larger than the other. This may also affect the desirability of some of the two-bedroom units for families with children.

On a related note, I want you to be aware that in the past 12-15 months, several communities seeking to turn down 40B applications have hired a consultant whose fiscal impact model produces extraordinarily large estimates of school students. I have not had the opportunity to peer-review his work, but I know two consultants who've done so and they are very concerned about the model and its implications for 40B rental developments. For this reason alone, I strongly recommend that you take a conservative approach on fiscal impact. It's important to recognize that in communities like Acton – that is, towns with excellent schools – two-bedroom affordable units are usually more attractive to families with children than we find in communities with less well-respected school districts. In my opinion, you're on solid ground requesting a modest inclusion of three-bedroom units, such as 6-10, but I would not push for more. Moreover, I recommend that you suggest a waiver of the usual distribution requirement so that the three-bedroom units can be predominantly market-rate apartments. Arguably, this is bad housing policy but it's also fiscal reality.

Finally, the selectmen's concerns about providing public services to the Westford portion of the project are legitimate. I am surprised that MassDevelopment did not give this more thought. From a fiscal impact perspective, I think Acton has to anticipate the probability that its own public safety personnel may be first responders via existing mutual aid agreements with Westford, and I'm sure Littleton will be concerned about the same issue. In short, the

public safety cost impacts may disproportionately affect one community more than the others and the developer's fiscal forecast does not consider this at all. In the past 18 months, I have done a great deal of research on public safety costs to serve multi-family housing. In the communities for which I have incident response data by land use, police and fire calls to multi-family rental housing are three to four times greater than to single-family, two-family and condominium housing measured on a per-unit basis. I do not know if this is true in Acton, but I have found it to be true in every community I've studied.

5. Term of Affordability and Foreclosure Protection. I agree completely that you should push the Board of Appeals to condition its approval on a requirement that "the affordable units remain affordable in perpetuity, as long as the land remains in multi-family residential use." The comprehensive permit condition should incorporate by reference G.L. c.184, Sections 31-33, similar to the condition imposed on Franklin Place. Acton should not bend on this, and I suspect that if the developers appealed to HAC they would face an uphill battle. Among other things, the developers would have to consider whether HAC really wants to deal with an appeal over term of affordability.

As for the foreclosure protection, I do not think you will prevail on this. It's my understanding that at least two communities tried to force this very requirement via comprehensive permit conditions and in both cases, HAC ruled in favor of the developer. I am trying to get more information so you can decide how far you want to push this issue.

6. Density. I disagree that the density is too high. If the Acton portion includes 19.38 total acres and 17.66 buildable acres, the proposed project is at 16.8 units/buildable acre and for rental housing that's not out of line at all. It's important to avoid confusing the standard for average density in homeownership projects – 8 units/acre or four times base density – with density in investment projects. In my experience, a density of 16.8 units/buildable acre in rental developments is on the low end of average. In fact, I suspect the developers would have tried to include more than 296 units if they didn't have to comply with the large-scale project cap.

However, I acknowledge that the proposed density may generate a very large profit to the developer. A competent pro forma analyst will be able to decipher what the actual capital and operating distributions will be to the developers/owners – I'm not sure MassDevelopment looked at this – but if there's a higher actual distribution than the pro forma implies, the Town can certainly consider the following options, alone or in some combination: (a) reduce density, (b) insist on more than 25% affordable units, (c) reduce rents in the proposed affordable units, (d) redistribute some of the profit to Acton in the form of mitigation payments or contributions to a special revenue fund or gift account. I think your position will be more tenable if you question the density based on development feasibility and avoid challenging the density based on existing multi-family standards in Acton. Compared to other Chapter 40B rental developments built by private for-profit developers, the Woodlands at Laurel Hills is not particularly dense.

It's important to remember that developers are entitled to request exceptions to local regulations that make a project infeasible. The fact that Acton is subject to a 300-unit cap does not entitle the developer to 296 units if fewer units can be built and still make the project feasible. The Town's challenge will be to decide whether to accept 296 units in exchange for more public benefits or negotiate to reduce density in order to reduce traffic, environmental and fiscal impacts. Your argument may be more consistent if you recommend "transferring" some of the profit to additional affordable units or reduced rents.



# ACTON HOUSING AUTHORITY

68 Windsor Avenue  
P.O. Box 681  
Acton, MA 01720-0681  
(978) 263-5339 fax (978) 266-1408  
TDD# 1-800-545-1833 ext. 120

November 1, 2004

Mr. Jonathan Wagner  
Chairman, Zoning Board of Appeals  
Acton Town Hall  
472 Main Street Acton, MA 01720

Dear Mr. Wagner:

The Acton Housing Authority (AHA) is submitting our comments regarding the Comprehensive Permit application of Woodlands at Laurel Hill, a proposed 296 rental development. The Authority has not taken a formal vote on the project as there are number of concerns and issues that the developer needs to address during the Public Hearings of the Comprehensive Permit Application process. It is important to note that the Development Team has met with many Town Boards i.e. Planning, Acton Community Housing Corporation, Conservation, Fin Com, Selectmen, Board of Health as well as holding a Public Information night to review the proposed project prior to submitting a Comprehensive Permit application.

Listed below are the Authority's comments and recommendations:

- 1). The proposed rent schedule does not address Acton's most significant rental housing need, affordable housing for low income persons. The Authority's Section 8 Fair Market Rents (FMR) effective October 1, 2004 is significantly lower than the rent schedule the developer proposes.  
***Recommend: A percentage of the "affordable" rental units to meet HUD's FMR Section 8 Voucher Program enabling Section 8 Voucher Holders to live in the development.***
- 2). The proposed mix of 1 bedroom and 2 bedroom units does not address the housing need for three bedroom rental units in Acton as identified in the recently completed Community Development Plan, To live in Acton.  
***Recommend: Require 6-10 three bedroom rental units***
- 3). The proposed rental project does not guarantee long term affordability.  
***Recommend: Require a perpetual use restriction and regulatory agreement.***
- 4). There is no legal document protecting the affordability of the project in the event the project is foreclosed in the future.  
***Recommend: Require a covenant to protect the affordability in the event of foreclosure.***
- 5). The developer has not provided a Marketing or Tenant Selection Plan giving priority to Acton applicants meeting the Town's Local Preference definition.  
***Recommend: Require the project to contain a condition that 70% of the units be made available to prospective applicants meeting the Town's Local Preference definition i.e. current resident of Acton, a child of an Acton resident, an employee of the Town of Acton, or currently employed within the Town of Acton.***

Thank you for the opportunity to comment on Woodlands at Laurel Hills' Comprehensive Permit Application. Representatives of the Acton Housing Authority will be present at the Board of Appeals' Public Hearing scheduled November 4, 2004.

Sincerely,

Naomi E. McManus  
Executive Director



**TOWN OF ACTON**  
P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**

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TO: Board of Appeals  
FROM: Acton Community Housing Corporation  
RE: The Woodlands at Laurel Hill  
DATE: November 1, 2004

The Acton Community Housing Corporation (ACHC) is pleased to submit comments on the proposed "Woodlands at Laurel Hill" rental housing development. We met formally with the developers in April and June 2004 and we have reviewed their comprehensive permit application, site plan and building plans. On October 28, 2004, the ACHC agreed to recommend approval of a revised plan provided that it satisfactorily resolves the issues and concerns described in this letter.

1. Analysis of Development and Operating Pro Forma

The ACHC recommends that the Board of Appeals retain a qualified consultant at the applicant's expense to review the development and operating pro forma, the market study, the land acquisition price and the purchase and sale agreements. Given the magnitude of the project, issues raised previously by the Board of Selectmen and the concerns we have outlined below, the ACHC anticipates that many competing interests will have to be balanced as the permitting process moves forward in both communities. If Acton and Westford plan to conduct joint reviews during their respective comprehensive permit timelines, perhaps the towns should retain the same pro forma consultant in order to assure that each town receives the benefit of a comprehensive analysis and to install as much consistency as possible in the review process.

When a housing subsidy program reviews an application for site approval (or project eligibility), it focuses mainly on feasibility, risk, the development team's experience, and basic compliance criteria, e.g., whether a proposal meets the minimum requirement for percentage of affordable units. A subsidy program's decision to issue a site approval letter does not mean that local officials have to accept the project "as is." A project rarely if ever becomes uneconomic to build simply because the community requires a modest density reduction, an increase in the number of affordable units, a lowering of rents to make some units affordable to lower-income people, or mitigation assistance from the developer. Furthermore, a site approval letter does not mean that the proposed project meets the subsidy program's limitations on allowable profit. At the site approval stage, there is not enough

information to support these kinds of findings. Indeed, a site approval letter merely indicates that a project satisfies the minimum eligibility requirements for financing under the subsidy program's regulations or guidelines. We think this distinction is important, for our initial review of the pro forma persuades us that there is considerable room for negotiation with the applicant.

Since the Board of Appeals needs to be conscious of the financial impact of any conditions that may be placed on a comprehensive permit, it makes sense to have a competent advisor review the pro forma and related documents, and advise the Town throughout this process. The ACHC would be pleased to provide a list of consultants with appropriate qualifications and experience to provide these services. We note that Woodlands at Laurel Hill LLC anticipates qualifying for a HUD-insured mortgage under Section 221(d)(4), which offers for-profit developers a federally insured mortgage for up to 90% of the estimated replacement cost of their project, subject to HUD/FHA underwriting standards. The selected review consultant should have working knowledge of this program.

## 2. Consistency with Local Plans and Policies

According to the comprehensive permit application, The Woodlands at Laurel Hill LLC proposes to build 296 rental units in Acton and 56 units on adjacent parcels in Westford, for a combined total of 352 units. The Acton portion of the site is zoned variously for Office Park District-1 (OP-1) and Residence 10/8 uses. The OP-1 area lies within the Affordable Housing Overlay District Sub-District A, while the Residence 10/8 area coincides with the Sub-District B. Due to the site's location in two Affordable Housing Overlay Districts, we believe the proposed use is consistent with the Town's established land use policies.

However, the project is inconsistent with the Town's intentions for the Affordable Housing Overlay Districts and with the recently completed community development plan, To Live in Acton. For example:

- The proposed rent schedule anticipates maximum affordable unit rents and high-end market rents, but Acton's most significant rental housing need is housing affordable to persons with much lower incomes.
- The proposed unit mix, which is comprised of one- and two-bedroom apartments, does not offer realistic options for Acton families that need suitable living space.
- The applicant appears to have made no effort to comply with the design standards or other provisions for a Major Affordable Housing Development. It is unacceptable for a comprehensive permit applicant to request a blanket exception from Acton's Affordable Housing Overlay District regulations without demonstrating that they make the project uneconomic to build.

- The project does not guarantee long-term affordability as that term is described in the Zoning Bylaw.
- The comprehensive permit application does not include an explicit commitment to making units available to “local preference” groups, such as existing residents of the Town or persons employed in Acton.

The ACHC believes that these issues should be addressed by the applicant prior to the close of the public hearing.

3. Inadequate Provision of Affordable Housing

The ACHC’s primary mission is to provide affordable housing that meets the needs of many types of households. When we review proposed developments that include affordable units, one of our major objectives is to assure that rents or purchases prices are actually affordable to low- and moderate-income people. Regardless of whether a comprehensive permit project complies with state requirements for units to be affordable to households at or below 80% of area median income (AMI), we prefer a continuum of rents or purchase prices so that very-low-income, low-income and moderate-income people will be able to live in the units. In fact, this is an important goal of Acton’s Major Affordable Housing Development regulations.

The affordable rents at The Woodlands at Laurel Hill exceed the ability to pay of most low- or moderate-income households. We have two concerns: (1) the affordable rent schedule listed in the application is higher than the new HUD Fair Market Rents, and (2) the applicant appears to have maximized the affordable rents, making them affordable only to households at the highest end of the low- or moderate-income range, i.e., households at 80% AMI. Below is a comparison chart of affordable rents by household income range, including the recently released HUD Fair Market Rents for FY 2005.

Proposed Affordable Rents and DHCD/MassHousing Rents

	Comparison Affordable Rent Schedules		Laurel Hill Proposed Rents as % HUD/MassHousing Rents	
	1 bedroom	2 bedrooms	1 bedroom	2 bedrooms
Laurel Hill	\$1,240	\$1,488	-----	-----
HUD FY05	\$1,077	\$1,266	115.1%	117.5%
MassHousing				
50% AMI	\$723	\$775	171.6%	192.0%
60% AMI	\$868	\$929	142.9%	160.2%
80% AMI	\$1,239	\$1,486	100.1%	100.1%

*Sources: Laurel Hill Comprehensive Permit Application, U.S. Department of Housing and Urban Development, MassHousing “One Stop” Application.*

Significantly, the HUD Fair Market Rents and MassHousing’s maximum affordable rent guidelines include utilities. (MassHousing and DHCD also require that the average monthly cost of rent and utilities be affordable to households up to 70% AMI, adjusted for family size,

not 80% AMI.) However, the applicant has informed us that renters at The Woodlands at Laurel Hill will pay utility costs separately (heat, hot water and electricity). Accordingly, the applicant's rents need to be reduced by a utility allowance and this omission should have been recognized by MassDevelopment.

From our point of view, the more important issue is the rent schedule itself. To set the rents for all 75 affordable units at an amount that is affordable only to households at the maximum income range (80% AMI) means that families with lower incomes will be priced out of the project. In addition, if the affordable rents exceed HUD Fair Market Rents, renters with a Section 8 voucher may not be able to live in the development because the subsidized portion of their rent will not be enough to close the gap between the project's asking rent and the amount they can afford to pay (30% of their monthly gross income). Furthermore, the proposed affordable rents are strikingly close to the proposed market rents for both the one-bedroom units and the smaller of the two types of two-bedroom units. According to the developer's pro forma, 72% of the affordable units will be rented at amounts roughly equal to 92-96% of the proposed market rents for apartments of the same size.

The ACHC identified concerns about the project's lack of affordability when we met with the developers in April 2004. To date, we have seen no evidence that they are willing to consider alternatives to the proposed rent schedule, which offers below-market rents to a very small group of households and does not address the needs of low- and moderate-income tenants in Acton. It may be true that comprehensive permit applicants are not required to accommodate requests from local officials, but we question whether the Housing Appeals Committee will want to hear an appeal over conditions that increase a project's affordability to low-income families.

We recommend that the Board of Appeals ask the applicant to submit a feasibility analysis showing the financial impact of alternative rent schedules. The ACHC believes the project can support a mix of rents that are affordable to households at the 50%, 60% and 80% AMI, with an overall average that does not exceed 70% AMI. This would help to make the project consistent with DHCD pricing guidelines for affordable housing units and the Town's community development plan. The ACHC cannot support this comprehensive permit application if all of the units are priced for occupancy by households at 80% AMI.

#### 4. Term of Affordability

It is in the public interest to assure that affordable housing developments remain affordable in perpetuity or for the maximum period allowed by law. When communities authorize higher-density housing by comprehensive permit or special permit in exchange for affordable units, they make a good-faith effort to meet legitimate social needs. By state policy, each community in the Commonwealth is obliged to provide affordable housing equal to at least 10% of their total housing inventory. For Acton, one of the advantages offered by The Woodlands at Laurel Hill is that it will accelerate the Town's progress toward 10% because all of the rental units will be added to the Subsidized Housing Inventory. If the Board of

Appeals grants a comprehensive permit for this project, the additional 296 units will cause the Town's Subsidized Housing Inventory to increase from 2.33% to 6.19%. Clearly, it is not in Acton's interests or the interests of low- and moderate-income people to approve a project that intends to convert 296 rental units to market-rate housing in 30 years.

The ACHC urges the Board of Appeals to require a perpetual use restriction and regulatory agreement for this project, using language modeled after the comprehensive permit condition for the Franklin Place project, which reads:

*Prior to the issuance of any building permits, a Regulatory Agreement, in a form acceptable to Town Counsel shall be executed and recorded. The Regulatory Agreement shall provide, among other things, that (a) 25% of the units in the Revised Project will be sold and resold subject to a Deed Rider, in a form acceptable to Town Counsel, and (b) the Revised Project Owner's profit shall be limited to 20% of the total development cost of the Revised Project as defined by the Regulatory Agreement and applicable regulations. The Deed Rider, shall be attached to and recorded with the Deed for each and every Affordable Unit in the Revised Project at the time of each sale and resale, and the Deed Rider shall restrict each such affordable unit pursuant to this Decision in perpetuity in accordance with the requirements of M.G.L. c. 184, 31-33.6 After obtaining the ZBA's final approval of the Regulatory Agreement and Deed Rider, the Applicant shall use its best efforts to obtain any necessary governmental approvals for such a deed restriction to last in perpetuity, including without limitation the approval of the Department of Housing and Community Development (formerly the Executive Office of Communities and Development) ("DHCD"), if required pursuant to M.G.L. c. 184, Section 32 or other law. The Applicant shall submit to the ZBA written evidence of the Applicant's efforts to secure approval of the perpetual restriction and all responses thereto. The absence of a response shall not be deemed a denial of the request to approve the perpetual restriction.*

*In any event, as this Decision grants permission to build the Revised Project under the comprehensive permit statute, G.L. c. 40B, Section 20 - 23 (the "Act"), and as the Applicant has obtained the benefits of a comprehensive permit, the Revised Project shall remain subject to the restrictions imposed by the Act so long as the Revised Project is not in compliance with the Town of Acton's zoning requirements which otherwise would be applicable to the Site and the Revised Project but for the comprehensive permit's override of local bylaws to promote affordable housing. Accordingly, this Decision and the Deed Rider shall restrict each such Affordable Unit so long as the Revised Project is not in compliance with the Town of Acton's zoning bylaw, so that those units continue to serve the public interest for which the Revised Project was authorized.*

The Franklin Place condition needs to be adapted for a comprehensive permit rental development, but its basic premise remains applicable. The ACHC's support for The Woodlands at Laurel Hill hinges on whether the applicant agrees to accept a perpetual affordable housing restriction for as long as the land is used for multi-family housing. We

think it is crucial to protect the Town in accordance with the Supreme Court's decision in Zoning Board of Appeals of Wellesley vs. Ardmore Apartments Limited Partnership (2002).

#### 5. Relationship of Unit Mix to Local Housing Needs

When we met with the applicants in April 2004, we asked them to modify the project by including some three-bedroom units. We based our request on several factors. First, the Town's Major Affordable Housing Development regulations stress the provision of units suitable for family occupancy (Section 4.4.5.3). Second, a draft of the community development plan's housing needs analysis had been submitted to the Planning Board, and we knew the plan identified a significant shortage of low-income family housing in Acton and surrounding communities. Third, it has been the ACHC's long-standing practice to promote a mix of dwelling units by size and affordable price range.

Unfortunately, the applicants have submitted a plan that severely limits the options available to families in need of rental housing. We do not object to a unit mix comprised primarily of two-bedroom apartments. However, it is inconsistent with the Zoning Bylaw and established Town policy to restrict all of the units in an affordable housing development so that they are effectively unsuitable for families. Recognizing the Town's interest in protecting its fiscal condition, we also understand that three-bedroom units should be limited to a small percentage of the project. The ACHC recommends that the Board of Appeals ask the applicant to submit a revised plan that substitutes 6-10 three-bedroom units for an equivalent number of one- or two-bedroom units. We reiterate that while the applicant may be entitled to relief from zoning requirements that make a project uneconomic to build, there is no evidence that including three-bedroom units will reduce the feasibility of The Woodlands at Laurel Hill.

#### 6. Foreclosure

Although we recognize that the state may object, we recommend that the Board of Appeals require a covenant to protect the affordability of this project in the event of foreclosure. It is not in anyone's interests – the Town, the Commonwealth, HUD, or low- and moderate-income tenants – to place affordable housing stock at risk of conversion to market housing. Accordingly, we recommend that the Board of Appeals seek legal counsel to prepare or review an appropriate covenant to achieve this end, and that the Board should refuse to execute any regulatory agreement that is silent on foreclosure protection. The Board may also wish to retain a qualified consultant or special counsel experienced with the HUD 221(d)(4) program to assist with preparing the covenant and to act as a liaison with HUD, MassDevelopment and DHCD. While it is important to assure that locally imposed conditions do not make it impossible for the developers to obtain financing, the Town needs to protect itself from the loss of affordable units. We are also concerned about the impact of lost affordability on the low- and moderate-income renters who would be directly affected by the uncertainties associated with a foreclosure and sale of the property to another investor.

## 7. Density and Design

The comprehensive permit cover sheet, the developers' site approval application to MassDevelopment and the purchase and sale agreements in Section 22 of the comprehensive permit application indicate that site includes 19.38 acres in Acton, including 17.66 buildable acres, for an average density of 15.27 dwelling units per acre overall or 16.76 units per buildable acre. This appears to exclude the portion of Parcel B-5 Lot 7 that is shown as Lot 4 on the developer's site plan, which is affected by but not part of the development area for The Woodlands at Laurel Hill. If Lot 4's 16.45+/- acres are included, the unit/acre density is considerably lower, i.e., as reported in the Planning Board's memorandum. We think the Board of Appeals should ask the developer to clarify the status of Lot 4 as it relates to the Laurel Hill submission because we understand that there may be future development plans for that part of the site. It is not explicitly accounted for on the survey plan's zoning compliance table or the master plan sheet (see Site Plan Sheet S and Sheet M).

The average density proposed for the Westford side of the site is much lower, in part because the development's wastewater treatment facility will be located there. The project's composite density is an average of 7.7 units per acre, but measuring density on a composite basis masks the disproportionate impacts of this development on Acton. Moreover, the status of the unused land in Westford and Acton raises a number of concerns about the potential for additional impacts on the neighborhood and the Town's service delivery system in the future.

It is possible to accommodate high-density development in ways that achieve architectural compatibility with surrounding areas and harmony with a community's vision of itself. Unfortunately, The Woodlands at Laurel Hill stops short of accomplishing these ends. We think the developers could provide a superior design that reduces the visual impact of large, conventional apartment buildings and offers a distinctive product in the local housing market. However, doing so would require more attention to building and site design. We recommend that the Board of Appeals seek the assistance of a qualified architect and landscape architect to provide peer review services for this project.

## 8. Local Preference and Tenant Selection Procedures

The comprehensive permit application makes no reference to providing local preference as part of the project's tenant selection procedures. According to Section 3.16.3 of the Town's Comprehensive Permit Rules and Regulations (May 2004), applicants are required to submit "proposed methods of selecting qualified purchasers or tenant of the affordable units, including local preference criteria." However, we do not see any evidence of a proposed marketing plan or tenant selection procedures in the application package. We recommend that the Board of Appeals request a proposed marketing plan from the developer because we would like to review it. In addition, we recommend that the Board condition its approval of the project on a local preference requirement similar to that of the Franklin Place development. The condition should require that no less than 70% of the units be made

available to those with a connection to Acton, defined as households with at least one member who meets any of the following criteria:

- Currently a legal resident of the Town of Acton. For purposes of the Lottery, a person shall be deemed a resident if that person has been registered as an Acton resident with the Acton Town Clerk pursuant to G.L. c. 51, §4 and would be considered a resident under the United States Census Bureau's residency guidelines. ("Usual residence" has been defined as the place where the person lives and sleeps most of the time. This place is not necessarily the same as the person's voting residence or legal residence. Also, non-citizens who are living in the United States are included, regardless of their immigration status.)
- A son or daughter of an Acton resident.
- An employee of the Town of Acton, the Acton Public Schools, the Acton-Boxborough Regional School District, or the Acton Water District, and has been an employee for a period of at least six months at the time of the Affordable Unit lottery application deadline.
- Currently privately or publicly employed within the Town of Acton and has been so employed for a period of at least six months at the time of the Affordable Unit lottery application deadline.

We further recommend that the Board of Appeals require the applicant to provide for an independent agent to certify the eligibility of low- and moderate-income tenants during the initial rent-up period and annual monitoring reviews. This should be addressed as a condition of approval and ultimately, in the Regulatory Agreement.

#### 9. Off-Street Parking

The applicant proposes to provide 493 off-street parking spaces, including 366 in surface lots and 127 in covered structures. According to the site approval application submitted to MassDevelopment, these 493 spaces apply to Acton's 296 units. If this is the case, the overall parking allocation is 1.67 spaces per dwelling unit, which does not meet Acton's zoning requirements. Aside from zoning, however, 493 spaces may be inadequate for a development of this magnitude, considering the needs of residents, their visitors and on-site management.

In general, we think the Board of Appeals should carefully review the proposed parking plan for this project and ask the applicant to justify the number of spaces shown on the site plan. The large number of one-bedroom apartments in the development may be a mitigating factor, but if Laurel Hill's residents are at all comparable to Acton's existing renters, more than 40% will be young or middle-age married couples and households of two unrelated adults, and they can be expected to own two vehicles. Furthermore, we think the proposed parking layout needs more thought. As presently conceived, the plan calls for a considerable amount of

parking adjacent to and immediately visible from the access road. Much like the apartment buildings, the parking layout does not contribute favorably to the aesthetics of the project.

Finally, the applicant needs to explain the fee structure for covered parking spaces. In particular, the applicant should describe plans for providing affordable and market renters the option to park in covered spaces. If the monthly parking fee is substantial, low- and moderate-income renters may not be able to afford it and by default, they will be excluded from one of the development's features. This concern is compounded by the very high rents that the applicant proposes to charge for the affordable units.

#### 10. Amenities for Residents

The Woodlands at Laurel Hill seems to have modest common facilities compared to other rental developments, including those built under Chapter 40B. For example, the proposed community building/club house offers only 3,500 square feet of floor area, which is small for a 352-unit development. (We assume the club house will serve the entire project, not only the units in Acton.) The building plans attached to the comprehensive permit application do not include any floor plans for the club house, so it is impossible to determine the facilities it will include or how much space will be devoted to each function. In addition, there does not appear to be a tot lot or playground. Although it is unlikely that Laurel Hill will house a large number of families with children, there will be some children and most will probably be pre-school age. The development should offer adequate space and appropriate facilities for residents of all ages.

We recommend that the Board of Appeals ask the applicant to provide building plans for the club house so they can be reviewed. In addition, we recommend that the Board require the developers to provide a suitably equipped playground for young children, and outdoor and indoor recreation areas that are fully accessible to persons with disabilities.

#### 11. Fiscal Impacts

Section 15 of the Laurel Hill comprehensive permit application is conspicuously weak and it needs more attention. What the applicant calls an "economic impacts" analysis is actually a partial analysis of the project's fiscal impact on Acton. However, it focuses solely on education costs, it relies on the Town's elementary school cost per pupil, and it assumes an average of .12 school-age children per unit. It appears that the applicant chose an average multiplier for school-age children from older sources of data, such as the Fiscal Impact Practitioner's Handbook (1987), along with a guidebook produced by DHCD in the mid-1990s, which relies on data from the Fiscal Impact Practitioner's Handbook, and finally a report published by Citizens Housing and Planning Association (CHAPA) in March 2003, which is based on data from the 1990 federal census. Ironically, the applicant also cites a more recent study that includes sample data for six multi-family developments in Acton, yet the study must not have been used for the Laurel Hill fiscal impact analysis. The Acton statistics indicate that the average number of children per rental unit is somewhat higher than

the applicant's presentation implies. While we agree that Laurel Hill will generate more revenue than service costs, it is important to have an accurate understanding of the project's likely impacts on school and municipal services.

The ACHC is very sensitive to the Town's fiscal concerns and for this reason, we chose to request a conservative number of three-bedroom units at Laurel Hill. We are confident that the Town Manager, the Board of Selectmen, the Finance Committee and others will provide an impartial estimate of the project's fiscal impacts, including a comparison look at the fiscal impacts of single-family homes. From our point of view, the solution is not to prevent children from living in Acton but rather, to use fiscal impact and other information as a basis for negotiations with the developer.

**Betty McManus**

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**From:** "Tavernier" <ntavern@comcast.net>  
**To:** <romeoryan@aol.com>  
**Cc:** <achc@acton-ma.gov>  
**Sent:** Sunday, November 07, 2004 1:08 PM  
**Subject:** Acton Affordable housing committee

Dear Chris,

My name is Nancy Tavernier and I am chairman of the Acton affordable housing group. I understand you are the Chairman of the Westford Affordable Housing Committee. A friend, Lynn Cohen, was kind enough to give me your name and email address so that I may contact you in regard to The Woodlands development currently under review by our respective towns. As you may know, the Acton ZBA hearing opened on Thursday night and was primarily procedural. In the course of the proceedings, the chairman asked if the Acton Community Housing Corporation had been in touch with our counterparts in Westford. The answer was no. He has urged us to make contact to be sure we are kept informed of each other's efforts.

The Acton Community Housing Corporation is a town board, appointed by the Selectmen, with a charge of facilitating affordable housing in the community. We began as a private non-profit group in the early 80's, hence the name, but became a town board with broad powers through a Home Rule Petition in 1996. I am chairman of the 5 member, 3 associate member group. Our town email address is: [achc@acton-ma.gov](mailto:achc@acton-ma.gov)

I understand that you are also on the Westford Board of Selectmen so in that capacity have no doubt been involved in joint town discussions. We have not been included in those discussions. We support the idea of joint hearings however.

We submitted extensive comments to the ZBA that we had prepared with the help of a consultant. They focus primarily on the "affordability" issues. I would be happy to transmit a copy to you if you do not already have one.

If you think it would be productive for our two groups to meet, we would make every effort to do so. Our normal meeting time is 7:00AM on the 1st and 3rd Thursdays of the month. Our next meeting is Nov. 18 at 7AM in Acton Town Hall. We also could accommodate other schedules and meet with you in Westford. However, if this would be duplicating your efforts through the Selectmen of both towns, there is no need to force the issue. I know how challenging it is to be a Selectmen and fit in extra meetings.

Please let me know how or if you wish to proceed. Thank you.

Nancy Tavernier, Chair  
ACHC



**TOWN OF ACTON**  
P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**

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November 29, 2004

Jonathan Wagner, Chair  
Zoning Board of Appeals  
Acton Town Hall  
Acton, MA

Dear Members of the Board,

At the suggestions of Mr. Wagner, the ACHC contacted the Chairman of the Westford Affordable Housing Committee and arranged to meet with him. Chris Romeo attended the November 18 ACHC meeting to share his thoughts on the proposed development The Woodlands at Laurel Hills. This was a productive meeting and we thank Mr. Wagner for suggesting it.

While the Westford Housing Committee does not yet have a position on the development, Mr. Romeo stated that Westford's goals are different from Acton because the impact on Westford is not great. In fact, the Housing Committee would like to have greater density on the Westford parcel because it would increase their Town's chances of meeting the goals in their recently approved Housing Production Plan.

Mr. Romeo agreed with ACHC's main points in our statement to the ZBA: the rents for the affordable units need to be lower and allow a range of household incomes to qualify; the need for a Pro Forma consultant; and the deed restriction should be for perpetuity. He restated his interest in a maximum density on the Westford parcel within any environmental limitations.

ACHC and Mr. Romeo agreed to stay in touch throughout the hearing process. It was clear to us that Acton's affordable housing goals and Westford's are similar in general, but our approach to this development is very different.

Thank you.

Nancy Tavernier, Chair  
ACHC



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P.O. Box 681  
Acton, Massachusetts, 01720  
Telephone (978) 263-4776  
Fax (978) 266-1408

**Acton Community Housing Corporation**  
**Nancy Tavernier, Chairman**

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**TO:** Zoning Board of Appeals  
**FROM:** Acton Community Housing Corporation  
**SUBJECT:** Additional comments on The Woodlands at Laurel Hill  
**DATE:** December 2, 2004  
**Cc:** Board of Selectmen

At the 12/2/04 meeting of the ACHC, members voted to endorse the 11/28/04 recommendation of the Board of Selectmen to consider all three phases for The Woodlands in a single comprehensive permit. This includes the current Chapter 40B proposal for 352 units in both Acton and Westford; a 16 unit Townhouse development in Westford; and a 70 unit age-restricted (55 and over) development in Acton.

There are many advantages to both towns in considering the plan in its entirety. One clear advantage to the town is to have Parcel 4 considered under Chapter 40B since it would provide 25% affordable units versus the 5% required under the Senior Residence Bylaw which was contemplated for the future development of this parcel.

One of the priority housing needs identified in the recent Housing Plan "To Live in Acton" is to provide a range of housing options for Acton's seniors, including affordable senior apartments, should that be under consideration.

Thank you.

**Acton Community Housing Corporation**

**Nancy Tavernier, Chairman**

**TOWN OF ACTON**

P.O. Box 681

Acton, Massachusetts, 01720

Telephone (978) 263-4776

Fax (978) 266-1408

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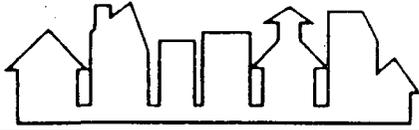
To: Acton Finance Department  
FROM: Nancy Tavernier  
SUBJECT: Bill for consultant services  
DATE: 12/2/04  
Cc: Town Manager

Attached is the invoice from Community Opportunities Group, Inc. for consultant services performed for the ACHC in regard to The Woodlands development. This request was approved by the Board of Selectmen on 9/27/04 (minutes attached) to be funded from the New View Account.

I have included the scope of services and response to the Scope with a not to exceed \$2000 quote. The total bill for services is \$1955.00.

If you have any questions, please contact me at 978-263-9611.

Thank you.



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**Community Opportunities Group, Inc.**

129 Kingston Street, Third Floor  
Boston, Massachusetts 02111  
Tel: 617-542-3300  
Fax: 617-542-3302

**INVOICE**

Invoice No: 0514-01-060  
Date: November 15, 2004

Ms. Nancy Tavernier, Chairman  
Acton Community Housing Corporation  
P.O. Box 681  
Acton, Massachusetts 01720

ITEM

AMOUNT

In accordance with the professional services contract  
related to review of Woodlands at Laurel Hill  
Comprehensive Permit, payment is requested as follows:

**Professional Services**

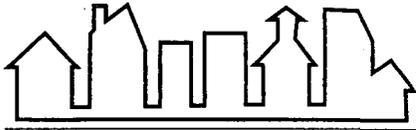
Project Manager – 23 hours @ \$85/hour \$1,955.00

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**TOTAL DUE** **\$1,955.00**

*Please remit to:* **COMMUNITY OPPORTUNITIES GROUP, INC.**  
129 Kingston Street, Third Floor  
Boston, MA 02111

*Prompt payment is appreciated. Thank you.*



Invoice No: 0514-01-060

Date: November 15, 2004

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Page 2

**Acton Community Housing Corporation  
Contract Status**

Date	Invoice #	Invoice Amount	Prof. Services Amount	Balance Remaining
<i>Contract</i>				<i>\$2,000.00</i>
11/5/04	0514-01-060	\$1,955.00	\$1,955.00	\$45.00

September 24, 2004

TO: Board of Selectmen, Sewer Commissioners

FROM: F. Dore' Hunter, Chairman

SUBJECT: Selectmen and Sewer Commissioners Report

see p. 2

**September 27, 2004**

7:00 P.M.

**I CITIZENS' CONCERNS**

**II SEWER COMMISSIONERS' BUSINESS**

**III PUBLIC HEARINGS & APPOINTMENTS**

1. 7:00 **ACTON SCHOOL REMODELING BONDS** – Enclosed please find materials in the subject regard, for Board consideration.
2. 7:10 **RECREATION COMMISSION APPOINTMENT** – Enclosed please find Ms. O'Connell's VCC sheet and recommendation for her appointment as an Associate member with a term to expire 6/30/05 for Board consideration.
3. 7:15 **SITE PLAN SPECIAL PERMIT #04/03/04-397, RAIL ROAD REALTY TRUST, 19 RAIL ROAD STREET (Continued from August 13, 2004.)** - Enclosed please find a request from the petitioner to have this hearing continued to October 19, for Board consideration.
4. 7:18 **CONSERVATION TRUST** – Enclosed please find materials in the subject regard, for Board consideration.
5. 7:30 **SITE PLAN SPECIAL PERMIT #03/09/04-396, MARGARET NAZZARO, 253 ARLINGTON STREET (Continued from previous meetings)** – Enclosed please find materials in the subject regard, for Board consideration.
6. 7:45 **CITIZENS ADVISORY COMMITTEE (CAC)** – Members of the CAC will address the Board regarding the enclosed correspondence.
7. 8:15 **ACTON WINE AND SPIRITS** – Enclosed please find materials in the subject regard, for Board consideration.
8. 8:30 **495/METROWEST CORRIDOR PARTNERSHIP** - Enclosed please find materials in the subject regard, for Board consideration.

**IV SELECTMEN'S BUSINESS**

9. **SPECIAL TOWN MEETING WARRANT** – Enclosed please find materials in the subject regard, for Board consideration.

10. **ACTON HOUSING AUTHORITY (AHA)** – Enclosed please find a request from the Executive Director of the Housing Authority to have the Board designate Ken Sghia-Hughes as AHA's Representative to the Community Preservation Committee, for Board consideration.

11. **COMPREHENSIVE PERMIT APPLICATION (CH.40B), FORT POND BROOK PLACE** - Enclosed please find materials in the subject regard, for Board consideration.

12. **OTHER BUSINESS**

## **V CONSENT AGENDA**

13. **ACCEPT MINUTES** – Enclosed please find Minutes from the August 16, 2004 Meeting for Board consideration.

14. **SPECIAL USE PERMIT #7/21/04-398, 10 CRAIG ROAD, RICH ARCHER** – Enclosed please find a Decision drafted by the Building Commissioner for Board consideration.

15. **REQUEST FOR NEW VIEW FUNDS**- Enclosed please find a memo from Acton Community Housing Corporation asking that the Board approve an expenditure from the New View account to hire a Consultant to assist with the Laurel Hill (Nagog) Development, not to exceed \$2,000, for Board consideration.

16. **LIP APPLICATION** – Enclosed please find a request for Board approval of a Local Initiative Program (LIP) application for a single-family dwelling on Dunham Lane, for Board consideration.

17. **CROWN RESISTANCE DAY CEREMONY AND PROCLAMATION** - Enclosed please find materials in the subject regard, for Board consideration.

18. **ACCEPT GIFT** – Enclosed please find a request from the Recreation Director for acceptance of \$2,400 from the A/B Youth Soccer League, to be used to seed School Street fields.

19. **ACCEPT GIFT** – Enclosed please find a request from the Recreation Director for acceptance of \$1,000 from the A/B Youth Lacrosse, to be used to seed School Street fields

20. **ACCEPT GIFT** – Enclosed please find a request from the Director, Acton Council on Aging to accept a complimentary luncheon for up to 60 Seniors on October 22, 2004, for Board consideration.

## **VI TOWN MANAGER'S REPORT**

## **VII EXECUTIVE SESSION**

### **ADDITIONAL INFORMATION**

Enclosed please find additional correspondence that is strictly informational and requires no Board action.