



Planning Board

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**MEMORANDUM**

**To:** Board of Appeals **Date:** October 28, 2004  
**From:** Planning Board  
Lauren Rosenzweig, Chairman

**Subject:** Petition #04-13, Woodlands at Laurel Hill (40B), 80-82 Nagog Park Drive

After review of the proposed 296-unit development (plus 56 in Westford on the same site) the Planning Board offers the following comments:

1. Much of the site is included in Acton's Affordable Housing Overlay Zoning District B, which allows a maximum of 5 units/acre. The project is located consistent with Acton's zoning designation for affordable housing developments. However, the density exceeds the local overlay district limits of the Acton Zoning Bylaw, and the proposal is therefore not in keeping with the Acton Master Plan. The proposed density in Acton is 296 dwelling units on +/-35 acres, or 8.45 units per acre. This exceeds Acton's Affordable Housing Overlay District maximum density by 69%.

Lot 4 on the plan is included in the site acreage on which the above unit density is calculated. It is shown as a vacant lot. The plan, if approved, would provide street access to lot 4 via Laurel Hill Drive that previously was not available. At a meeting with the Planning Board the project proponent indicated that they intend to develop lot 4 at a later time with a housing project of undetermined nature. The possibility of over-55 housing was mentioned. No matter what type of project, adding future units on Lot 4 would further increase the site density and cause an even greater Master Plan inconsistency.

The Board of Appeals should seek to identify a definitive density level on the site that is consistent with the Master Plan. Therefore, the project density should be reduced to levels at 5 units per acre, and Lot 4 should be restricted as open space since no other open space would be provided in Acton.

At a lower density, the inclusion of some 3-bedroom family units should be considered.

2. Because this project is a long distance from any rail transit all traffic from the site will require transportation by individual cars. A project of this size will likely place significant new demand on vehicular parking at the South Acton Train Station without the room to accommodate it, even though the Acton parking lot is the largest in the area. The Planning Board recommends

that the developer be required to provide a shuttle bus service for its residents to the South Acton commuter rail station and other stations in the area.

3. This project would create a large number of new apartment units in North Acton in residential buildings that are larger and taller than anything else that exists in Acton. Does the Fire Department have the equipment necessary to respond to an emergency there?
4. Emergency response times to this location are some of the longest in all of Acton. Under such circumstances, sprinklers alone do not seem like enough protection. This project exacerbates the need for a greater Fire Department presence in North Acton. The developer should contribute to a new fire station in North Acton.
5. The Acton Subdivision Rules prohibit street access to lots in another Town unless there is also a connection to the street network in the other town. The primary reason of course is the need for the other town's services (police, fire, school buses) to be able to access the development in their town without needing to rely on Acton services. After all, it is in the other Town where taxes are paid.  
56 units of the proposed project would be in Westford, but access is only planned from Acton. Without a direct connection into Westford, what are the proposed arrangements for the units in Westford? How will Westford provide services? If there is an expectation of relying, for instance, on Acton's emergency services due to faster response times, it would seem appropriate to discuss annual payments in lieu of taxes to cover the cost of holding these services available to Westford residents.
6. The proposal is for rental, not homeownership units. State affordable housing regulations provide that in 40B rental project all units count towards the Town's 10% affordable housing goal, including the market rate units. This regulatory scheme does not address the real need for affordable housing, but it helps appease communities faced with 40B development projects. As a result, this project, if approved, would boost Acton's affordable unit percentage from slightly over 2% (177 units) to nearly 6% (473), by the approximate time the project is completed.  
To secure this advantage into the future, the Board of Appeals should seek a covenant or deed rider on the property that covenants to the Town of Acton that the project will be maintained as a rental project in perpetuity. Such document should be recorded before the issuance of building permits. In the alternative, DHCD could provide irrevocable and recordable assurances that all units will continue to be counted towards Acton's Ch. 40B affordable housing inventory regardless of any future changes in the form of ownership (i.e. condo conversion).
7. A condition of approval should require that all designated affordable units shall remain affordable in perpetuity.
8. There is no apparent location assignment for the affordable units. It should be provided to document a reasonable distribution of affordable units throughout the project.
9. As part of a project approval, a unit production schedule should clearly tabulate how the affordable units will be phased as compared to the market rate units. The current Development Schedule appears too vague (section 9). To ensure performance, the schedule should spell out in more detail when affordable units must be ready and approved for occupancy. For example: the first 10 affordable units ready before the issuance of market rate unit occupancy permit #41, the next 10 affordable units before market rate unit occupancy permit #75, etc. Affordable unit completion should be completed ahead of the market rate unit completion.
10. The pricing of the affordable units, especially the 1-bedroom and the lower-end 2-bedroom units, would be only slightly below the comparable market rate units. This is good as it shows

market rate units in or near the moderate income price range. However, this observation gives rise to the question if there is not some flexibility to do one, some, or all of the following:

a) Provide more affordable deed-restricted units below the maximum affordable rent for households at or below 80% of median income.

b) Rather than having all units at the maximum allowed rental price, which would seriously reduce the marketability of the affordable units, lower the deed-restricted rent of some of the affordable units to create an affordability and eligibility range for households below the 80% of median income mark.

c) Place deed restrictions on some of the market rate units indexing them in various degrees between market rate and affordable units to create an affordability and eligibility range for households that are not otherwise eligible for affordable units, but cannot afford market rate units either. These units may not count towards the 10% goal, but would nevertheless respond to a need.

11. At least all ground floor units should be made adaptable for persons with disabilities.
12. The north of the property in Westford abuts directly on an old railroad right-of-way that branches off the planned Bruce Freeman Rail Trail near NARA in Acton and runs towards the Nashoba Valley Ski Area in Westford. The application material briefly mentions this trail and the thought of providing an access easement from the Nagog Park area to it. A suitable, perpetual access parcel easement should be required as part of a project approval, including rights for Acton and Westford to construct improvements for pedestrian, bicycle, and emergency access in connection with the conversion of the railroad right-of-way into a rail trail.
13. The only access to the entire Nagog Office Park and the proposed development is at the signalized Nagog Park Drive intersection with Great Road. To mitigate the project's single-access dilemma, the applicant should build an emergency access connection from Nagog Park Drive to Nonset Path on parcel B-5/18 shown on plan sheet #100-A. There is a dirt road now, but it is hardly reliable as access. A suitable surface would be grass pavers (pervious pavement) together with a paved walkway/bikeway.
14. Westford Lane/Durkee Lane is not a street and does not provide legal frontage over its entire length in Acton. In the present condition, portions of Westford Lane in Acton, and probably Durkee Lane in Westford, is not suitable for access to this development. It is still a dirt road in parts. The plans do not indicate clearly what improvements to Westford/Durkee Lane are proposed to properly function as one of two access roads from Nagog Park Drive to project.
15. Plan sheet # 100-S appears to be a subdivision plan with Laurel Hill Drive as a subdivision street. For recording purposes, a subdivision plan requires the signature endorsement of the Planning Board.
16. Many aspects of the plan as submitted are more akin to a preliminary plan as the term is used, for instance, in the Acton Subdivision Rules and Regulation. It does not show sufficient details to fully evaluate engineering aspects. The plan note "NOT FOR CONSTRUCTION" on each plan sheet indicates that the designers think so, too. This is appropriate, and perhaps even useful, if the applicant envisions a hearing process, in which they work with the Board of Appeals from the preliminary or concept plan stage towards a definitive plan for final Board of Appeals review and decision. However, under Waiver Requests, the applicant asks for Board of Appeals approval before the plans are finalized, in some cases even until after construction is under way. This would leave the final decisions up to no one in particular, which is inappropriate, will most likely be disruptive to the development schedule, and would inevitably lead to serious misunderstandings or misinterpretations. In most cases, a few final plan adjustments are a normal part of a permit decision, but here it seems the engineering design is incomplete to a degree that seems to make it difficult or impossible for the Board of Appeals to give definitive post-decision directions.

17. All plans should be final and suitable for construction implementation, and all final minor modifications that the Board of Appeals may require should be shown on the applicable plan sheets before record plan endorsement and the issuance of building permits.
18. A designer certificate should be submitted prior to record plan endorsement and the issuance of building permits.
19. Since Nagog Park Drive is a private way, the proposed Laurel Hill Drive must also remain a private way as all other streets and ways shown in the proposed development. The applicant should submit for approval a recordable private way covenant and maintenance agreement, by which it binds itself and all successors to plow and maintain the roads and ways, and that it will not petition the Town of Acton for acceptance of the streets and ways as public ways, for plowing, or for any kind of maintenance. This document should be recorder before the issuance of any building permits.
20. The applicant should submit an as-built plan for all roads and related utilities and infrastructure upon project completion.
21. Before the endorsement of the record plan or the issuance of building permits, the applicant should post a performance guarantee consistent with section 6 of the Acton Subdivision Rules to secure the construction of Laurel Hill Drive, Westford/Durkee Lane improvements, the emergency connection to Nonset Path, and other on- and off-site improvements related to access to the site.
22. The applicant should submit a statement allowing the Town access to the site to inspect the project from time to time, and to complete the access roads in the event the developer becomes unable to do so.
23. The proposed grades and width of Laurel Hill Drive seem to fall generally within Acton's street construction standards. On the other hand, proposed Dogwood Lane has grades in excess of standard that apply to the proposed unit density in this development.
24. The application states that Laurel Hill Drive will have a sidewalk, but the plan sheets do not show it.
25. In a courtesy meeting before the Planning Board, the proponent contemplated some future development off Laurel Hill Drive on the vacant Lot 4, without committing to details. Looking ahead to that scenario, (except in the event that lot 4 becomes restricted as open space) the developer should seriously consider laying out a suitable street right of way or easement from the end of Laurel Hill Road to the end of Westford/ Durkee Lane in Westford. Construction of such a street would seem inevitable to provide adequate alternate access to such a future development. Laurel Hill Drive is rather long. It forks off Nagog Park Drive, which itself is a very long single access street. The proposed Dogwood Lane by itself appears an unsuitable substitute due to its steep grades and its location only half-way up Laurel Hill Road.
26. The application includes a Traffic Impact and Access Study. The trip generation from the project (Site Generated Traffic Volumes, page 5) seems largely consistent with Planning's interpretation of the ITE manual data. However, the report makes an apparent understatement when it says that the intersection operations resulting from this project are comparable to those of a previously approved (but never built) office development on approximately the same site (bottom of page 1).

Compared to the trip generation estimates of the proposed office buildings, the average daily trips from this project are up by 136%, and up 35% during the morning peak hour, and 87% during the evening peak hour. The Planning Board is not in a position to further evaluate the methodology and accuracy of the study and its recommendations, but it notes that the study omits weekend peak hour impacts, which will change from almost zero for office buildings, to a

very large factor given the proposed unit count.

Impact mitigation should consider the entire Great Road corridor, not just the nearest intersection. Waiting times at unsignalized Great Road intersections are beyond failure and will undoubtedly increase as a result of this project. The need for additional traffic lights on Great Road has been identified previously, foremost at Concord Road in East Acton. The size of this development makes it appropriate to ask the developer for a signal installation and to press MassHighway for approval of the same. MassHighway controls Great Road.

27. The application's data regarding the anticipated number of school-age children generated from this project is not inconsistent with Planning's observations of apartments in Acton. The application includes a recent, well documented report on the subject (Housing the Commonwealth's School-Age Children, August 2003).  
The application does not estimate municipal (non-school) service costs. A recent in-house study estimated average municipal service costs per residential unit at approximately a quarter of the average school costs per residential unit. Even with municipal costs included, there appears to be substantial room for including more family-friendly housing in this project - i.e. 3-bedroom units, before the Town's net revenue from this project turns negative.
28. Under requested waivers, the application speaks of multiple signs for this project to the point where one might wonder if there is not a sign overload. A signage plan (locations, size, height, illumination, designs) should be provided before project approval.
29. All outdoor lighting, including lights installed in streets and ways, should be selected, designed, and installed in compliance with the Acton zoning bylaw (shielding, power limits, etc.).
30. The applicant submitted a waiver request from the parking requirements of the bylaw to allow fewer than the otherwise required number of parking spaces. The count appears to be about 500 spaces for a total 352 units (including Westford units). Given that the project has 148 one-bedroom units, and no 3-bedroom units, this number may be sufficient.

cc: Board of Selectmen  
ACHC

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