

MEMORANDUM

TO: Roland Bartl, Planning Director
FROM: Christine M. Griffin, Anderson & Kreiger LLP
CC: Stephen D. Anderson, Town Counsel
DATE: May 10, 2012
RE: Application for a Comprehensive Permit
263-265 Great Road – The Meadows at Acton

You have asked for a brief review of the Application for a Comprehensive Permit at 263-265 Great Road, the Meadows at Acton project.

1. Jurisdictional Requirements

There are three basic jurisdictional requirements for an applicant to be eligible to submit an application to the Board of Appeals for a Comprehensive Permit:

- (a) The Applicant shall be a public agency, a non profit organization, or a Limited Dividend Organization;
- (b) The Project shall be fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program; and
- (c) The Applicant shall control the site.

To satisfy the jurisdictional pre-requisites, the Applicant has offered the following information:

- 1. A document reflecting that there is a Certificate of Organization for 263 Great Road LLC filed at the Massachusetts Secretary of State's Office;
- 2. A draft Regulatory Agreement and Declaration of Restrictive Covenants for Ownership Project in which funding is provided through the LIP program;
- 3. A Project Eligibility Letter dated February 10, 2012 from the Commonwealth's Department of Housing and Community Development to Stephen P. Steinberg, President, Acton Management Inc. (note that Acton Management Inc. is the Manager of 263 Great Road LLC according to the organizational documents);
- 5. A Purchase and Sale Agreement dated June 27, 2011 between Anthony J. Ruggiero, Jr. (seller) and 263 Great Road LLC (buyer) regarding 263-268 Great Road, in Acton,

Massachusetts with an anticipated closing date of (among other possibilities) 30 days after buyer receives all permits necessary or required to develop a Chapter 40B Project; and

6. An attorney's Title Opinion regarding the property dated February 8, 2012.

Jurisdictional Pre-requisite 1(a)

Under the 40B Regulations, 760 CMR 56.02, a "Limited Dividend Organization" is "any entity which proposes to sponsor a Project under the M.G.L. c.40B, §§20 through 23; and is not a public agency or a nonprofit; and is eligible to receive a Subsidy from a Subsidizing Agency after a Comprehensive Permit has been issued and which, unless otherwise governed by a federal act or regulation, agrees to comply with the requirements of the Subsidizing Agency relative to a reasonable return for building and operating the Project.

Accordingly, to the extent that 263 Great Road LLC is such an entity which has proposed such a project subject to such an agreement, 263 Great Road LLC is a Limited Dividend Organization and the first jurisdictional pre-requisite is satisfied.

Jurisdictional Pre-requisite 1(b)

According to the letter from DCHD, the applicant's "application for project eligibility under the Local Initiative Program (LIP) for the proposed Acton Meadows project has been approved."

Accordingly, the Project is fundable by a Subsidizing Agency under a Low or Moderate Income Housing subsidy program.

Jurisdictional Pre-requisite 1(c)

The P&S between the owner (Anthony J. Ruggiero, Jr.) and the Applicant (263 Great Road LLC) has an anticipated closing dated of (among other possibilities) 30 days after buyer receives all permits necessary or required to develop a Chapter 40B Project. From the P&S the buyer has access to the site for purposes of applying for the comprehensive permit and will own the site once the closing occurs. There is a potential problem with section 8 of the P&S in that it does not contain an end date by which the transaction must occur. As the result, this provision may violate the rule against perpetuities. The Board should request that this section of the P&S be amended to include a date by which, regardless of all other contingencies, the closing must take place. The Board should also clarify with the applicant what the extent of its current access to the Property is, prior to closing, to confirm that the applicant currently controls the Property sufficient to meet this jurisdictional pre-requisite.

The Board may also want to confirm with the applicant what permits and approvals it believes it will need before the closing can take place, and what the timeline for the approvals will be.

2. **Submission Requirements**

The application generally satisfies the Submission Requirements of 780 CMR 56.05 in that the application generally contains the following information; however, to the extent the Board considers it necessary, the Board may request reasonable additional information relevant to its determination:

- (a) Preliminary site development plans;
- (b) Information on existing site conditions and conditions in the surrounding area;
- (c) Preliminary, scaled, architectural drawings;
- (d) A tabulation of proposed buildings and ground coverage;
- (e) A preliminary subdivision plan;
- (f) A preliminary utilities plan;
- (g) The Project Eligibility letter, and
- (h) A list of requested Waivers (The Board should clarify with the Applicant if the page entitled “Local Laws and Regulations; Non-Compliance” lists all waivers that are currently requested).

3. **Consultant Review**

If the Board determines that, to review the application, it requires technical advice in such areas as civil engineering, transportation, environmental resources, design review of buildings and site, or review of financial statements that is unavailable from municipal employees, it may employ outside consultants whose reasonable fees are funded by the applicant.

The Board is not obligated to engage such consultants and the Board may rely on town staff for the necessary expertise to address issues of local concern.

4. **Other Matters**

In the event the Board is inclined to approve the Project (with conditions), we will review the draft Comprehensive Permit, the proposed Regulatory Agreement and other 40B project documents in more detail.



TOWN OF ACTON
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Engineering Department

INTERDEPARTMENTAL COMMUNICATION

To: Board of Appeals

Date: May 10, 2012

From: Engineering Department

Subject: Comprehensive Permit – 263 Great Road – The Meadows at Acton

We have reviewed the site plans for the above mentioned plan dated March 29, 2012 and have the following comments:

1. According to our SU-30 template, an SU-30 vehicle can enter and maneuver in the driveway. We will defer further comment to the Fire Department.
2. There are no fire alarm call boxes shown on the plans. And the two (2) fire hydrants are about 800 feet apart. We will defer further comment to the Fire Department.
3. The applicant will need to resolve the street numbering and street name with our office in conjunction with the Fire and Police Departments before building permits are issued.
4. The engineer should show the location of the mailboxes and/or the central mailbox location on the plans. The applicant should consult with the Postmaster to determine what will be required by them for mail delivery. I would be concerned about proposing mailboxes along Great Road. If a central mailbox location is proposed, the applicant could consider a small shelter to house the mailboxes and also be used as a bus stop for the school children. This shelter could also serve for a future bus stop if the Minutevan was to coordinate another fixed route to pickup commuters that need to get to the Train Station. The applicant could contact the MinuteVan group to discuss this as a possible option for these future residents.
5. The applicant intends to keep the road private. Common Drive standards require an access and utility easement of at least 20' wide. The applicant will need to make sure they reserve the rights for the homeowners association to properly maintain the amenities within the development.
6. We recommend that the applicant incorporate some language for the private way into their legal documents and maintenance agreements so that future residents clearly understand the Town will not be responsible for snow plowing or any other related maintenance and

that the common driveways will not become public ways.

7. The applicant should label the sight distance being provided on Great Road and ensure that existing or proposed landscaping does not limit or obstruct sight distance.
8. If the applicant intends to install a sign to identify the development, it will need to be shown on the plans to ensure the sign will not impact sight distance. If proposed, the applicant will also need to make sure the sign complies with the zoning bylaw.
9. If the applicant is proposing a street name, the street name sign shall match the street name signs currently used in Acton. It shall also have an additional plaque signifying the road as a private way.
10. The applicant has centerline radiuses of 39 and 50 feet. Common Drive standards call for a minimum of 80 feet.
11. The applicant may want to consider granite curb at the intersection roundings to minimize risk of damage by plows.
12. The proposed 18 foot wide road serves 26 units and is proposed to have an ADT of 230 vehicles per day. Low Intensity streets, defined as having less than 250 vpd require a minimum roadway width of 20 feet.
13. The applicant is proposing a 4 foot wide sidewalk with no grass strip adjacent to an 18 foot wide road. The regulations call for a minimum 5 foot width. We would recommend the applicant add a 2 to 3 foot grass buffer to provide some separation between vehicles and pedestrians.
14. The engineer should show a crosswalk, stop sign and line to be installed on the proposed road at the intersection with Great Road in compliance with MUTCD. The applicant might also want to show a short section of yellow centerline to clearly delineate the travel lanes at Great Road.
15. The applicant should ensure that the road shoulders have a minimum 3 foot wide zone free of obstructions.
16. The applicant has provided two spaces per unit. There are no provisions for guest/overflow parking on this narrow road.
17. The adjacent property has currently filed an ANRAD with the Conservation Commission. We've also noted on these plans that the applicant is splitting some of their existing frontage onto a separate small parcel of land. We recommend that the applicant consider combining or providing a shared access for the proposed units. This could be considered as mitigation for the traffic impacts on Great Road by reducing the overall number of curb cuts on the state road.
18. The applicant does not provide a crosswalk on Great Road. This development is across the street from a major shopping center. There is a gap in the sidewalk on the proposed

road by the leach field and the width of the proposed sidewalk is 4 feet instead of 5 feet as required in our regulations. The applicant could apply the added savings by these changes in the sidewalk design toward the crosswalk design and possible sidewalk connection on the opposite side of Great Road.

19. The applicant intends to have drainage overflow from DMH-6 directed to the existing manhole on Great Road. The applicant should provide calculations showing that there is sufficient capacity to handle this overflow.
20. There is a typo on the detail for DMH #6. The label should be changed from "To Infiltration Basin" to "To State Drain".
21. The applicant should add notes to close off the existing driveway. This entails removing the existing pavement, restoring it to match the surrounding conditions, add a curb to match what exists on Great Road, reconstruct sidewalk to top of the new curb and match the materials used for the existing sidewalk on Great Road.
22. Great Road is a state road. The applicant will need to work with MassDOT for an access permit to approve their new access, mitigation for traffic impacts if any, a pedestrian connection to the shopping center and their connection into the drainage system. We request that a copy of any plans or permits approved by MassDOT be given to our office for our records.
23. The site is located within Groundwater Protection Zones 2 and 3. The applicant has provided emergency slide gates before the infiltration basins with the exception of Infiltration Area #3. Stormwater runoff is infiltrated there with no emergency gate provided.
24. The applicant needs to label on the estimated seasonal high groundwater on the plans and details to ensure there is at least a 2 foot separation between the water table and the bottoms of the proposed retention/infiltration facilities and the roof drywells.
25. The applicant should label the height of the walls in the diversion drain manholes on detail sheet and ensure there is adequate accessibility for future maintenance. The detail shows a 1 foot minimum height above the wall which could pose a problem for future maintenance.
26. The applicant should confirm the sizing for the roof drywells and add a note that the developer will be required to make necessary modifications if the drywell does not work as designed.
27. The Town Maps indicate there is a gas main in Great Road at this location. If the applicant intends to provide gas in the development, the main and services should be shown on the plans. The applicant should also show the proposed locations for the other utilities such as electricity, TV/phone.
28. The engineer should add the following notes about paving the road:
 - Prior to the installation of the wearing surface on the road, the binder surface shall be swept clean, dried if necessary, patched and treated with an asphalt emulsion or tack

coat to ensure a satisfactory bond between the pavement courses. It should also require that the wearing course would not be applied until all construction on lots served by proposed road is substantially completed.

- No paving shall take place after November 15th of any given year.
 - The binder course of paving shall be exposed to a winter season (November 15th - April 30th) prior to the application of the final wearing course.
29. The operation and maintenance schedule should also include information related to the operation and maintenance for the slide gates, the area drain system and the roof drywells. The O&M Plan should be incorporated into their legal documents (i.e. private way maintenance agreement, master deed, etc).
30. The temporary benchmarks will need to be relocated to fixed objects that will not be disturbed during construction.
31. A final as-built plan and certification will be required after construction is completed. The engineer will need to witness the construction, as deemed necessary, to allow them to certify the subsurface features required on this drainage such as the drainage system.
32. Due to the number of units and the limited recreational facilities in the immediate area, I would recommend the applicant consider a recreational area by the leach field and reserve area.

Cheryl Frazier

To: Board of Appeals; Planning Department; Acton Housing Authority; Acton Community Housing Corporation
Subject: FW: Health Dept. comments for 263-265 Great Road

From: Isabel Roberts
Sent: Thursday, May 10, 2012 12:55 PM
To: Cheryl Frazier
Subject: Health Dept. comments for 263-265 Great Road

The Health Department has reviewed the Comprehensive Permit application for 263-265 Great Road, and finds the following:

Comments:

- 1) Will this project be served by Acton or Concord Water?
- 2) Condo association documents should include maintenance of system, annual pumping, and T5 inspections every 3 years. These costs should all be included with the condominium fees and managed by the association. In addition, a portion of the fees should accumulate into a wastewater system maintenance/replacement capital account that is expressly designated for that purpose and not accessible for other condominium association expenses. Health Department should approve all condo docs and master deed prior their filing and to sign-off on final Certificate of Compliance.
- 3) Label individual stormwater dry well? Collection area?

Note: No waivers requested from Board of Health Rules and Regulations

Isabel Roberts
Health Agent
Health Department
472 Main Street
Acton, MA 01720
978-929-6632

Cheryl Frazier

From: Holly BenJoseph [hollydbj@gmail.com]
Sent: Wednesday, May 09, 2012 5:03 PM
To: Roland Bartl; Acton Community Housing Corporation; Cheryl Frazier; Board of Appeals; David Clough
Cc: Design Review Board
Subject: Re: Additional Material for Acton Design Review Board

Hello Roland:

Thank you for the helpful information on the 40B process timeline, as both Chris and I are new Chairs, we are still in the learning phase about the the review process and how the various boards function.

The DRB intends to be a supportive part of the review process and hope with each new project coming through the pipeline, that we will be able to provide useful input to the BOA, BOS and other departments. Our BOS liaison, Dave Clough and Nancy Tavernier have suggested that the DRB get on the email shells of the ACHC and BOA for stronger cross-communication and we look forward to supporting the planning department as well.

At the DRB's last meeting, we started to review the project but several drawing inconsistencies between the architectural sections and the sketches provided made it difficult to make comments since we didn't know which drawing to respond to. For instance, the building elevations (no title, date or scale) did not match the sketch titled Acton Meadows (no date).

Most DRB members felt the drawings were generic and not site specific, and while they 'might' reflect the proposed architecture (with mixed messages) they do not, as far as we could tell, correspond to any location on the plans.

Additionally, we found it very difficult (almost impossible) as a group to review drawings on DocuShare and a laptop computer screen rather than from full sized prints and we all felt it was important to have a full size set of drawings to review.

Is there any way the DRB can be provided with a set of full-sized drawings for review purposes in the future? (I just re-checked the docuShare documents today and the architecture sections are not appearing at all, they are blank sheets.)

If the BOA and other departments would like the DRB's input and advice, then we need to have sufficient and appropriate drawings to make informed comments and evaluation.

Regards,
Holly Ben-Joseph

On Tue, May 8, 2012 at 5:45 PM, Roland Bartl <rbartl@acton-ma.gov> wrote:
Hi, Holly:

The Board of Appeals Hearing on the proposed Acton Meadows affordable housing development is scheduled for May 14 and, barring any major unresolved issues, may be closed on that date. As a reminder, the review and hearing schedule under M.G.L. Chapter 40B is abbreviated leaving less time than might be the case in other situations.

It might have been better to submit comments from the materials that were provided in the application and posted on the Town web site's public documents folders. That way, the DRB would have been able to provide input at some level with the certainty that it becomes a part of the Board of Appeals'

hearing record. While the matter is up entirely to the Board of Appeals in any case, I do not think that missing comments from the DRB by themselves amount to the level of significance that warrants a hearing continuation, especially in a situation where the site is relatively isolated from public and abutting views, and where the application as originally submitted contains materials with depictions of front and side elevations that provide a clear sense of the type of buildings and architecture that are proposed.

Regards -

Roland Bartl, AICP
Planning Director
472 Main Street
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(978) 929-6631

From: Cheryl Frazier
Sent: Tuesday, May 08, 2012 4:18 PM
To: Board of Appeals
Cc: Acton Housing Authority; Acton Community Housing Corporation
Subject: FW: Additional Material for Acton Design Review Board

From: Holly BenJoseph [<mailto:hollydbj@gmail.com>]
Sent: Monday, May 07, 2012 12:54 PM
To: pilotconant@aol.com
Cc: Design Review Board; Building Department; Board of Selectmen; Nancy Tavernier; Steve Steinberg
Subject: Re: Additional Material for Acton Design Review Board

Hello Peter,

Thank you very much for sending this additional material for review, it is helpful.

Our next meeting is scheduled for Wednesday, May 16, starting at 7:30. Would you be able to attend on this date? Can I tentatively put you on for 7:40pm?

I have found out that the town no longer distributes hard copies to the reviewing boards, so if you have an office set that you could bring to the meeting this would be very helpful. (if you don't have an office copy, let us know).

The DRB is in the process of developing a list of Suggested Materials to bring to meetings, so we don't have a list yet on the website, but the materials we have found helpful in reviewing other projects are:

Existing site photos

Site sections (also including relation to adjacent buildings)

All the other plans & elevations (site and Arch) that you have submitted in the packet.

Information on exterior building materials and colors

site lighting information (if applies)

site signage (if applies)

We understand that it is early in the process and you may not have all of this information developed yet, so please bring what you have that will help us understand the overall aesthetics of the project,

Regards,

Holly Ben-Joseph (co-chair)

On Fri, May 4, 2012 at 12:26 PM, <pilotconant@aol.com> wrote:

To: Holly Ben-Joseph, David honn, Christopher Dallmus, Ryan Bettez

From: Peter Conant, RA

Re: The Meadows at Acton

Dear Members of the Design Review Board, and other as copied:

Enclosed please find additional materials that were inadvertently omitted from our filing with the Acton board of Appeal.

Included are front and rear elevations, a perspective rendering showing the proposed streetscape, and two colored computer-generated views of the homes with the different unit elevations..

Until I received your email today I was unaware of the requirement for site sections. Please let me know what other items you require that are not specifically enumerated in the Regulations for Filing a Comprehensive Permit with the Acton Board of Appeal.

Also, I would be happy to appear at your next meeting. Can you let me know when that is scheduled and what time I might be on the agenda?

Seven "hard copies" were filed with the secretary to the Acton Board of Appeal last month, including stamped architectural drawings.

I look forward to hearing from you.

Sincerely,

Peter M. Conant, Registered Architect

copies to: Acton Board of Appeal via Acton Building Department

Acton Board of Selectmen

Nancy Tavernier, Acton Community Housing Corporation

Acton Management Corporation

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