

To: Southborough Board of Appeals

To: Southborough Planning Board

Re: 120 Turnpike Road 40B Apartment Bldg. Questions and Comments

Dated: April 23, 2024

From: Paul Carter Town Resident 6 Hillside Avenue

Zoning Board of Appeals Public Hearing 4/24/24

1. The letter dated March 6, 2024 from the Developer requests that the Planning board modify the “Decision of Major Site Plan Approval and Decision of Special Permit Approval Lower Impact Development” to change the wording regarding the Donation of the 6 acres of the existing residentially zoned property and proposed lot for the proposed 40B Apartment Building to eliminate the **donation of the 6 acres** because the previous Office Development never built the parking garage they were planning to.
 - a. There is no provision in the law that allows for a Planning Board to change the content of a Planning Board Decision after the fact. Particularly after it has been acted upon, even if only partially, referring to the fact that the parking garage was never built and the Selectman never accepted the land.
 - b. The original decision can only be changed by a new Application “Major Site Plan Approval and Decision of Special Permit Approval Lower Impact Development” through the normal Planning Board process not the 40B process.
 - c. If this is a legal question, then the **Town Counsel should give a legal opinion** regarding this issue to the Planning Board and the Zoning Board of Appeals before this project is allowed to move forward,
 - d. Once again this goes to the question of whether this part of existing Map 37 Lot 4 can be considered a separate lot on which the Comprehensive Permit Application can be based.
 - e. It also goes to the issue that a Definitive Subdivision needs to be approved by the Planning Board before the 6 acres is legally a separate lot. At the very least, the Application for a 40B

Comprehensive Permit needs to include a Preliminary Subdivision as required by the 40B Regulations.

2. What the Developer is proposing to give the Town in exchange for this Residentially Zoned 6 Acres that was donated to the Town is \$25,000 for list of potentially very low value items.
 - a. One of the proposed alternative considerations is for the Developer to restore the proposed landscape screening between the 4 Story corner of the proposed Apartment Building and the existing Breakneck Hill Conservation land and trail which is located only 30 feet from the existing Breakneck Hill Conservation land. The proposed landscape screening was shown on the original Comprehensive Permit Application Site Plan and has now been removed from the revised Site Plan so it could be exchanged for the 6 acres that was donated to the Town.
 - b. A more appropriate and justifiable value of the existing residentially zoned 6 acres would be \$1.8 million dollars. This is based on an industry accepted conservative value of:
 - i. 6 acres divided by 1 acre lots giving 6 times \$300,000 each.
(the average dollar figure used in the current tax assessments)
3. If the Planning Board is willing to make this exchange, then the consideration given by the Developer should much more than \$25,000.
4. The current letter from the developer refers to a "Common Driveway" for the proposed 60-unit Apartment Building as well as the three (3) existing 3 story office buildings.
 - a. In order for the Access Road serving the existing office and proposed apartment building to be considered a "Common Driveway" there needs to a separate lot for the 40B Apartment building created through the Subdivision process.
 - b. The Access Road needs to be a Definitive Subdivision Road even if the configuration is not up to Subdivision Standards. The State Regulations that govern the 40B which are 760 CMR: Department of Housing and Community Development CMR 56.00 Comprehensive Permit: Low- or Moderate-Income Housing which says that:
 - i. Under Section 56.05 Local Hearings (2) Elements of a Submission, Part (e) where a subdivision of land is involved, a

Preliminary Subdivision Plan must be submitted with the Comprehensive Permit Application

5. Before this 40B Comprehensive Permit Application should be allowed to move forward, a **Separate 6 Acre Lot** needs to be created to establish a basis for the Comprehensive Permit application.
6. The 60 Unit Apartment Building is proposed to be 4 stories high. There are no other 4 story buildings in the Town of Southborough, not even the existing buildings fronting on Route 9. The Madison Place apartments are an exception located at the intersection of Route 495 and Route 9 close to the Westborough Town Line.
 - a. Approving the Comprehensive Permit allowing a 4-story building would set a bad precedent for the Planning Board and Zoning Board of Appeals for any proposed developments going forward. Four (4) story buildings are more appropriate for a semi-urban setting than a small residential community.
 - b. All the existing zoning including Industrial and Industrial Park, Business Highway and Village, Research, Scientific and Professional and Residential are **restricted to 3 story buildings**.
7. Two specific issues regarding the current Comprehensive Permit Application that need to be addressed are:
 - a. A **sidewalk** needs be added to the existing office park driveway and shown on the revised Proposed Site Plans along the Proposed Access Driveway. MassDOT has more recently added new and filled in gaps in existing sidewalks along Route 9. There is now a continuous sidewalk from the Office Park and the Whites Corner Shopping Center to the west and the Walgreens to the east. A sidewalk should be provided for any potential residents and children of the proposed Residential Apartment Building.
 - b. A back of sidewalk line and proposed sidewalk labels should be added to the revised site plans.
 - c. A roadway Typical Section should be added to the Comprehensive Permit Site Plans showing the proposed sidewalk along the access roadway.
8. Although agreed by the Applicant and directed by the Zoning Board of Appeals, it appears that the Proposed Comprehensive Permit Application,

Proposed Site Plans, Driveway, Traffic Report, Soil Test Pit Logs and Drainage Report still need to be **Peer Reviewed** just like any other proposed project.

9. The 40B process is intended to still provide **responsible oversight** by the Zoning Board of Appeals **on behalf of the Planning Board.**
10. **I recommend that all of these issues be properly addressed before this project is allowed to move forward.**