

TOWN OF SOUTHBOROUGH



PLANNING BOARD

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August 20, 2024

Mr. David Williams, Chair
Zoning Board of Appeals
9 Cordaville Road
Southborough, MA 01772

RE: 120 Turnpike Road - Proposed 40B Development
Planning Board Comments related to Plan Set revised July 24, 2024

Dear Zoning Board Members,

The Planning Board met on Monday, August 19, 2024 and agreed to send our comments in advance of the Public Hearing for Ferris Development's 40B proposal for 120 Turnpike Road. Planning Board member Deborah DeMuria will be in attendance and would appreciate the opportunity to speak to our six (6) priorities. We urge the ZBA to recognize our priorities and detailed observations in your public hearing process with Ferris Development and not compromise on these critical elements.

Top 6 Priorities Identified by The Planning Board:

- 1. Convey 6.2 Acres. This is an enforceable condition and not contingent on the approval of the Comprehensive Permit.** A condition of the exercised and recorded 2019 Major Site Plan Approval required that 6.2 acres at the southern portion contiguous to the Breakneck Hill Conservation Land be donated to the Town of Southborough Conservation Commission. The proponent should donate the lot to the town in compliance with the 2019 condition, and conveyance of the property should be immediate.

Importantly;

- a. There shall be no trees, and no vegetation disturbed in the donated parcel; the grading and removal of trees in the submitted plans violates the condition of the 2019 Major Site Plan Approval where the property was to be donated as open space, which is to be left in its natural state.
- b. Significant grading is shown on lot 4C right up to the conservation land, with no tree replanting proposed. This area is currently heavily tree lined and would provide some buffering between the conservation land and the proposed buildings and structures. This grading and tree removal violates the condition of the 2019 Major Site Plan

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- Approval, which states that the property was to be donated as open space and left in its natural state.
- c. A drainage swale and septic are currently shown within the 6.2 acres; this, too, violates the 2019 Major Site plan condition.
 - d. Locating the septic under the parking lot would solve this problem. Ferris Development has shown this as feasible based on two additional plans circulated for 40B within Southborough.
 - e. The Planning Board still believes that a Major Site Plan Modification is required for the 6.2 parcel.
- 2. Five (5) Stories is unacceptable.** The Town of Southborough has, by design, limited the height of our buildings in town. With the one exception of Madison Place at four (4) stories tall. Our infrastructure in all districts is limited to < four (4) stories.
- 3. Subdivision.** The Zoning Board of Appeals (ZBA) Comprehensive Permit Regulations and Guidelines, which the ZBA was required to promulgate per 760 CMR 56.00, section 4.1.3.1 requires all plan submittals shall conform to the requirements of the Town Subdivision Rules and Regulations Section 244- 10 Definitive Plan. The plans submitted are deficient in many areas, making them very difficult to read and to determine the lots being created. (Please see detailed subdivision concerns addressed later in this communication.)
- 4. Waivers.** The ZBA had previously rejected the proponent's request for blanket waivers for the entire zoning bylaw. On the waiver list just received on Thursday 8/15/24, these blanket waiver requests remain. We would encourage the ZBA to reject these blanket requests. It is the proponent's responsibility to determine which sections of the code would make the project development infeasible and not just reject outright all sections of the code that are in place to serve the public interest. (Please see detailed waiver concerns addressed later in this communication.)
- a. Plan sheet D3 list of waivers #2 states the lot (referring to the 40B lot) has no frontage, which is a violation of MGL, which requires a minimum of 20ft frontage.
- 5. Affordability.** The affordability of the affordable units should be in perpetuity.
- 6. ADA Compliance.** The development should be ADA-compliant, and the plans should reflect any ADA considerations.

The Planning Board felt that our discussions, summarized in detail below, may benefit you as you proceed with the 120 Turnpike 40B public hearing process.

Subdivision plans:

- a. A professional engineer and land surveyor registered in Massachusetts shall prepare the definitive plan, which must be clearly and legibly produced. In addition, the ZBA Regulations also require the plans to be signed and stamped by an MA-registered land surveyor. The plans are not prepared, signed, or stamped by a land surveyor.

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- b. The plans shall be accompanied by an index sheet at a scale of one inch equals 100 feet, showing the entire subdivision and adjacent streets and the dimensions of the lots and streets and lot numbers — no such index accompanied the plans.
- c. Lot 4C should indicated on the plan that it is to be donated to the Town of Southborough Conservation Commission.
- d. Elements must be included within a subdivision plan that are currently not reflected in the plan before the ZBA, including:
 - i. Major existing features of the land, such as existing waterways, swamps and water bodies, wetlands, designated or otherwise, natural drainage courses, walls, fences, buildings, large trees, wooded areas, outcroppings of rock, ditches and all existing structures above or below ground.
 - ii. Large trees and the historic stonewall abutting the conservation land are not shown.
 - iii. Location of all permanent monuments, identified as to whether existing or proposed have also not been shown.
 - iv. Location and species of street trees identified as existing or to be planted are not shown.
 - v. Cross sections typical of each street, roadway and sidewalk to be constructed are not shown and although the notes on plan sheet S1 indicate sidewalks will be created, none are shown on the plan.
 - vi. Green line and dashed blue line are not defined in the legend/key.
- e. The lot lines and frontage of the 3 lots being created need to be shown. 118-120 Turnpike Rd currently operates with the benefit of a variance for both frontage and side setback. The variance was issued upon the findings that there was not a change in use conducted on the property, and a third building was not permitted. Subdividing the lot would change the conditions the variance approval was based on. In addition, it would violate Southborough Code Section 174-14 as the lot is not in compliance with the bylaw.
- f. Inadequate detail in the subdivision plan makes it impossible to determine the boundaries. Sufficient data for the subdivision plan must be included to determine the location, direction, and length of every street and way line, lot line, and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of boundary lines of the subdivision perimeter and all subdivision lot lines, including lot frontage on the streets, of the boundary lines of all streets and easements.

Waivers:

- a. The proponent is requesting a **blanket waiver from the ZBA's Comprehensive Permit regulations and guidelines**. We would ask you to reject this blanket waiver request,

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the ZBA is required to promulgate regulations under 760 CMR 56.00, the rejection of which would violate the state regulations. These are listed on Page 1, Waiver #1: §174-6, §174-7, §174-8, §174-8.2 RA, §74-8.2B(9) RA, §174-8.5 BH, §174-8.9 WFP, §174-8.10 CR and Waiver #11, "Zoning Bylaw Generally".

- b. The proponent is also **requesting a blanket waiver of subdivision regulations**, again we would request you reject this blanket request. The subdivision includes lots that are not within the 40B locus and are therefore required to comply with Chapter 244. These waivers are located on Page 7 and also listed erroneously as #1, "Southborough Subdivision Regulations Regarding the Subdivision of Land Generally." In addition, we would request you reject the waiver request of Chapter 244-10, definitive subdivision which the proponent is required to comply with per the ZBA regulations.
- c. Page 3, Waiver #3 §174-10, Site Plan Approval; Planning Board recommends that site plan modification from the original 2019 be pursued by the proponent.
- d. Page 3, Waiver #4 §174-11, signs and illumination after 10pm; a 40B shall be in compliance with our signs and illumination requirements.
- e. Page 3, Waiver #5: §174-12.1 Outdoor illumination. The proponent is requesting an outright waiver from the outdoor illumination bylaw. This is surprising since at the site walk the owner and proponent committed to complying with this bylaw. We would request that the proponent communicate how complying with the bylaw and installing lighting that is dark sky compliant would hinder the development of the project given the knowledge that light pollution causes harm to both humans and wildlife and the property abuts one of the most special conservation properties in Southborough.
- f. Page 4, Waiver #9 §174-13.5 Stormwater and Erosion Control.

The Planning Board appreciates the efforts of the ZBA and is available to respond to any questions or comments we have provided in this communication. We are grateful for the cross-functional collaboration between our two entities and believe that this can benefit you throughout the public hearing and permitting process.

Sincerely,



Meme Luttrell
Planning Board Chair

cc: Planning Board
Mark Purple, Town Administrator
Kathryn Cook, Select Board Chair