

TOWN OF SOUTHBOROUGH



OPEN SPACE PRESERVATION COMMISSION

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[Open Space Preservation Commission | Southborough, MA \(southboroughma.gov\)](https://southboroughma.gov)

August 20, 2024

To David Williams Chair, and Members of the Zoning Board of Appeals:

The Open Space Preservation Commission (OSPC) reviewed the 7/24/24 version of the 120 Turnpike Road Site Plans at our meeting on August 2, 2024. The OSPC Chair attended the ZBA Hearing for the 40b on July 31, 2024, and we discussed statements made at that hearing as part of our review.

We took the following positions:

- We support and applaud the applicant Ferris Development's proposal to move the building off the land legally required to be gifted to the Town as documented in the decision and plans from the recorded existing site plan for the parking garage.
- We believe that a site plan modification is required to review the proposed redesigned layout for the 6.2 acres to be gifted to the Town.
 - We agree with Town Counsel Talerman's statement at the August 2, 2024, ZBA Hearing that there is a requirement to convey the 6.2 acres.
 - We disagree with the following statements Town Counsel made at that Hearing:
 - He stated that the ZBA is being asked to decide if the 6.2 -acre configuration on the current plan meets the requirements.
 - And that "a discussion *may* occur to determine an appropriate 6.2-acre configuration."
 - At the Planning Board Meeting where the alternative proposal was presented to a room full of abutters, concerned citizens, members of the Stewardship Committee and the OSPC, we understood that a Site Plan Modification would be required.
 - The OSPC would not have supported the alternative if we had been informed that a Site Plan Modification would not be required. We doubt that many, if any of the others in the room would have supported the alternative if they knew that a Site Plan would not be required.
 - I spoke with one of the attorneys for Ferris Development after the presentation of the alternative and discussed that the layout of the open space was unacceptable, and we looked forward to working with Ferris Development to come up with a plan that worked.

- If a site Plan Modification was required before, we see no reason it isn't now, and the reviewing authority properly lies with the Planning Board and not the ZBA.
- What authority does Town Counsel have to determine if a Site Plan Modification is required?

We believe a modification is required for the following reasons:

- There are existing drainage swales running across the land proposed to be gifted to the town with an extensive new swale running through the northern section to the land. This provides a hazard for anyone walking there and a liability to the town, an easement would need to be provided along with a legal agreement to ensure the 40b property owner would maintain the infrastructure. More importantly, a drainage swale on open space is not acceptable
- The proposed alternative land to be donated includes grading and clear-cutting directly adjacent to Breakneck Hill. This creates a situation where the town will need to plant and manage for invasives for many years into the future, at great costs
- Without trees the land does not have the same ecological resource value as the land legally required to be gifted to the town. There will be pollution trespass of both light and car exhaust onto Breakneck Hill, negatively impacting conservation values.
- Sight views for walkers will be greatly impacted with the view open to office buildings, the 40b and rte. 9 traffic instead of into naturally landscaped woodland
- In addition to the clear-cut and grading on the land to be donated to the town, the leach field (the dog park/playground) will be clear-cut up to 8ft of the property line of Breakneck Hill. There will be no regrowth of trees as it's a leach field. Much of that leach field is currently in the land legally required to be donated to the town and in a fully vegetated and treed state as currently exists.
- Any statements that they are offering 6.2 acres to replace 6.2 acre and that is all that is required indicates a lack of a basic understanding of open space value, and the potential liabilities and costs to the town associated with the proposed 6.2 acres of land not present with the original layout.
- There is a significant lack of open space value in the condition of the land proposed.

Our closing points are that the leach field should be moved further away from the property line of Breakneck Hill Conservation Land, and the original 6.2 acres of undisturbed land be donated to the town as legally required.

Given the layout of the land this may seem highly unlikely to be possible except there is a solution! Put the septic under the parking lot where the original parking garage was planned.

Respectfully submitted on behalf of the Southborough Open Space Preservation Commission

Freddie Gillespie - Chair