



# TOWN of BROOKLINE

## *Massachusetts*

### BOARD OF SELECTMEN

BETSY DEWITT, Chairman  
NANCY A. DALY  
RICHARD W. BENKA  
KENNETH M. GOLDSTEIN  
NEIL A. WISHINSKY

333 WASHINGTON STREET  
BROOKLINE, MASSACHUSETTS 02445  
(617) 730-2200  
FAX: (617) 730-2054

[www.BrooklineMA.gov](http://www.BrooklineMA.gov)

MELVIN A. KLECKNER  
Town Administrator

September 24, 2013

Anthony Fracasso, Senior Vice President  
MassDevelopment  
99 High Street, 11<sup>th</sup> Floor  
Boston, MA 02110

RE: The Residences at South Brookline (the "2013 Project")  
Project Eligibility Letter Application

Dear Mr. Fracasso:

This letter is in response to the letter to you from Chestnut Hill Realty, dated September 11, 2013.

### **I. SIMILARITIES BETWEEN THE 2012 PROPOSAL AND THE 2013 PROJECT.**

Despite the significant similarities between the 2013 Project and the Applicant's 2012 proposal, in order to fairly respond to the 2013 Project, the Town spent considerable resources reviewing the 2013 application on its own merits, adhering to the Chapter 40B Regulations, the Guidelines, updated May 2013, for G. L. c. 40B Comprehensive Permit Projects and the Subsidized Housing Inventory, promulgated by the Commonwealth of Massachusetts Department of Housing and Community Development (the "Guidelines") and the Handbook: Approach to Chapter 40B Design Reviews, January 2011 (the "Handbook"). While the 2013 Project has fewer units, the site design, massing and relationship to topography and existing neighborhood development patterns do not differ significantly from the 2012 proposal and, consequently, do not address the Town's concerns. For example, one of the most significant objections is that the 2013 Project's conceptual design eliminates the existing visual buffers that, if respected, would help to integrate additional housing units into the existing neighborhood. The proposed elimination of these buffers has not changed from the 2012 proposal. As shown in the figure attached, the site plans of the 2012 proposal and the 2013 Project are, in fact, essentially the same.

While the Town does not consider the 9.32-acre portion of Hancock Village selected by the Applicant as the 2013 Project site appropriate for development, the Town limited its review to the site plan that was submitted and is not foreclosing discussion of other development sites and configurations within the Hancock Village property. The Town is available to discuss with the Applicant any further project proposals.

The Applicant notes that as a “direct result” of the reduction in the density of the 2013 Project, the number of affordable units was reduced. The Applicant is proposing the bare minimum of affordable units required by the applicable subsidy program, unlike many 40B projects which voluntarily exceed the minimum requirements.

**II. AFFORDABLE HOUSING IN BROOKLINE.**

The Town respectfully seeks to correct some factual errors contained in the CHR letter regarding its subsidized housing inventory (“SHI”). Contrary to CHR’s assertion, the Town has created 382 new SHI units since 1980 (not 283) and, overall, has created 462 new affordable units since 1980. Preservation of affordability restrictions affecting an additional 368 units accounts for over 750 SHI units during the 33-year period. Currently, 78 SHI units are in development.

The CHR letter also notes that the Project, with 192 units, would be the largest single addition to the Town’s SHI qualified inventory in decades. While that is technically the case given the Chapter 40B regulations, in fact the Project will add only 39 affordable units. The Town’s other recent SHI developments are comparable to the 39 units and restrict the units in perpetuity.

100% of units are SHI and in perpetuity	<b>St Aidan’s (40B)</b>	Family housing	2007-2008	36 units
	<b>Olmsted</b>	Family housing	2012	24 units
	<b>Dummer Street</b>	Family housing	In process	32 units
	<b>Beals Street</b>	SRO	In process	31 units

The Town has a goal of creating 25 affordable units annually, which equals 5% of the 500-unit gap needed to be filled to attain a SHI equal to 10% of its total housing inventory. Between 1980 and 2010, 10% of the net increase in all housing units in Brookline have been eligible for the SHI. Since 2002, the Town has created 246 affordable units, which is close to the 25 per year rate. The 500-unit gap results from the size of Brookline’s total housing inventory (26,201 units) and from the fact that the Town is fully developed. The development constraints in Brookline are much different than those in towns to which the Applicant has compared Brookline -- towns such as Dover, which has a total housing inventory of only 1,950 units, and Weston, which has a total housing inventory of 3,952 units. Brookline has received numerous accolades for its commitment to creating, maintaining and preserving affordable housing; among other instances it was singled out for recognition by Undersecretary Aaron Gornstein at a 2012

forum on Chapter 40B, co-sponsored by, among others, Citizens Housing and Planning Association.

With respect to south Brookline's lack of density, several Town parks, cemeteries, school and college campuses, sanctuaries, conservation land, playgrounds, a farm and golf courses, all located in south Brookline, total over 1000 acres. This amounts to almost 25% of the Town's total land area of 4,352 acres. The residential land in south Brookline – in addition to the multi-family zoned Hancock Village property – ranges from townhouses on 2,500 square foot lots to two-family homes to single-family homes on 7,000 – 40,000 square foot lots. On the other hand, north Brookline, because it has been historically served by three branches of the MBTA's Green Line, contains the characteristics of smart-growth overlay districts – robust public transit, commercial districts and multi-family housing, and has been the logical choice for most affordable housing development.

### **III. APPROPRIATENESS OF THE SITE FOR DEVELOPMENT.**

a. The Town's objection to development on the so-called "greenbelt" is based primarily on the long-standing function of this communal open space as a parkland and as a visual buffer between the multi-family residences and single-family residences. The Handbook states that "the edge is the most important element when designing an exterior space. Weak edge definition lacks separation of activities or views" (p. 26). The Guidelines provide "Where possible, the site plan should take advantage of the natural topography and site features, or the addition of landscaping, to help buffer massing" (p. IV-3). Rather than respecting this existing buffer, the Project would eliminate it.

It should be noted that the statement that "the Town continues to tax [this area] as land available for 29 lots of residential development, not as open space" is not correct. The tax assessment utilizes the same method as at other multi-family residential properties: the Assessor assigns a land area necessary to support the existing use within the existing zoning requirements; for Hancock Village this calculation results in an estimate of 28.2 acres of developed land which is assigned a value at a market rate for comparable properties. Any land in excess of the required land area is assigned a separate adjusted market rate – in the case of Hancock Village, the excess land area of 16.4 acres is assigned a discounted market rate equal to approximately 25% of the developed land rate. The excess land is not a defined geographical area. The zoning designation of the undeveloped land area is not taken into account.

b. The Town's concern with regard to parking is that the proposed parking may be intended to serve as parking for existing townhouses – an inappropriate use of Chapter 40B.

c. The statements in the CHR letter concerning stormwater management and drainage are conclusionary and premature. The Applicant is seeking a "general waiver" of the Town's stormwater management bylaw. These are issues that remain to be investigated, especially in light of the Project's proposed grading changes. The Project's conceptual drainage plan does the opposite of the State's recommendation to utilize site-grading methods such as creating berms to lessen the visual impact of the development.

d. The CHR letter reports that the Town is served by seven bus lines. However, only one of those bus lines serves Hancock Village; it has limited service on weekends and is vulnerable to discontinuance. The Town did not intend to imply that bus service is not a reliable mode of transportation – but rather that Route 51 by itself is not sufficient to create a transit-oriented neighborhood. US Census data indicate that only 12% of residents in the 02467 zip code (in which Hancock Village is located) commute by public transit, compared to 30% in the 02445 and 02446 zip codes (north Brookline).

#### **IV. PROJECT DESIGN.**

b. The Town disagrees with the use of the word “infill” to describe the siting of the 2.5-story flats. In planning terms, “infill” describes the development of vacant lots in blighted neighborhoods to improve a community. The Hancock Village greenbelt and other open spaces are not underutilized lots in blighted communities; they are part of a planned community based on the Garden Village model.

The 3-D graphics to which the CHR letter refers are inaccurate in important ways. For example, the garage buildings are shown as one-story flat roofs, whereas the renderings for the garage buildings show pitched roofs and cupolas. With regard to the 4-story apartment building, the massing models show significant variation in the building facades; however, the architectural plans show a flat façade, visually creating a much larger massing than shown in the 3-D graphics.

The CHR letter states that the 2.5 story buildings will provide “well-defined front yards and open space and private yards at the rear of the buildings” and “will have over 200,000 square feet of landscaped open space and pedestrian walkways”. However, the submitted drawings show that landscaped open space does not follow the generous private and communal space layouts that make Hancock Village a notable example of Garden Village development; rather it is merely edging around parking lots. The existing looped connecting walkways separate pedestrians from vehicular traffic and encourage pedestrian use, unlike the proposed dead-end ways.

c. The Applicant claims that the 4-story apartment building is “set into the puddingstone outcropping, an area that is unusable for any type of recreation . . .” and “takes advantage of, and is integrated into, the existing topography”. To the contrary, the puddingstone outcropping currently serves as an effective visual buffer, which is entirely eliminated by the Project’s design, despite the Handbook’s guidelines to work with the existing topography. The Applicant is proposing to site the 4-story building, at 74 feet the tallest residential building for miles, on the highest elevation for miles around. The elevation submitted shows that the ridge line of the building does not change in height for a length of 400 feet on the north elevation and 530 feet on the south elevation. Rather than following the existing undulating contour of the site, the design eliminates the contours completely.

d. The Town has requested that the Applicant stake proposed key building footprints and setbacks, including at least one typical building corner and pavement edge so that all parties could better understand where the existing natural cover of trees, shrubs and open space will be maintained. It appears from the plans submitted that only a few trees will be preserve. Otherwise, all existing landscaping on the site will be removed and the site regraded. Within the proposed new landscaped area, the Applicant is proposing concrete patios, parking lots and 2:1 slopes. The CHR letter refers to 33 acres of open space that will be provided to the residents. This 33 acres is not part of the 9.32 acre 2013 Project site. It is not clear to the Town whether there is any proposal by the Applicant to identify and restrict the 33 acres for use as open space. If not, then there is nothing to guarantee its availability for such use. The 4.6 acres the proposal states that it is contributing as open space is divided into fringe landscaping around parking areas and is not usable, nor will it function as a visual buffer.

#### **V. ADEQUACY OF APPLICATION.**

In its letter, CHR suggests that the Town was somehow misleading by not commenting on its submission of supplementary photographs; however, the supplementary photographs submitted by the Applicant are not adequate because they do not provide any context for the photos.

#### **VI. CONCLUSION.**

The Town of Brookline firmly objects to the Applicant's claim that a possible rejection of its proposal would be a "test case" for derailing 40B projects and setting a negative precedent.

In 2008, the regulations implementing the Chapter 40B statute were consolidated and amended at 760 CMR 56. Project eligibility and other responsibilities of the subsidizing agency are set forth in 760 CMR 56.04 and specifically now include siting and design review factors. This change was brought about to provide subsidizing agencies with the necessary criteria to conduct extensive reviews of design proposals and their integration into existing development patterns and the municipality's community planning efforts. In 2011, four Massachusetts subsidizing agencies collaborated to publish the Handbook, in an effort to guide those conducting design reviews.

Because of its commitment to affordable housing, sustainable development principles, and a fair community planning and design review process, the Town of Brookline commends the Commonwealth for these recent regulation changes and for the supporting guidelines. They lend more transparency to the review process and are a useful tool to guide developers and municipalities in creating successfully integrated 40B projects. The Town is confident that MassDevelopment will objectively apply the applicable provisions of Chapter 40B, the Chapter 40B Regulations, the Guidelines and the Handbook to the CHR Application, as it would and must do with any PEL application. The Town, in turn, is fulfilling its obligations under the Chapter 40B Regulations to provide as comprehensive a response as possible to the application.

Anthony Fracasso, Senior Vice President  
MassDevelopment  
September 24, 2013  
Page -6-

The Town welcomes the opportunity to continue working with the Applicant in the ways it has worked successfully with other developers to build affordable housing in Brookline. As the Town's record of affordable housing development reflects, the Town actively seeks opportunities to plan jointly with developers in order to promote coordinated and orderly development within the Town for the benefit of all of its citizens.

Thank you for your consideration.

Very truly yours,

Betsy DeWitt  
Chair, Board of Selectmen

