

Town of Sudbury

Office of Selectmen
www.sudbury.ma.us

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
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Email: selectmen@sudbury.ma.us

November 5, 2015

Ms. Katharine Lacy, AICP
Monitoring and Permitting Specialist
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108

RE: The Village at Sudbury Station, MH #790

Dear Ms. Lacy:

Thank you for your letters of September 23, 2015 and October 14, 2015, and the extension of time in which to provide comments relative to the above project. The additional time has allowed the Selectmen to solicit comments from other boards, committees and residents regarding the Sudbury Station plan to construct 250 units of rental housing on a 39 acre parcel of land located off Concord Road. The comments have been incorporated below or appended to this letter.

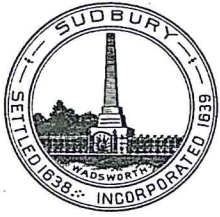
We participated in a site visit held with MassHousing on October 6, 2015, which yielded valuable new perspectives to those of us already familiar with the site, and afforded others the opportunity to consider the project in context of its proposed location.

The Board of Selectmen also met with the applicant, in public session, on October 6, 2015, to gain a better understanding of the preliminary plan.

OVERVIEW FROM BOARD OF SELECTMEN

After careful review of the project, the Board of Selectmen has grave concerns for the potential impacts from this development, and does not support the proposal as submitted. We have not formed this position rashly, nor simply due to public outcry over the proposal. We have reviewed the materials submitted, including the limited data from the applicant and memos from the Town's technical staff and other boards. We believe that a development of this size, with unsafe accesses as currently proposed, adjacent to a National Register Historic District, surrounded by mapped Priority Habitat Area, and on a parcel created to sustain 1 house, will have severe impacts that may not have the capability to be mitigated. Valid community planning goals identifying properties appropriate for both open space/recreation and housing will be contradicted if the project proceeds. In addition, the MassHousing Site Approval application is incomplete, and includes several responses that are materially misleading and inaccurate.

We strongly urge you to deny or delay the issuance of the Site Approval Letter until such time as the following issues are more fully addressed, designed, documented and mitigated.



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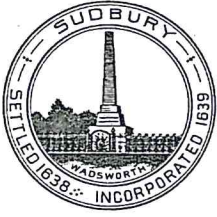
SUDBURY'S COMMITMENT TO AFFORDABLE HOUSING

Sudbury has been making steady progress in recent years towards our 10% subsidized housing inventory. Since 2011 we have added 76 units to the DHCD Subsidized Housing Inventory (SHI). We have an approved Housing Production Plan, and have just over 6% affordable housing on the SHI. As an early adopter of the Community Preservation Act, Sudbury has expended significant local funds on the development of affordable housing over the last ten years, including \$600,000 on 10 units of scattered rental housing by the Sudbury Housing Authority, funding our local Sudbury Housing Trust with over \$2 million towards the creation of 13 homeownership units, as well granting a project subsidy to the Coolidge at Sudbury 40B development of 64 age-restricted rental units (all affordable). We are proactive in the affordable housing arena, and are working diligently to create housing that fits into the Town's character and provides opportunities for a diverse cross section of the population.

Sudbury is not new to 40B and its controversies. The Town has had several positive experiences with Comprehensive Permit applications. Nine 40B developments with over 200 total housing units have been constructed in Sudbury over the past 15 years. Each application went through a rigorous review process, resulting in attractive developments in terms of size, scale, and style of housing. We have never denied a 40B application, but have worked with developers to shape their projects into developments that fit the neighborhood and produce benefits for both the new residents and the Town in general. Each of these developments has demonstrated that they will not harm the environment, nor cause significant off-site problems. Each development is located in an appropriate area for development that is denser than the surrounding zoning district, and each development was supported by the Town to MassHousing or DHCD during the site approval process.

PROSPECTIVE OVERABUNDANCE OF AFFORDABLE HOUSING

Unexpectedly, in August 2014 Raytheon announced they would be closing their facility on Boston Post Road. Sudbury recognized this would be an ideal location for affordable housing, and had previously identified the property on the Housing Production Plan. Over the next few months the Board of Selectmen and the Planning Board had numerous meetings to discuss what Town goals could be accomplished in the redevelopment of the property. In February of 2015 it was unanimously confirmed by those boards that the property would be an appropriate site for a large 40B development, and this message was delivered to Raytheon, the property owner, and the prospective developer (see attached letter to Raytheon dated February 25, 2015 and letter from National Development to the Board of Selectmen dated September 25, 2015). The Town continued discussions with the development team (National Development and Avalon Bay) over their plans to construct a mixed use development including a 250 unit 40B project at the Raytheon property on Boston Post Road. These discussions occurred long before the Sudbury Station application was made public.



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Now Sudbury is facing the prospect of two large 40B applications in the next few months, both of which can individually fulfill the Town's 10% affordable housing obligation.

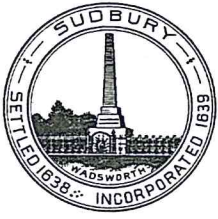
The Raytheon property is identified on the Town's approved Housing Production Plan; the Sudbury Station property is not, and is in fact on the Town's Open Space and Recreation Plan. To ignore the extensive community involvement in making these determinations would be inconsistent with the DHCD regulations. The Board of Selectmen is in the best position to receive community input, make comparisons, and determine which of the proposals is best for the town.

On October 6, 2015, the developers for both affordable housing projects, Avalon Bay for the Raytheon site, and Chris Claussen for Sudbury Station, made presentations to the Board of Selectmen for their respective projects (see attached agenda for October 6, 2015 Board of Selectmen meeting). With the benefit of a side-by-side comparison, the Board of Selectmen determined it would welcome the Raytheon site proposal, and oppose the Sudbury Station proposal.

DEFICIENT MassHousing COMPREHENSIVE PERMIT SITE APPROVAL APPLICATION

The MassHousing Comprehensive Permit Site Approval Application is incomplete, and misleading and inaccurate responses have been provided by applicant:

1. Wetland impacts have not been fully identified, roadwork will be conducted within 100' of wetland resources, and no waivers from the Sudbury Wetland Administration Bylaw have been requested. This is a major deficiency in the application, and it is unclear how MassHousing can make a finding under 760 CMR 56 without this information.
760 CMR 56.04(4)(c) - that the conceptual project design is generally appropriate for the site on which it is located, taking into consideration factors that may include proposed use, conceptual site plan and building massing, topography, environmental resources, and integration into existing development patterns (such finding, with supporting reasoning, to be set forth in reasonable detail)
See attached letter from the Conservation Commission dated October 21, 2015.
2. Section 2 (Existing Conditions/Site Information) of the application requires disclosure of any previous development efforts on the property. This property received Definitive Subdivision approval in 2012, which approved the extension of Peter's Way to service one single family lot.
3. Section 2 (Existing Conditions/Site Information) asks if the site is listed on the National Register of Historic Places. Portions of the property are within the Sudbury Center Historic District, which is listed as a National Register Historic District.
4. Section 2 (Existing Conditions/Site Information) requires a By-Right Site Plan be submitted. The plan submitted in the application is not by-right, as the secondary access road onto Hudson Road does not meet the Planning Board Subdivision Regulations due to its proximity to the property line, as well as proximity to the existing garage at 30 Hudson Road. If the secondary access was not proposed, the main roadway on Peter's Way and Peter's Way Extension would also not be compliant with the Subdivision Regulations due to the length of a dead end street.



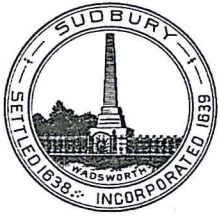
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5. Section 3 (Project Information) notes that the net density of the proposal is 18.59 units per acre. The site is in a 1-acre residential zone. The density proposed far exceeds that of any other 40B development in Sudbury, which on average contain approximately than 6 units/acre. It is noted that Sudbury has no sewer service, and relies on groundwater for its drinking water.
6. Section 3 (Existing Conditions/Site Information) requires the submittal of a Preliminary Site Layout Plan with proposed site grading and setbacks. No such plan has been submitted, and the property has areas of severe topography in the proposed development area (>10%). It is projected by the Town that grading to construct the development will require the removal of vegetation to the property lines, leaving no buffer to the abutting properties.
7. The cost estimates included in the pro-forma could be vastly underestimated due to the challenging physical, environmental, archaeological and traffic safety issues at the property, and could impact the economic viability of the project.
8. The Market Rent Analysis omits several other large rental developments in the region which may impact the economic viability of this development, including Avalon in Framingham, proposed River's Edge in Wayland, and the proposed Avalon Sudbury project, and several smaller rental projects in surrounding towns (totaling over 500 units). This is a further major deficiency in the application, and again it is unclear how MassHousing can make a finding under 760 CMR 56 without this information.
760 CMR 56.04 (4)(d) – that the proposed Project appears financially feasible within the housing market in which it will be situated (based on comparable rentals or sales figures).
9. Several of the applicant's responses to the Sustainable Development Criteria Scorecard contained in the MassHousing application are misleading and inaccurate in key areas, and should be disregarded:
 - a) The proposed development does not add mixed uses or new uses to an existing neighborhood, as alleged by the applicant. The proposed development is 100% residential. It cannot be said it would add a new use to an existing neighborhood because it would be creating a new stand-alone neighborhood.
 - b) The proposed development does not utilize existing water/sewer infrastructure, as alleged by the applicant. In fact, there is no such infrastructure whatsoever on the property. In actuality, the applicant would need to construct new infrastructure, including electrical, water, gas connections and roadways, to service the project.
 - c) The proposed development is not designed to preserve undeveloped land, as alleged by the applicant. To the contrary, it is situated exclusively on undeveloped land.
 - d) The proposed development does not reuse an existing site, structure or infrastructure to preserve undeveloped land as alleged on the Sustainable Development Criteria Scorecard. To the contrary, this site contains only vacant, forested land that has not been previously developed.
 - e) The proposed development does not promote social equity and improve the neighborhood. To the contrary, it would create a new one-street neighborhood, with excessive density in the middle of a forested area. The entire site is on property listed as a parcel on the Town's Open Space and Recreation Plan and is desired for preservation. Development will not be an improvement.



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- f) The project does not create housing in an area where the only new construction is single family homes on large lots for market rate price levels (as stated in the application). 2 out of 4 developments currently under construction in Sudbury are creating 3 units of affordable homeownership housing (278 Maynard Road), and 26 units of age-restricted multi-family housing (Dudley Brook Preserve).
- g) The project will not be the only supply of affordable rental units in Sudbury. In fact, over 2/3rds of the affordable housing in Sudbury are rental units. The Town currently has 321 units of affordable rental housing (5.4% of the total housing stock), and 36 units of homeownership. The Avalon Bay project at the Raytheon site will add an additional 250 rental units.

For more detail on these issues, see attached memo from Planning and Community Development Director dated October 20, 2015.

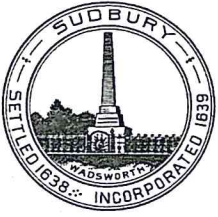
ACCESS AND PUBLIC SAFETY

The accesses to the property are not capable of creating safe passage, and the Board questions whether design modifications can properly resolve the safety issues. This is not merely an issue of doing a traffic study; it is an issue of whether there is sufficient land to design the accesses so that residents can safely enter and exit the development, whether existing driveways and intersections will be jeopardized by the new development driveways, and if traffic flow on the adjacent streets will be significantly impaired.

The proposed Hudson Road access point presents conflicts with over 8 existing driveways and roadways, will be located along one of the most congested and hazardous roadways, and violates the Town of Sudbury Driveway Regulations for proximity to a property line. The Police and Fire Department headquarters are located within 600 feet of the proposed Hudson Road access, and public safety response time could be jeopardized by what will be another very busy access point. To gain access to Hudson Road from the proposed development would entail construction of a new road in the side yard of an existing single family home via an easement, further indicating that there is not adequate property to properly construct this road. It will be directly adjacent to the proposed Bruce Freeman Rail Trail, and dangerously offset from Peakham Road. We reviewed this issue with you at the site visit. There is no other alternative to the location of the Hudson Road access, and introducing a driveway for 250 units at the planned location will be disastrous.

The Concord Road access has sight distance limitations, is directly adjacent to another multi-property driveway, and is off-set from Candy Hill Road, creating a newly hazardous intersection.

MassHousing should be made aware that the Town recently completed an extensive 8 year design process at the Town Center intersection which focused on improving traffic safety while preserving the historical integrity of the historic district. Two new access driveways constructed to service the development, each located within 500 feet of the new intersection project area, will reverse and



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negatively impact the level of service at the newly reconfigured intersection. The attached letter from the Sudbury Police Chief dated November 3, 2015 reiterates these concerns.

The height of the buildings exceeds zoning, and has been noted as a concern by the Sudbury Fire Chief for fire protection and public safety response for medical calls. No elevators are proposed, severely impacting public safety response time, as reaching residents on the upper floors will be difficult. As proposed, at least 56 units will be on the 3rd and 4th floors.

THE PROPOSED PROJECT IS INCONSISTENT WITH PREVIOUS STATEMENTS MADE BY THE LAND OWNER, AND ON WHICH THE TOWN HAD RELIED TO APPROVE A LAND SWAP

The 2011 Town Meeting approved land swap which created access to the property intended only one single family house on the 13 acre buildable portion of the site. The intent was clear from the Town Meeting warrant article and discussion at Town Meeting, as well as correspondence from the property owner's attorney from as far back as 2002, that the intended development potential was one house (see attached letter dated May 10, 2002 from Attorney Robert D. Abrams and 2011 Town Meeting Warrant). It is noted that Mr. Abrams is now the husband of one of the property owners.

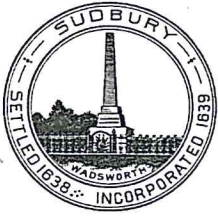
In fairness, the land owner should now be estopped from going back on her representations which had induced the town to enter into a legally binding agreement regarding the use of land. The Town will assert its legal rights in estoppel and equity.

IMPACTS ON LOCAL HISTORIC RESOURCES AND THE ABUTTING NATIONAL REGISTER HISTORIC DISTRICT

The Town Historian and the Sudbury Historical Commission have both requested that an archaeological survey of the property be conducted before any development is permitted, as there is speculation that it may contain archaeologically important material (Native American burial site). This review is required as the developer is requesting a permit/license from a state agency (MassHousing). The Board of Selectmen concur with this recommendation, but question its value to preservation efforts unless the survey is done well prior to construction, in the planning stage. The MassHousing Site Approval letter should be delayed or denied until the survey is complete and a finding of no impact can be made.

The visual impacts of the development on the abutting National Register Historic District will permanently alter this historic resource. The development will be highly visible from the abutting Town cemeteries.

All remnants of the historical past of the property, including stone walls and mature forest, will be removed for the construction of buildings and infrastructure. The addition of 13 buildings, some as tall as 50 feet high, as well as a wastewater treatment plant and leaching field, over 3,000 feet of



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roadway, and construction of retaining walls, some as high as 10' tall, will obliterate any relationship of this property to its history or the surrounding district. Concerns for these features were voiced on the site walk.

LACK OF ENGINEERING STUDIES

No calculations or plans showing grading, stormwater management or wastewater treatment have been submitted, and no soil testing has been completed to the Town's knowledge. The parcel has significant topographic and slope issues that pose challenges for all of these issues. The application requests waivers from over 30 town regulations and bylaws, many of them undefined, indicating the proposal has not been thoroughly evaluated. Requested waivers include building heights, driveway setbacks, building setbacks, parking requirements, conformance with environmental protection standards, erosion control, grading, vegetation removal, screening and landscaping, etc. As stated above, no indication of compliance with the Town's Wetland Administration Bylaw is stated.

WASTEWATER TREATMENT AND LEACHING FIELD PROPOSALS ARE LACKING

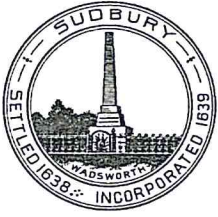
Wastewater disposal is proposed as a package treatment plant. The leaching field is not shown on the plan, nor is the treatment plant. Approximately 43,000 gallons/day of wastewater is anticipated from the development (based on 397 bedrooms). No soil testing has been witnessed by the Sudbury Board of Health to determine suitable soils. The property is heavily wooded, and the leaching field alone will require approximately 1 acre of cleared area. Because there is no sewer service in Sudbury, and because the town is 100% dependent on groundwater wells for drinking water, these are not mere details, but critical elements of the design proposal the applicant has not seriously addressed.

WILDLIFE CONCERNS

One half of the development site is within a Priority Habitat Area under the jurisdiction of the Natural Heritage Endangered Species Program, and may not be developable. The property owner was notified by the Division of Fisheries and Wildlife in December 2014 (NHESP Tracking # 14-33939) that the property was within a jurisdictional area, however no further information has been supplied on this issue.

SUMMARY AND CONCLUSIONS

In closing, Town of Sudbury strongly opposes the proposed development on this parcel, and urges MassHousing to decline to issue a Site Approval letter at this time. It is out of character and scale for the surroundings, and has the potential for significant health and safety impacts that may not be capable of mitigation or permitting.



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The project does not comply with the intent and directives of the Commonwealth and DHCD's Guidelines, and investment in the development by MassHousing would be inconsistent with these standards.

The pro-active steps Sudbury has taken to increase its affordable housing inventory by encouraging mixed-use redevelopment at the Raytheon site is evidence the Town is not merely trying to stop a 40B development.

We respectfully request a meeting with MassHousing to review the application and the potential impacts of this development in greater detail before the Site Approval letter is issued.

Thank you for your thoughtful consideration of these comments.

Very truly yours,

For the Board of Selectmen

Patricia Brown, Chairman

Attachments:

Letter from Board of Selectmen and Planning Board to Raytheon dated February 25, 2015
Letter from National Development to the Board of Selectmen dated September 25, 2015
Agenda for October 6, 2015, Board of Selectmen meeting
Letter from the Conservation Commission to the Board of Selectmen dated October 21, 2015
Memo from Planning and Community Development Director dated October 20, 2015
Memo from Scott Nix, Sudbury Police Chief, dated November 3, 2015
Letter dated May 10, 2002 from Attorney Robert D. Abrams
2011 Town Meeting Warrant (portions)
Resident comments: Email from Jonathan Danielson dated November 2, 2015
Petition Opposing the Village at Sudbury Station dated Nov. 2, 2015

cc: Sudbury Zoning Board of Appeals
Sudbury Planning Board
Sen. James Eldridge
Sen. Michael Barrett
Rep. Carmine Gentile
Applicant