

Town of Sudbury

Office of Selectmen
www.sudbury.ma.us

Flynn Building
278 Old Sudbury Rd
Sudbury, MA 01776-1843
978-639-3381
Fax: 978-443-0756

Email: selectmen@sudbury.ma.us

VIA EMAIL and USPS

August 17, 2010

Ms. Nancy Anderson
Director of Rental Housing
MassHousing
One Beacon Street
Boston, MA 02108

RE: The Residences at Johnson Farm, Sudbury
MH #SA-10-001

Dear Ms. Anderson:

Thank you for your letters of June 8 and 21, 2010, and the extension of time in which to provide comments relative to the above project. The Sudbury Board of Selectmen met with the applicant, in public session, on July 27, 2010, and received an overview of the preliminary plan to construct 120 units of rental housing on a 36 acre parcel of land located on Landham Road. The abundance of comments from residents at the July 27th meeting necessitated the further extension of time in which to review the issues and prepare this letter. All members of the Board were also present at the site visit held with MassHousing on June 22, 2010. The Selectmen also received correspondence from Town departments and committees on this development, which have been incorporated into the comments below.

Sudbury has been making steady progress in recent years towards our 10% subsidized housing inventory. As an early adopter of the Community Preservation Act, Sudbury has expended significant local funds on the development of affordable housing over the last 8 years, including \$600,000 on 10 units of scattered rental housing by the Sudbury Housing Authority, and funding our local Sudbury Housing Trust with over \$1 million towards the creation of homeownership units. We have a current Housing Plan, have developed local 40B Guidelines, and are in the process of preparing a Housing Production Plan. 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 recent, positive experiences with Comprehensive Permit applications. We have approved seven 40B developments with 167 total housing units over the past 10 years in development sizes ranging from 2 units to 73 units. In addition one application is currently being reviewed by the ZBA along with three pending applications totaling an additional 111 units of affordable housing. Each application went or will go 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 application has been supported by the Town to MassHousing or DHCD during the site approval process. Each development meets the local 40B Guidelines developed in 2007, and closely align with the goals of the 2005 Housing Plan.

All that said, the Board of Selectmen has grave concerns for the potential impacts from this development, and cannot 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 data from the applicant and memos from the Town's technical staff, and believe that a development of this size, on a parcel of land surrounded by wetlands, riverfront and flood plain, will have severe impacts that may not have the capability to be adequately mitigated.

Surface and groundwater concerns are paramount, as Sudbury is completely reliant on underground aquifers for our drinking water. The property is in an area of known high groundwater elevation, and within 5,000 feet to four of the Town's primary well fields and adjacent wetlands. Impacts from construction, as well as stormwater runoff and wastewater disposal, all contribute to the Town's unease with the size of the development proposed. We feel that the complex hydrology of the site may not allow for adequate protections against harmful disturbance to these ecosystems. Data submitted to date does not relieve our level of discomfort, particularly the proposed exclusive use of infiltration for stormwater and the overall size of the wastewater leaching field. The soils in these locations do not exhibit the ability to absorb water as proposed in the preliminary plans.

The property is identified on the Town's 2009 Open Space and Recreation Plan as a parcel that merits preservation due to a variety of factors, including groundwater resources, surface water resources, agriculture, wildlife, vegetation, geology, recreation, historic preservation, scenic views, connection to protected land, trails, public accessibility and size. The surrounding 150 acres of land are undeveloped and contribute to groundwater protection, wildlife corridors, riparian habitat and flood control. Constructing 10 buildings and roadways in the midst of these natural resources will have an irreversible impact, and does not comply with the Commonwealth's Sustainable Development Principles and "Smart Growth" Guidelines.

The traffic expected from the development will add 10% to the existing volume on Landham Road (or just under 900 additional trips per day). Landham Road is a narrow, 2 lane road, which, along with its tributary roads, may be able to absorb an increase in traffic of the magnitude expected with longer delays and queues. However, roads heading east off Landham Road regularly experience spring flooding and closure, and the additional traffic generated by this proposal will exacerbate problems during these annual events.

Page 3.
August 17, 2010

Ms. Nancy Anderson
Dir. of Rental Housing
MassHousing

The Town has additional concerns related to agricultural chemicals and pesticides which may have been historically used on the property, and for which conventional testing and risk analysis is not normally conducted nor required. If the development proceeds, the Town will request additional soil testing for these compounds, risk analyses, and full remediation of any areas indicating such chemicals in excess of approved limits.

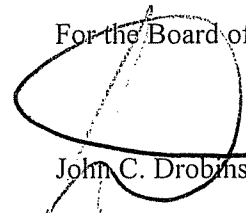
It is also noted that a large majority of the units (2/3) will not be habitable or "visitable" by persons with physical disabilities. The Town questions the functionality of the buildings with no handicap access to the upper floors, and whether this is compatible with DHCD and Federal ADA requirements.

During the course of our review, additional comments by the public were solicited and those that were submitted in writing are included as attachments to this memo. One group of residents is represented by attorney Jon Witten of Daley and Witten, LLC.

In closing, The Town of Sudbury cannot support a development of this magnitude on the parcel, and urges MassHousing to decline to issue a site eligibility letter. 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. 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. Thank you for your thoughtful consideration of these comments.

Very truly yours,

For the Board of Selectmen



John C. Drobinski, Chairman

Attachments

cc: Robert Moss, Moss Development
Peter and Richard Johnson, owners
Jody Kablack, Planning and Community Development Dir.
Sudbury Zoning Board of Appeals
Sudbury Planning Board
Rep. Thomas P. Conroy
Sen. Susan C. Fargo
Sen. James B. Eldridge

RECEIVED

JUL 28 2010

Stanley J. Kaplan

98 Victoria Road
Sudbury, Massachusetts 01766
978-443-2268

July 28, 2010

Reference: The Residences at Johnson Farm
MH# SA-10-001

Ms. Nancy Andersen
Director of Rental Lending
MassHousing
One Beacon Street
Boston, MA 02108


Dear Ms. Andersen:

Please find enclosed my environmental, public safety and public school observations presented to the Town of Sudbury Selectmen Meeting on July 27, 2010 in opposition to "The Residences at Johnson Farms", Sudbury (MH# SA-10-001).

I am also submitting a petition of opposition signed by 175 Sudbury residents in attendance that evening.

Please give ample weight to these submissions in your review for Site Approval Application for Moss Development (MH# SA-10-001).

Sincerely,



Stan Kaplan

cc: John C. Drobinski, Town of Sudbury Selectman
Robert C. Haarde, Town of Sudbury Selectman
Lawrence W. O'Brien, Town of Sudbury Selectman
Victoria Parsons, Sudbury Board of Health
Atty. Paul L. Kenny, Sudbury Town Counsel
Maureen G. Valente, Sudbury Town Manager
Kenneth J. MacLean, Sudbury Traffic Safety Coordinating Committee
Richard Glavin, Sudbury Traffic Safety Coordinating Committee
John R. Brackett, Sudbury School Superintendent
I. William Place, Sudbury Director of Public Works
Jody A. Kablack, Sudbury Planning and Community Development
Lieutenant Scott Nix, Sudbury Police Department
Debbie Dineen, Sudbury Conservation Coordinator

TO: Nancy Andersen, Director of Rental Lending
MassHousing
One Beacon Street
Boston, MA 02108

The following was presented at the July 27, 2010 Sudbury Selectmen Meeting.

We, the undersigned residents of the Town of Sudbury, respectfully submit this statement in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Town of Sudbury Selectmen Meeting

7/27/10

Mr. Chairman, as the Johnson Farm development proposal makes its way through the Town's permitting process, please permit me to present several observations that I would ask you to consider in your deliberations.

First, the environment:

- The Johnson Farm development proposal is an invasive development project, not suitable for the resource area at 189 Landham Road. Fully 1/3rd of the parcel is wetlands that will be irrevocably harmed by this aggressive development plan of 10 buildings, 120 rental apartments and 180 parking lots.
- The development contemplates a 17,000 sq. ft. Wetland crossing that will dramatically alter environmental conditions for the amphibious wild life populating the resource area. The Town of Sudbury has never approved a Wetland's crossing of this magnitude, ever! There is no precedent or justification for a project of this scale to be allowed to impact on such a sensitive Wetland resource area.
- The site contains 2 riverfront areas and a number of vernal pools both mandating exceptional protection under the State of Massachusetts Wetland Protection Act.
- I have seen no independent studies weighing the impact of the proposed development on Wetland protection, wildlife habitat, egg mass counts, migration, or turtle population.
- 80% of the building envelope is in very close proximity to the wetland resource area that is not a healthy proximity for Wetland protection. The parking areas around the buildings allocate 1.5 cars/apartment, which in my view is unsustainable, given there is no parking allotment for visitor traffic or event gatherings.

Second, public safety:

- 120 rental apartments will generate 882 additional car trips/day to and from Landham Road. The Landham Road intersection at Boston Post Road is already a traffic nightmare!
- I have spoken to Sudbury Police officials and to the Sudbury Department of Public Works and all agree that this additional traffic volume is a serious public safety issue for the community.

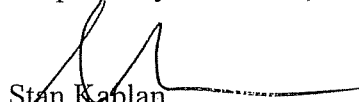
Finally, Sudbury Public Schools:

- I take issue with Moss Development's calculation that only 13-15 more children will be added to the Sudbury Public School System as a result of the Johnson Farm development. Their calculation is based on a random development in Westborough which is then projected on to the size and scope of the Johnson Farm development here in Sudbury.
- With all due respect, despite the fact that there will be no 3-bedroom apartments in the Johnson Farm development, Sudbury is well known for its excellent Public School System which, I contend, makes Sudbury a much more desirable community to educate our children than let's say Westborough. This desirability factor strongly suggests that the Moss Development figure on public school impact is substantially underestimated.

For all of the environmental harm, the public safety concerns and the Public School impact of the proposed Johnson Farm development, I ask the Selectmen and the Town of Sudbury permitting officials to reject this project.

Moreover, I am asking Sudbury residents who are in attendance here tonight to sign a petition opposing "The Residents at Johnson Farm" filing at MassHousing (MH # SA-10-001).

Respectfully submitted,


Stan Kaplan
98 Victoria Road
Sudbury, MA 01776

Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
Diane Kaplan	98 Victoria Rd.
Jane Morrissey	92 Victoria Rd.
Robert A. Morrissey	92 VICTORIA RD.
Brian Mahoney	67 Hopetill Brown R2
Wai-shiun Lee	89 Victoria Rd
CHEUK KWOK	22 Eddy St
RICH TESTA	69 AMESRD
JEFFREY QUINN	5 BLACKMER ROAD
Patricia A. Siff	195 Woodside Road
Bonnie K. Morrissey	27 Lands End Lane
BRIAN MULCAHEY	14 READ ROAD
Jeanne Lucey	115 PELHAM ISL RD
ROBERT LUCEY	115 PELHAM ISL RD
Jeffrey Schuch	23 BROOKDALE RD.
Kim Schwartz	23 Brookdale Rd.
Michael Swartz	21 Moran Circle
Carol Otis	65 Victoria Rd
RICHARD P. MATTIANGI	15 READ RD
FRANK LETTERI JR.	208 LANDHAM Rd.
Robert Moroni	16 OCTOBER RD
ROSEY BERMAN	11 BROOKSIDE FARM LN.
	115 School Farm Rd
	40 Old Orchard Rd.

**Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)**

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
Patricia Wald	59 Hopestill Lane
Patricia Wald	59 Hopestill Brown Rd
Patricia Mahoney	67 Hopestill Brown Road
Blenda Jolly	2 Brookside Farm Lane
Kate Marchand	101 Victoria Rd
Jit Gyan	81 Shadow Oak Dr.
Jiten Gyan	81 Shadow Oak Dr
Pamela Jethy	24 Pinewood Ave.
Michael Micciche	17 Jason Drive
Kristin V. Flanagan	30 Lynne Rd
Marjorie W. Giles	26 Lynne Rd
Jenni Lombardi	29 Lettery Circle
Judith Donovan	36 Beckwith Street
Mary Donovan	36 Beckwith St.
John Flannery	93 Robbins Rd
Stan Kaplan	95 Victoria Rd.

**Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)**

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
William J BANNON	99 Woodside Road Sudbury MA
Ronald H. Ali	90 Pelham Island Rd Sudbury
Rachel DePamphilis	155 Landham Rd Sudbury MA
Milton Jones	29 Moran Circle, Sudbury, MA
Mauril Jones	29 Moran Circle, Sudbury, MA 01776
Donald D. Jucker	5 Gynlebrook Dr. Sudbury, MA 01776
Susan D. Jucker	5 Gynlebrook Dr. Sudbury, MA 01776
James E. Evans	121 Landham Rd ✓ ✓

Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
Margaret J. Whittemore	24 Taylor Rd.
Christina M. Granahan	95 Shadow Oak Dr.
Brian S. Granahan	95 Shadow Oak Dr.
Sally B. Wadman	26 Eddy St.
Carolyn Colby	8 Eddy St
Kathleen Middleton	21 Woodside Rd
Jayanta, Giri	7 Shadow Oak Dr.
Molly Jakobson	246 Lonsdale Rd.
Dorothy A. Cabral	9 Russet Lane, Sudbury
Kenn M. Farrell	67 Rambling Rd., Sudbury
Doug Jensen	22 Patricia Road, Sudbury

Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
Joni Ritter	14 Russet Ln
Scott Ritter	14 Russet Ln
Andrew Donovon	175 Candam Rd
Kellie Johnson	32 May Circle
Joanne Minassian	38 Hadley Road
Judith Merrin	111 Woodside Rd
Regina Ritter	208 Landham Rd
Savio Merrin	111 Woodside Rd.
Pete Abate	14 Dawson Dr.
Ben Block	102 Stock Road RP
John Cocca	50 LANDHAM Rd
John B. Malone	37 Blackmeadow
Benson Maurer	64 Shadow Oak Dr
George Malone	64 SHADOW OAK DR.
Rosemary Verri	106 Victoria Rd
Paula Blanton	36 BARKWICH ST.
Christine Dorsey	23 Brooks Rd.
Mark Dorsey	23 Brooks Rd.
Michelle Frabekio	28 Guzzle Brook Drive
[Signature]	28 Guzzle Brook Drive
[Signature]	28 Guzzle Brook Drive
John Weiss	44 Woodside Rd
Jeryl Kennedy	18 Kay Street

Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name	Address
Peter Goodman	5 Read Rd.
Douglas Bajest Judge Bajest	43 Brookdale Rd.
Judith S. Bajest	43 Brookdale Rd.
JERRY SWIRSKI	24 GRISCOM RD.
Myrna Marowitz	26 Shadow Oak Dr.
Sherry Weffstein	54 Kay St, 30 ROBERT FROSS RD.
Reg Middleton	21 Woodside Rd.
Mark Jacobian	13 Chumley Way
Veronique Scheitman	42 Stock Farm Rd.
Eugene Willette	5 DAWSON DRIVE
MARY YACOBIAN	23 ANSELM WAY
Mindy Davies	14 Gerry Drive
Robert G. Stein	7 Thompson Dr.
Julie McKenna	79 Woodside Road
Robert G. Stein	19 Old Orchard Rd.
Linda Roth	19 Old Orchard Rd.
Lisa Hanson	36 Cutler Farm Rd.
Dunne Hanson	36 Cutler Farm Rd.
Min Li	4 Brooks Rd.
Jack Zhang	4 Brooks Rd.
Mike Crosby	22 Lynne Rd.
Julia Crosby	22 Lynne Rd.

**Petition of Opposition
The Residences at Johnson Farm
MassHousing (MH#SA-10-011)**

We, the undersigned residents of the Town of Sudbury, respectfully submit this petition in opposition to Moss Development's "The Residences at Johnson Farm" (MH#SA-10-011), and ask you to please consider these factors in your determination.

Name

Address

Beth Gray-Trey

90 Pelham Is. Rd Sudbury

Lined area for additional signatures and addresses.

Andrew Donovan
175 Landham Road
Sudbury, MA 01776
Telephone: 978-443-7800

*received at
meeting 7/27/10*

July 27, 2010

To the Board of Selectmen, et al

Thank you for your time this evening. As a director abutter, my land and home lie immediately upstream from the Johnson parcel. The huge volume of water as proposed to be discharged from the treatment facility, for 120 households, will significantly impact the level of water in the low gradient creek that runs, not at the edge of, but right through the heart of my property.

Their right to develop their land does not allow for them to change the characteristic and stream flow through the creek on my land.

I must ask that no preliminary approvals be granted until it can be shown to have no significant adverse impact on my "little river".

Thank you,
Andrew Donovan

DALEY AND WITTEN, LLC

156 Duck Hill Road
Duxbury, Massachusetts 02332
781-934-0084
781-934-2666 (facsimile)
jon@daleyandwitten.com

July 27, 2010

HAND DELIVERED

John C. Drobinski, Chairman
Lawrence W. O'Brien
Robert C. Haarde
Board of Selectmen
278 Old Sudbury Road
Sudbury, Massachusetts 01776

RE: "The Residences at Johnson Farm"

Dear Chairman Drobinski and Members of the Sudbury Board of Selectmen:

Please accept this letter on behalf of the Sudbury River Neighbors Association in reference to the application for project eligibility approval from MassHousing by Moss Development, Inc. for a 35-acre parcel of land off Landham Road.

On behalf of our clients, and recognizing the important influence the Board of Selectmen often have in the final decision by MassHousing to issue—or not—a project eligibility letter, we respectfully urge the Board to recommend that MassHousing deny Moss Development, Inc.'s project eligibility application. In the alternative, should the Board choose not to recommend denial of the application, we request that the Board ask MassHousing to include the minimal conditions contained at the conclusion of this letter.

The application to MassHousing is devoid of essential information regarding the project, its impacts and whether or not it meets even MassHousing's low threshold for approval pursuant to 760 CMR 56.04. Specific illustrations follow.

1. The application fails to "[P]rovide evidence that the applicant is a public agency, a non-profit organization or a Limited Dividend Organization" as required by 760 CMR 56.04(1)(a). Upon information and belief, Moss Development, Inc. is not a public agency or a non-profit organization. Unless and until Moss Development, Inc. provides the Board with proof that it is a Limited Dividend Organization, the applicant is not properly before the Board and is simply wasting the Town's and my client's time and resources.

2. The application fails to provide sufficient evidence that the “applicant controls the site”. 760 CMR 56.04(1)(c). While the applicant has provided the Town with a Purchase and Sales Agreement dated January 30, 2010 and a purchase and sales agreement may otherwise be sufficient evidence to constitute “site control” pursuant to statute and regulation, the January 30, 2010 Purchase and Sales Agreement is inexorably linked to the applicant’s obtaining “approval to construct 120 apartments”. (See paragraph 6 of the Agreement claiming a purchase price of \$2M for 120 apartment units). See also the applicant’s development budget claiming a purchase price of \$2.02M). This contingency is improper as it creates an obligation to purchase only if the applicant obtains “approval to construct 120 apartments” and establishes a purchase price based not upon the land’s fair market value, but rather on the fictitious and inflated price attributed to the issuance of a comprehensive permit. Accordingly, the Board of Selectmen should require the applicant to demonstrate that the land’s underlying value—without a comprehensive permit in place—equals the two million dollars purported to be paid in the Purchase and Sales Agreement. It is suggested that such an offer of proof will be exceedingly difficult as the Town’s 2010 assessed valuation of the parcel is \$798,800 (with the most recent transaction of the subject parcel occurring in 2007 for one (\$1.00) dollar).
3. The application fails to comport with basic common sense and land planning principles. The proposal of a large rental housing project in the middle of an historically agricultural and more recently single family detached dwelling neighborhood, violates almost 300 years of land planning and development patterns in the Town of Sudbury. There is simply no rational basis for proposing, let alone approving, such a grossly inconsistent density and use within this established neighborhood. Even the Housing Appeals Committee, no shrinking violet when it comes to overruling local zoning, has repeatedly supported legitimate land use planning efforts to preserve and protect existing neighborhoods. (See for example, 28 Clay Street v. Middleborough Board of Appeals, No. 08-06, Mass. Housing Appeals Committee, September 28, 2009). Simply put, if an applicant can successfully propose a large-scale rental development in this neighborhood, no neighborhood in Sudbury is free from such intrusion. We respectfully suggest that the Board of Selectmen would not endorse such an outcome and, accordingly, will inform MassHousing that the size and scope of this proposal must be denied project eligibility approval.
4. The locus of the proposed development is identified in the Town of Sudbury’s 2009 Open Space and Recreation Plan and prominently displayed on the map illustrating “Priority Parcels/ 5 Year Action Plan”. This fact is critically important for two reasons. First, placement on a municipal open space and recreation plan “priority parcel/ action plan” map speaks volumes as to the Town’s goals and plans regarding the parcel. Needless to say, placement within the Town’s “5 Year Action Plan” for acquisition and protection is inconsistent with the result sought by the applicant before the Board of Selectmen. It would be ironic, indeed, if the Town placed on a priority list for protection a particular parcel, only to have that parcel be developed at four to five times the density allowed by zoning and for uses conflicting with Sudbury rules and regulations. Second, and problematic for the applicant, inclusion on and within a municipally adopted Open Space Plan “creates a presumption that the site is needed to preserve Open Spaces unless the applicant produces evidence to the contrary.” 760 CMR 56.07(3)(f).

Simply put, even if MassHousing were to grant project eligibility for this application, the applicant would be faced with the irrefutable fact that the Town of Sudbury has designated the locus for preservation and, that as a matter of law, the preservation of this parcel outweighs whatever local (or regional) need is claimed for below market rate housing.

5. The "Initial Capital Budget" contained in the application contains several statements that require explanation. First, as noted above, the claimed acquisition cost of the land is \$1.3M greater than the Town's current assessment for the property. After 40 years of fraudulent representations by certain developers seeking comprehensive permits, towns should be particularly careful to ensure that purported acquisition values comply with MassHousing's policy: the acquisition value cannot exceed the land's underlying value without a comprehensive permit in place. Second, and ironically as most developers grossly overstate their costs as a means of disguising "allowable" profit, the submitted budget grossly understates the costs required to permit and construct the on site wastewater treatment plant required for this project. (No separate budget item is included for the wastewater treatment plant, however the total "soft" costs for "architecture and engineering" and "surveys and permits" is slightly over \$1M. Based upon relevant experience in the field, I can safely state that the permitting and engineering costs for this project cannot be completed for \$1M, particularly where the project requires compliance with the Massachusetts Ground Water Discharge Permit Program (314 CMR 5.00), among many others. The Board should require the applicant to detail its proposed budget such that the Board (and the public) can ascertain how a project of this magnitude and complication can be constructed and operated as proposed. Third, the development budget contains almost \$700,000 of claimed contingency costs. Contingency costs within a pro forma for a comprehensive permit project is simply disguised profit; the result of which is a project containing far more dwelling units than would otherwise be necessary to make the project feasible. The Board should require the applicant to provide a pro forma that deletes such hidden profit and provides a true and accurate accounting of the costs—and profit—from the proposed project.
6. The applicant has requested numerous waivers from Sudbury rules, regulations and bylaws, the most offensive of which is the request for an exemption from the Sudbury Wetlands (Administration) Bylaw. Given the numerous wetland resources on and adjoining the locus and the jurisdictional protections afforded these resources (and the protections afforded abutting properties) it is illogical to suggest that a comprehensive permit project should somehow be exempt from the public purposes served by the Sudbury Wetlands Bylaw. Accordingly, the Board is respectfully requested to inform MassHousing that compliance with the Sudbury Wetlands Bylaw will be required of this, and where relevant due to jurisdiction, all, applications for development in the Town of Sudbury.
7. Consistent with the comment above, based upon the rudimentary and incomplete plans filed to date, it appears as if the proposed roadway serving as ingress and egress to the dwelling units crosses a jurisdictional wetland. Although impossible to determine based upon the materials filed by the applicant, crossing this wetland will require fill and it appears certain that this fill will exceed 5,000 square feet. Fill of a bordering vegetated wetland (which is the present case)

is limited to 5,000 square feet, unless the applicant can demonstrate that the project is a "limited project" under both local and state regulations. In its most simple terms, a "limited project" is one that necessitates the fill of wetlands to avoid the land parcel being rendered economically valueless. In the present case, it cannot be disputed that a large portion of the locus is accessible without crossing a wetland resource and that this project does not and cannot constitute a "limited project" Accordingly, we respectfully request that the Board inform MassHousing that the project as proposed cannot be constructed without violations of both local and state wetlands regulations.

8. As noted above, the proposed project calls for the disposal of wastewater via a treatment plant. The applicant proposes the leach fields for the treatment plant immediately proximate to the existing residences off Stagecoach Drive. Whether the proposal to place leach fields containing over 20,000 gallons of effluent per day immediately abutting existing residences is intentionally malicious or simply the result that the developer has no where else to dispose of the wastewater given the vast wetland resources on the site, remains to be determined. Either way, however, the Board is respectfully asked to inform MassHousing that the Town will not tolerate such reckless disregard for public health and land planning principles. The need for the wastewater treatment plant is necessitated by the applicant's greed: a smaller, more appropriately sized project could be constructed within the locus while preserving the site's historic values and without destroying the site's or the neighborhood's character.
9. Finally, as with many comprehensive permit applications, the applicant has maximized the locus with the full knowledge that the Board of Selectmen and the Board of Appeals will suggest a smaller, less intrusive development. This trick—propose the maximum number of units that can be crammed onto a piece of paper and "settle" for less—is as old as the statute itself. Sometimes, but not here, the ploy works. The Town and the neighbors, fearing a grossly hostile project, accept one that is slightly less hostile. In this case however, the proposed project and virtually any recasting of this project are unacceptable. For all the reasons discussed above, the Board of Selectmen should inform MassHousing that the proposal is unacceptable. We respectfully request that the Board request that MassHousing deny this application for project eligibility approval. In the alternative, we respectfully request that the Board include in its response to MassHousing, should MassHousing issue project eligibility approval for this project, that it do so with the following minimal conditions:
 - a. The applicant should be required to provide evidence that it complies with the requirements of 760 CMR 56.04(1)(a);
 - b. The applicant should be required to provide evidence that the land's value equals or exceeds \$2.02M as stated in its development budget and/or the \$2M as stated in the purchase and sales agreement for the locus;
 - c. The applicant should be required to submit a revised site plan that is consistent with the Town's historic development patterns in the immediate area and consistent with

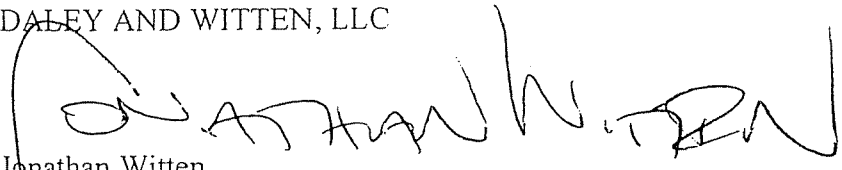
the Town's plans and policies (including the Open Space Plan) for this portion of Sudbury;

- d. The applicant should be informed by MassHousing that the locus is identified within the Town's Open Space and Recreation Plan and is a "Priority Parcel" within said plan;
- e. The applicant should be required to submit supporting documentation for its development budget, most notably how the project can be constructed for the dollar amounts proposed and submit a revised pro forma without inclusion of contingency costs;
- f. The applicant should be informed that the Town of Sudbury will not waive the Sudbury Wetlands Administration Bylaw for this project;
- g. The applicant should be informed that disposal of over 20,000 gallons per day of wastewater as proposed is unacceptable, in terms of both volume and proximity to existing residential land uses.

On behalf of the Sudbury River Neighbors Association, please let me know if you have any questions or would like additional support for any of the comments made above. Thank you in advance for your consideration.

Very truly yours,

DALEY AND WITTEN, LLC


Jonathan Witten

cc: Jody Kablack, Director, Department of Planning and Community Development
Debbie Dineen, Conservation Coordinator