

Boxborough Town Center, LLC
PO Box 985, W. Acton, MA 01720

March 1, 2018

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PLANNING BOARD
TOWN OF BOXBOROUGH

John Markiewicz, Chairman
Boxborough Planning Board
Boxborough Town Hall
29 Middle Road
Boxford, MA 01719

RE: Comments on Draft Conditions for Site Plan Approval dated January 1, 2018 as prepared by the Town of Boxborough

Dear Chairman Markiewicz,

Following are the comments from the Applicant on the draft conditions for site plan approval dated January 1, 2018.

4. Current Town Bylaws allow construction site activity to occur from 7 AM to 6 PM Monday through Saturday. Imposing a condition upon this project that is more restrictive than what is imposed on other construction projects in the Town of Boxborough is arbitrary and capricious, and causes undue burden to the Applicant.
5. The Applicant proposes primary access for the Project via Massachusetts Avenue. The Applicant proposes to construct two emergency access roads that will be utilized solely by emergency vehicles. Emergency access vehicles have the express right, pursuant to G. L. c. 89, § 7, to use any way or street in the Commonwealth. All efforts will be made to make Massachusetts Avenue the main entrance for all construction traffic.
- 12e. Irrigation wells shall be allowed per existing state/town standard bylaws. This condition is overly restrictive and is open to interpretation as what is a "detrimental effect".
15. Need to add that On Street Parking shall be allowed during construction.
16. The determination of insufficient parking should be by the condominium association. The proposed language provides no definition of how this will be determined.
20. The Age Restriction shall be consistent with applicable Town By-Laws.

MAR 01 2018

PLANNING BOARD
TOWN OF DUNBROUOUGH

22. The requirement of the town's consulting engineer to be the site inspector for the entire project at applicant/owner's expense is unduly burdensome and unreasonable. Condition #54 requires a Certificate of Construction by design engineer so the applicant/owner is already required to monitor and test to obtain this certification. There will be a bond in place for site work which must be inspected and approved before it is released. There needs to be defined periodic and/or milestone inspections as this could be subject to future interpretation.
24. If it is determined that a conservation restriction is required, then it would need to be at the end of the project after site work is substantially complete with specific defined limits.
27. This condition is unreasonable and needs to be deleted. There is already a time requirement to complete all infrastructure within 3 years. Home construction will be dependent on the market conditions and it is possible all homes will not be complete within the 4-year timeframe.
28. This condition allows for the unreasonable revocation of the Decision, Building, and Occupancy permits, jeopardizing the ability of the Applicant to obtain funding for the Project. This condition is thus a denial masquerading as a conditional approval, which must be deleted.
- 29a. All notes indented below are responses to plan change requirements and corresponding notes recommended by the Town's Consulting Engineer in their review letter of September 11, 2017:
- 33.A The fence graphic is labeled next to the Bocce and Pickle Ball Courts. See Sheet 1 of 9. This item should be resolved.
- 33.B A total of (22) trees, mostly evergreen, have been located behind Units 8-10 to help aid in noise reduction for (6) units. This is in addition to the privacy fence already proposed for visual and noise reduction. The reviewer recommended "that some plantings be placed in the rear yards..." and noted that "some plantings have been added" without further recommendation. We view this item to be resolved.
- 33.C A total of (34) trees have been located behind Units 31-36 to help aid in noise reduction and other impacts. This is in addition to the privacy fence already proposed for visual and noise reduction. The reviewer recommended "that some plantings be placed in the rear yards[.]" and noted that "some plantings have been added" without further recommendation. We view this item to be resolved.
- 34.A & B. The applicant will add a shrub layer between the rear of the noted units and the top of the proposed retaining walls to help aid in screening. The applicant will attempt to locate additional shade trees near basins to provide screening and shade however this will only be done where the applicant believes the tree placement will not interfere with the structural integrity of any adjacent proposed retaining walls. It should be clarified that while the applicant acknowledges the basins will feature a sand bottom to

ensure adequate storm water measures, the basin slopes will feature a seed mix as noted on Sheet 8 of 9.

36.C Applicant will specify a texture and color on future plans.

37.B(1) The applicant cannot fit any additional street trees without creating possible disturbance to underground utilities, driveways, retaining walls and site lines.

37.(3) The street tree in question will be setback further from the roadway to provide adequate site distance.

44. A Landscape Maintenance Guide will be provided to the Homeowners Association and Planning Board.

Additional Comments:

1. The applicant has revised the plant symbols to the acceptance of the reviewer. The applicant also notes that there has been an increase and not a decrease in proposed buffer plantings. The previous plan proposed a total of 256 buffer plantings. The plan set submitted on 8-30-2017 proposed an additional 21 buffer plantings for a total of 277 plantings. We believe this comment to be resolved.

29b. This phasing condition is overly burdensome and unreasonable. A phasing plan needs to be specific to site infrastructure and not conditioned on completion of residential units. Unit construction in one phase will need to occur simultaneously with infrastructure construction in subsequent phases. It will be necessary to perform sitework in multiple phases to achieve earthwork balance. This Phasing Restriction as written, will significantly extend the overall timeline of the project and unreasonably increase the Applicant's construction costs.

33. This requirement is overly burdensome. The start of site work should be allowed to occur simultaneously with site distance improvement work.

34. This condition needs to specifically state what are the requirements of the Boxborough Police Department that will need to be met.

36. The requirement is overly burdensome and unreasonable, and should specifically define what testing is required. Applicant/Owner should be allowed to utilize their own testing service where needed and testing reports will be provided to the town where required by code and/or existing by-laws. Condition #54 requires a Certificate of Construction by design engineer so the applicant/owner is already required to monitor and test to obtain this certification.

41 & 42. These conditions are overly burdensome and out of the jurisdiction of the planning board. All blasting shall be performed within the existing regulations and/or by-laws.

45a,b,c. Age Restriction shall be consistent with applicable Town By-Laws.

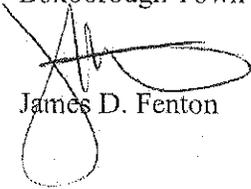
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PLANNING BOARD
TOWN OF BOXBOROUGH

49. The requirement to complete emergency access systems prior to first CO is only acceptable if these roadways are in the first phase of construction.
50. These conditions are outside of the Planning Board's jurisdiction. Condition should state that all improvements required by MassDOT shall be installed prior to first CO.
53. Individual bond requirements for any unit which does not have landscaping completed is overly burdensome as many units will be completed during the winter months. If necessary, there can be a separate site landscaping bond or in can be included in the overall site bond.

Sincerely,
Boxborough Town Center, LLC


James D. Fenton

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