



Town of Littleton

37 Shattuck Street
Littleton, MA 01460

June 24, 2011

Mr. Anthony Fracasso
Senior Vice President
MassDevelopment
160 Federal Street, 7th floor
Boston, MA 02110

Thomas W. French, Ph.D.
Assistant Director
Division of Fisheries and Wildlife
One Rabbit Hill Road
Westborough, MA 01581

SUBJ: Town of Littleton Supplemental Comments - Fifteen Great Road II, LLC

Dear Mr. Fracasso and Dr. French:

On May 24, 2011, the Town of Littleton submitted comments from the municipality to MassDevelopment on the application of "Fifteen Great Road II, LLC" which Omni Properties, LLC of Concord, MA ("Omni") filed with MassDevelopment for a determination of Project Eligibility for a proposed 40B project at 15 Great Road, Littleton, consisting of two hundred (200) rental units. The Town's comments included the following:

The Preliminary Subdivision Plan filed by the applicant on May 12, 2011 with the Littleton Planning Board states that "a portion of the project site is located within Priority Habitat and Estimated Habitat," and that the applicant is retaining the services of Oxbow Associates, Inc. to assess site for potential impacts on rare species and habitats. The applicant should be required to undertake and complete the filing with Natural Heritage & Endangered Species Program (NHESP) with the Massachusetts Division of Fisheries and Wildlife prior to MassDevelopment's issuance of a determination of project eligibility.

In the course of its review of that preliminary subdivision plan, the Littleton Planning Board contacted the Natural Heritage and Endangered Species Program of the Massachusetts Division of Fisheries and Wildlife and was provided with letters to Omni Properties, LLC, dated March 2, 2011 and April 24, 2008 (attached as Exhibits "A" and "B" respectively), concerning the Project. The Planning Board voted on June 23, 2011 to ask the Board of Selectmen to forward these letters to MassDevelopment and NHESP for clarification.

Based upon the Town's review of these letters, it appears that Omni proposed a "senior housing project" to NHESP in 2008. In 2011, however, it is changing the project from senior housing to residential, but is representing that the footprint of both projects is identical. NHESP has advised Omni that "the Proposed Project...would likely result in a "take" as defined in 321 CRM 10.23."

See Exhibit B. NHESP goes on to state that Omni would offer the following concessions in its Permit Application:

- 1) Place permanent habitat protection on the property associated with the Project outside the agreed-upon limits of work in the form of a ...Conservation Restriction.
- 2) Restoration of the "elevated pasture" to a native, forested habitat.
- 3) Provide \$100,000 for the support of Blue-spotted Salamander research in MA. [This amount is reduced to approximately \$70,000 in 2011. See Exhibit A.]
- 4) Continue to seek permitting associated with gaining emergency access to the site via Grist Mill Road and relinquishing all rights to the "contingent access to Durkee Lane...."

NHESP's letters raise the following questions:

1. The Town received the preliminary plans for Omni's residential project (attached as Exhibit "C"), but the Town never saw Omni's plans for its senior housing project until it received a copy from NHESP this month (attached as Exhibit "D"). When the two preliminary plans are compared to, it does not appear that they use the same footprint, as indicated by Omni. The Town would like both MassDevelopment's and NHESP's assistance in determining whether Omni's representation is accurate.
2. NHESP's preliminary approval is based upon Omni's seeking emergency access via Grist Mill Road. However, Omni's proposal currently shows full access to Grist Mill Road. Has this project change been shared with NHESP and is it acceptable to NHESP?
3. NHESP's letters contain the condition that "No work, including soil or vegetation alteration, associated with the Proposed Project may occur until the completion of the MESA review process." However, it is clear that Omni is doing some level of excavation on site. Furthermore, it has applied for dig safe permits. Is this level of site work allowed in light of NHESP's direct instruction that "no work" may occur on site?

Thank you to both MassDevelopment and NHESP for your consideration of this supplemental information.

Sincerely,



Keith A. Bergman
Town Administrator

Enclosures

Cc: Littleton Board of Selectmen
Littleton Planning Board
State Senator Jamie Eldridge
State Representative Jim Arciero
Town Counsel Thomas Harrington

David Hale, Omni Properties, LLC
Attorney Daniel Hill
Misty-Anne Marold