



January 28, 2019

BY HAND

Ms. Katherine Miller
Massachusetts Housing Finance Agency
One Beacon Street
Boston, MA 02108-3110

Re: Project Eligibility Application - 3 Burke Lane, Wellesley, MA

Dear Ms. Miller:

This firm represents neighbors and abutters to the proposed 16-unit Chapter 40B project at 3 Burke Lane, Wellesley, Massachusetts (the "Project" and the "Project Site").¹ We understand that the applicant, Cedar Place, LLC (the "Developer") has filed a project eligibility application with MassHousing.

We appreciate the opportunity to bring to your attention several substantive issues of concern to us about the Project. As a preliminary matter, we share most of the concerns raised in the Wellesley Board of Selectmen's recent comment letter to you. Since we are not in total agreement with the Selectmen, we wish to highlight a few specific items in this letter.

A. Overview

As the Selectmen noted, the maximum allowable density for this Project Site under conventional zoning would be 2.9 units/acre, and this Project's density would be more than five-times that, at 16.84 units/acre. While we understand that one of the fundamental purposes of Chapter 40B is allow for greater density than what is allowed under conventional zoning, the rules governing Chapter 40B expect that variance to be modulated, and balanced against other concerns such as "preserving open spaces," and "protecting the health and safety of the occupants" of the future housing development. G.L. c. 40B, s. 20 (definition of "consistent with local needs"). This Project, as currently designed, does not strike the appropriate balance between the need for housing and public safety and planning concerns.

¹ A list of our clients is attached as Addendum A.

B. Traffic Issues

Despite its name, “Cedar Place,” the Project is not on Cedar Street. Curiously, the Developer promotes the fact that Wellesley’s Housing Production Plan references Cedar Street as potential area for new affordable housing, but this Project’s access is off of Burke Lane, a street parallel to Cedar Street, but with inferior access to Route 9. Cedar Street intersects Route 9 with an overpass and on-ramps, allowing motorists to safely enter Route 9 east or west bound. Residents of Burke Lane are not so lucky – they may only turn right on Route 9 (east), and to do must not only worry about fast, eastbound traffic on Route 9, but vehicles on the on-ramp to Route 9. In addition, Burke Lane is a narrow street with no on-street parking, two blind curves, no sidewalks (which means that children walking to the bus stop at McLean and Burke must walk on the street), and also serves as the school bus route for Wellesley Middle School. As mentioned above, the street exits dangerously onto the Cedar Street ramp to Route 9 right next to a small commercial strip mall, and any augmentation of traffic at that point would invite collisions much in excess to what we have at present.

C. Lack of Open Space and Over-Utilization of the Site.

The state Housing Appeals Committee (“HAC”) has recognized that a project can be so abhorrent to generally-accepted residential design principles to warrant a denial. Dennis Housing Corp. v. Dennis Board of Appeals, HAC No. 01-02 (May 7, 2002) (zoning board’s denial of a 50-unit apartment building on a 3.2-acre site was consistent with local needs because “the proposed design over-utilizes the site”). Here, many factors contribute to an overall judgment that the Project over-utilizes the site and presents unacceptable risks to public safety. Significantly, the Project’s only passive recreational area are two, token picnic tables adjacent to the parking lot, and a tiny, undefined “outdoor amenity area.”

Having covered all of the useable, level areas on the Site with buildings and parking, there is simply no room left for a lawn or other amenity - the Developer has proposed a Project design that maximizes its profit potential. The over-utilization of this Site is excessive, is not in the spirit of affordable housing, and should be reconsidered. Further, the scale and massing of the proposed 15-unit apartment building is totally inconsistent with the surrounding residential neighborhood, comprised predominantly of single-family homes. As such, the Project doesn’t comport with the Chapter 40B Guidelines adopted by the Department of Housing and Community Development, which proscribe that:

[when developing multi-family housing in the context of an existing single-family neighborhood], it is important to mitigate the height and scale of the buildings to adjoining sites.

[T]he massing of the project should be modulated and/or stepped in perceived height, bulk and scale to create an appropriate transition to adjoining sites.

DHCD's "Handbook – Approach to Chapter 40B Design Reviews" suggests that projects can be deliberately designed to minimize disruption with neighborhood patterns.

Affordable housing projects under c.40B often have design elements that are different from the surrounding context as described by the terms used in the regulations; e.g., use, scale. However, with careful design and consideration of the project elements in relationship to the adjacent streets and properties, the projects can better integrate with the surrounding context.

The Project's large apartment building is not "modulated" or "mitigated" in any way to provide an "appropriate transition" to the abutting residential properties. A smaller project, perhaps consisting of detached duplex or triplex buildings, would form a more appropriate transition to the low-density housing surrounding the Site to the east, west and south.

D. Parking and Loading

As noted above, there is no on-street parking on Burke Lane. The default off-street parking requirement for multi-family housing in Wellesley is 2 spaces per unit. In some multi-family zoning districts, the requirement is less, but that is generally in areas close to public transportation. As the Selectmen noted in their letter, there are no viable public transportation options for future residents of the Project, and there are no sidewalks on Burke Lane. The Project plans state that there will be 25 parking spaces (1.56 per unit), but these are not clearly delineated on the site plan. Regardless, 25 spaces are insufficient for a project of this size, especially considering that there are no provisions for visitor parking, and on-street parking is not an option.

Further, there is no provision for temporary visitors, i.e., "loading" spaces for delivery trucks such as UPS or Amazon. Also, it is not clear how a trash hauling truck will pick up trash and recyclables from the dumpster at the end of the driveway, as there is no turnaround area. The plan indicates an area for a dumpster, but not for recycling. There are apparently no common areas inside the building for trash storage, or any other storage, such as for bicycles during inclement weather.

E. Emergency Access

As the Selectmen noted, emergency vehicle access to the Project is dubious. Emergency vehicle access is available only to the south side of the building, even though access to three of the units on the first floor is on the north side, and access to the second floor units is from stairways on the east and the west sides. The length of the fire access road, from Burke Lane to the end of the driveway, is over 200 feet long. The driveway is a dead-end road, with no area for vehicles to turn around. The Project's plans do not comply with the requirement under the State Fire Code that dead-end fire access roads in excess of 150 feet must be provided with provisions for the fire apparatus to turn around. See, 527 CMR Section 1 (NFPA 18.2.3.4.4). Emergency

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access will be further restricted during snow events, as there are no snow storage areas provided, and plowing snow on the south side of the driveway will not be an option given the Site's topography.

F. Miscellaneous Application Discrepancies and Omissions

The project eligibility application form, page 18, requires a letter of interest from a member bank of the Federal Home Loan Bank of Boston ("FHLBB"). This is important because one of the jurisdictional prerequisites to applying for and obtaining a comprehensive permit is having a "subsidy" from a federal or state affordable housing program. 760 CMR 56.04(1)(b). The "New England Fund" program managed by the FHLBB has been recognized by the courts as one such program. To ensure that the subsidy requirement is met, the application form appropriately requires developers to secure a letter of interest that briefly describes the bank's familiarity with the borrower, briefly describes the project, and confirms that the bank is a current member of the FHLBB and that the bank will "specifically use NEF funds for the proposed development."

The Developer provided a short letter from Wellesley Bank, but the letter does not satisfy any of the requirements in the form application. The letter does not indicate whether the Bank is a member of the FHLBB and does not confirm that NEF funds would be used for the Project. There is no description of the Bank's relationship with the borrower, or of the Project itself. MassHousing should require the Developer to obtain a conforming letter of intent.

On Page 7, the application asks whether there are any steep slopes on the Site. The Developer answered "no," but that is belied by the Developer's own existing conditions plan, which show steep slopes on the west and southern boundaries. See, Addendum B. Retaining walls are proposed in these locations, but no dimensions or details are provided.

We appreciate the opportunity to comment on this application.

Very truly yours,

/s/

Daniel C. Hill

cc: Clients
Wellesley Board of Selectmen
Wellesley Planning Board
Thomas Harrington, Esq.

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Addendum A

Names and Addresses of Burke Lane Neighborhood Community

Grant Owens
17 Burke Lane
Wellesley, MA 02481

Lan and Henry Yu
25 Burke Ln.
Wellesley, MA 02481

Willy Wu
19 McLean St.
Wellesley, MA 02481

Joe Zani
19 Burke Lane
Wellesley, MA 02481

Victor Coelho & Brita Heimarck
24 Burke Lane
Wellesley, MA 02481

Jared & Caitlin Linder
15 Burke Lane
Wellesley, MA 02481

Gary Miller
192 Worcester St.
Wellesley, MA 02481

Jama Moy & Charlson Eng
21 Burke Ln
Wellesley, MA 02481

Jing Li
6 Willow Park
Wellesley, MA 02481

Kia Montasharei
35 Burke Ln.
Wellesley, MA 02481

Doug Hongmei
19 McLean St
Wellesley, MA 02481

Zhin Xia
29 Burke Lane
Wellesley, MA 02481

Wendy Nelson
10 Sheehan Circle
Wellesley, MA 02481

Nancy C
28 Burke Lane
Wellesley, MA 02481

Brian Germani
22 Willow Park
Wellesley, MA 02481

Ann Connors
41 Willow St.
Wellesley, MA 02481

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Addendum B – Pictures of Western Property Boundary



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