

**Board of Selectmen**

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**TOWN OF MEDWAY**  
**COMMONWEALTH OF MASSACHUSETTS**

June 1, 2015

Mr. Gregory P. Watson, AICP  
Manager of Comprehensive Permit Programs  
Massachusetts Housing Finance Agency  
One Beacon Street  
Boston, MA 02108-3110

Re: Application for Project Eligibility Determination/Site Approval  
Timber Crest Estates

Dear Mr. Watson:

On behalf of the Medway Board of Selectmen, thank you for giving us the opportunity to comment on the site eligibility application for Timber Crest Estates in Medway under your review. This proposed 192 unit development consisting of 76 single family homes and 116 condominiums will undoubtedly have impacts on our community, neighborhoods, infrastructure, public safety, and the environment. The Project was reviewed by the various municipal departments and boards and this letter provides, collectively, initial concerns of the Town of Medway that must be addressed as the design, planning and comprehensive permit process moves forward. The Town of Medway was notified of the proposed project upon receiving a copy of the application submitted to your agency. There was no prior communication by the developer nor opportunity for town officials to provide input into the development concept. As you can see with the comments herein, there are several issues regarding suitability of the site and the proposal.

**1. Environmental Concerns:**

The Medway Conservation Commission has jurisdiction to administer and enforce the Massachusetts Wetlands Protection Act (WPA) and its Regulations, and the Medway General Bylaw Article XXI and its Regulations. Therefore, it is the practice of the Commission to ensure the protection all wetlands resources, which also includes the protection of the interests protected by the WPA: protection of public and private water supply, protection of ground water supply, flood control, storm damage prevention, prevention of pollution, protection of land containing shellfish, protection of fisheries, and protection of wildlife habitat.

The Conservation Commission has been requested to review a delineation of wetlands resources through the Abbreviated Notice of Resource Area Delineation (ANRAD) filing by the developer (Mounir Tayara). There is a prior Order of Resource Area Delineation for a portion of the site approved by the Conservation Commission on August 28, 2014. The present filing remains under review by the Conservation Commission, and therefore the wetlands resources have not yet been confirmed. In the interim, the Town offers these comments:

- a. Wetland Resources – The plans provided by the developer for the ANRAD filing presently show the only wetland resources as Bordering Vegetated Wetlands. During a site visit on April 8, 2015, the Conservation Commission’s Agent and Peer Review staff reviewed the wetlands delineation line and determined that wetlands were not accurately flagged in the field, and require additional work by the applicant’s wetland scientist to correct inaccurate flagging. However, through an examination of the Mass GIS data layers and the USGS stream statistics, the following resources were found thus far on the site. To our knowledge, not all resources have been requested for review under the ANRAD filing, but will be reviewed under any subsequent filings for development of the site:
  - i. Bordering Vegetated Wetlands
  - ii. Intermittent Streams (2)
  - iii. Perennial Streams (1)
  - iv. 200’ Riverfront Area
  - v. Certificate Vernal Pool (1)
  - vi. Potential Vernal Pools (5)

The Riverfront Areas are subject to specific provisions under the Massachusetts Wetlands Protection Act (WPA) regulations 310 CMR 10.58. These wetlands resources have not been depicted on the preliminary plans submitted to MassHousing by the developer in determining eligibility under MGL c. 40B.

- b. Regulatory Authorities – The developer has proposed approximately 25,400 square feet of wetlands replication, but the amount of proposed wetlands alterations is not clear. The replication seems to be for Bordering Vegetated Wetlands only. Any alteration of wetlands over 5,000 square feet (where it is not filed under 310 CMR 10.53 for a limited project) must have wetlands replication at a ratio of 1:1, under 310 CMR 10.55. Additionally, this amount of alterations, filling, and dredging will require the following permits from other regulatory authorities:
  - i. Army Corps of Engineers Clean Water Act 404 - Alteration of wetlands 0 - 5,000 square feet requires filing of a Self-Verification Form, and any alteration over 5,000 square feet will require Pre-Construction Notification (PCN). Developers may be asked to avoid, minimize and mitigate impacts to wetlands resources under a PCN.
  - ii. DEP Water Quality Certification 401 - Required for alteration over 5,000 square feet.

\*Please note this does not include permits required by the Town of Medway for proposed work within wetland resources and the 0-100' buffer zone to these wetlands.

- c. Wetlands Replication - It has been documented that wetlands replications are often unsuccessful and are sometimes never completed. With the amount of wetlands replication proposed here being so large in size (over 25,000 square feet) and in sporadic locations around the site, there is a cause for concern and it leaves open the strong possibility for failure.
- d. Potential Impacts - At this time, the Conservation Commission has not assessed direct wetlands resource impacts for this proposed project and cannot reasonably assess impacts to the 0-100' buffer zone. This is a preliminary application and it is not clear what portion of the buffer zone will be protected to allow for proper protection of the wetland resources.
- e. Wetlands Buffer Zones – With the Town's Wetlands Regulations Section 5.06, there is a provision for a 25' No Disturb Setback and a 75' No Build Setback for work within sensitive areas. Additionally, Section 6: Vernal Pools has a performance standard that does not allow work within 100' of a Vernal Pool without preponderance of evidence that the Vernal Pool will not be affected. This concern for a vegetated buffer for the protection of wetland resources is reflected in the WPA Regulations under 310 CMR 10.53 (1) General Provision, this is for resources listed under 310 CMR 10.02.

The Town would like add that the developer has not presented to MassHousing a complete picture of the environmental conditions at the proposed site. As the project information supplied in the application relative to these conditions is sorely lacking, the Town believes the filing of the site eligibility application was premature. Any decision regarding site eligibility must be appropriately delayed until a complete and final wetlands delineation is achieved.

## **2. Infrastructure Impacts and Concerns:**

The Department of Public Services has reviewed the project and provided the following comments as it relates to infrastructure capacity and concerns:

- a. Sewer: The developer proposes to connect to Buttercup Lane and extend the sewer to where the single family portion of the development is to be located. For the other portion of the development, the developer proposes a force main connection to Fern Path and to extend the sewer to the proposed development. The town currently lacks capacity for additional sewer flow under its permit with the Charles River Pollution Control District, and as a result does not allow further extensions of the town sewer pursuant to town bylaw. The developer needs to re-design the project to provide for on-site disposal of wastewater in accordance with all state and local requirements.
- b. As a further note with regard to the proposal to extend the sewer to the project, the proposal would connect to the existing private sewer manhole on Fern Path (No. 6 – Narducci Corp) currently utilized by Saint Joseph's Parish. The Town does not permit Force Mains located in the public right of way. Force Main connections shall be made via a pressure-to-gravity manhole located on private property. The developer has not provided evidence to the Town that communication with Narducci Corp has taken

place. In addition, there is no information on the E-One low pressure system proposed for six properties off of Winthrop Street nor any sizing or detail for the sewer and proposed sewer pump station provided in the preliminary plans. It is presumed there is a gravity system throughout the development that feeds to the pump station to be pumped via the force main to Fern Path, however this detail is lacking in the information we received.

- c. Water: The developer will need to provide details including materials and sizing of water connections to the Town system. Also, any Operations and Maintenance Plan shall include an annual leak detection survey in accordance with Town program. The project shall include Sensus meters with automated reading capabilities to match system used by Town. Town standard hydrants are to be used as stated and located no greater than 500' from each other. Installation and materials must conform to the American Water Works Association and Town standards as stated. Main line valves are to operate in same direction as Town valves.
- d. The projected water and sewer daily service demands of the proposed development will be needed. These figures will be reviewed and evaluated to determine that the Town's permit thresholds and water system capacity can accommodate the additional service need, and for review of the on-site wastewater systems. Again, the town does not have capacity for sewer extensions.
- e. Drainage: The developer will need to prove that stormwater runoff from the private roads near Ohlson Circle, Fairway Lane and Fern Path does not negatively impact public roadways or abutting properties. To highlight that point, it was brought to our attention that some Fairway Lane residents had to take additional measures to alleviate prior runoff issues as well as invest in septic solutions on their properties. The developer should again make sure that they mitigate any impacts to drainage and abutting septic systems. Also, the same validation will be required for the basement elevations to ensure that they are above high ground water levels and are not subject to flooding or otherwise needing sump pumps. No sump pump connections are allowed to either sewer or drain system. The proposed configuration of deep sump catch basins with tee connection discharge is out of ordinary. The Department of Public Services recommends that the developer consider using a more typical "hooded" discharge.
- f. General: The developer must verify all roads to be privately owned and maintained and that all utilities (water, sewer, drain) will also be privately owned, operated and maintained. The developer is required to consult with the Department of Public Services with respect to trash and recycling services prior to any indication that the Town will provide pick up for these services. In addition, details on snow storage and/or removal is missing and the developer must provide the information to the Town for review.

### **3. Fire Protection and Life Safety Concerns:**

In its review, the Fire Department notes a number of issues having to do with fire protection and life safety with the proposed project:

- a. According to National Fire Protection Association Codes and Standards (NFPA) 1 Sections 18.3.1 and 18.4.5, there are provisions relating to water supply and fire flow



requirements. The water supply for this area is limited. Some of the buildings proposed are in excess of 4,000 square feet. If one of these buildings were to be involved in a fire, the required water flow for that fire would be more than 1,000 gallons per minute. It is unclear if the present water system in that area would be able to supply enough water to fight a fire of that magnitude.

- b. It appears that buildings on Sheets #7 and 8 in the preliminary site plans, marked A 105-112, 47-54, 59-66, and 90-96, shows no place for fire apparatus or ambulances to turn around safely. If the Fire Department responds to an incident at one of these units, fire apparatus would be required to back out a significant distance to get out. In life or death situations seconds count and if fire apparatus has to back out to leave to establish a water supply, or particularly an ambulance, valuable time will be lost. It is also unsafe to back these vehicles for that length due to their size and limited visibility.
- c. No detail has been provided for the emergency access road proposed to connect to Road E. This surface must be a hard surface and be able to sustain 75,000 pounds. It also must have clear access at all times. Please refer to NFPA 1 Section 18.2.3.
- d. There is concern with the number of cul-de-sacs. As the information in the application was insufficient, more details must be provided to show these areas will accommodate the turning radius for all fire apparatus. Please refer to NFPA 1 Section 18.2.3.
- e. There are concerns about the separation distances between buildings on Sheet #5 in the preliminary site plans. Again, the information required for a proper review is missing. More detail needs to be provided. Please refer to NFPA 1141 Section 6.2.
- f. Hydrant locations are not shown on the preliminary site plans. More detail must be provided by the developer to again ensure fire protection.

#### **4. Public Health and Safety Concerns:**

- a. Sidewalks: The preliminary site plans lacks adequate information to determine whether sidewalks would be included or not throughout the development and connections made to public ways. The Town recommends that all areas of the development be served by sidewalks on both sides of the street. The Town embraces the concept of Complete Streets and any elements that could be brought into the development to accommodate all users and promote healthy lifestyles is appreciated.
- b. Traffic: With the infusion of 192 residential units, there will be traffic impacts generated by the future residents of the development. The developer should prepare and submit a detailed traffic study including recommendations to mitigate any impacts from the proposed additional vehicle trips for review by the Zoning Board of Appeals as part of the Comprehensive Permit process.
- c. Roadway/Site Access: The application notes that access to the southern portion of the condominium development is via Fern Path. It is important to note that Fern Path, Redgate Drive, and portions of Howe Street, Bramble Road, Briar Road and Field Road are not publicly accepted streets and remain under the ownership and control of the developers of two subdivisions. At the site visit with MassHousing, the Town raised this issue to which the development team responded that no discussions have taken

place with the developers with respect to accessing their development via Fern Path. These streets provide the crucial second access to this section of the proposed development, and the developers need to demonstrate that they have access rights over these streets for the proposed development.

**5. Overall Site Design Comments:**

The Town's Planning and Economic Development Board typically is the public body which would normally review subdivisions and large-scale residential developments under the authority given by state statute and in the Medway Zoning Bylaw. Understanding the developer is applying for a Comprehensive Permit under MGL c. 40B, the Board carefully reviewed the proposed development as it would other residential projects and offers the following initial comments on the submittal:

- a. Section 2.5 of the site eligibility application requires the developer to submit a by-right development plan to show what would be permitted under the community's standard zoning regulations for the applicable district. In response, the developer has submitted a plan sheet titled *By-Right Plan Timber Crest Estates* prepared by Outback Engineering, dated March 12, 2015. The notes on this plan sheet indicate the by-right development would be an Open Space Residential Development (OSRD) project with 99 dwelling units (31 house lots and 68 townhouse units) and a small commercial building. It is disingenuous to represent such a plan as-of-right when the Medway Zoning Bylaw indicates that an OSRD development may be allowed if a special permit, which provides for a more discretionary review, is granted by the Planning and Economic Development Board. A legitimate by-right development plan would be a conventional subdivision consisting of one acre lots with 180 feet of frontage as required in the Agricultural Residential I zoning district.
- b. The Chapter 40B Design Handbook specifies that the development should take advantage of the site's natural topography and features. The Existing Conditions Sheet prepared by Outback Engineering shows the standard topography, utility lines/easements, and wetlands resources. It does not appear that other site features/elements have been inventoried and mapped. Accordingly, it is uncertain as to whether other key site features/elements have been considered and taken fullest advantage of in developing the site plan design for Timber Crest Estates.
- c. Buffers with adjacent neighborhoods – In reviewing the site plan, most of the residential development is located a reasonable distance away from existing residences. However, that is not the case around units 1 and 2 in the northern portion of the condominium section. The Board recommends that those dwelling units be eliminated to provide a more substantial buffer to the property at 21 Fairway Lane where the existing house is set back on the lot. The same recommendation is offered in two other places: 1) eliminate units 79 & 80 at the southern end of the condominium section closest to 5 Fern Path and 2) to reduce the number of units at the entryway from Winthrop Street. Further, the Board recommends that the developer offer to provide landscaping and/or screening for the adjacent properties along Ohlson Circle and Winthrop Street to provide the owners of existing homes with a buffer to the new development.

- d. Neighborhood Context - As expected, the proposed density for Timber Crest is in strong contrast to the adjacent conventional subdivisions with one acre zoning. This is particularly noticeable in the western side of the development site in the single family home section with proposed individual house lots of one sixth to one third of an acre and standard setbacks reduced by as much as 53%. The Board recommends that Lots 1 and 76 at the beginning of Road A off of Winthrop Street remain undeveloped and be used instead to provide an attractive entranceway into Timber Crest Estates. Starting at Lots 2 and 75 and going easterly to Lots 4 and 72, the Board further suggests that the lots be increased to at least ½ acre or more in size to better blend with the adjacent properties at 98 and 106 Winthrop Street. This would provide a more gradual transition from the rural character of Winthrop Street, a Medway Scenic Road, to the higher density area further into the proposed development site.
- e. The proposed small house lots and 7 ft. side yard setbacks will result in an appearance where the dwelling units appear overly dense on the site. The Planning and Economic Development Board is also concerned about the appearance of overly large homes on small lots. To address this, the Board proposes that the smaller house lots be specified for the proposed 25 two-bedroom dwelling units.
- f. The site plans indicate three open space areas shown as Open Space Parcel #1 (3.11 acres), Open Space Parcel #2 (67.94 acres) and Open Space Parcel B (no acreage specified). The application does not provide any information on these areas in terms of ownership, use, on-going maintenance, public access, etc. With such a large development, there would be great value in having pedestrian accessible play areas in each of the two sections of the site. Further, there is no evidence of any proposed pedestrian connectivity within the open space or between the two distinct areas of the development. The Board asks that the developer address pedestrian and bicycle accommodation in a complete manner and include a detailed proposal for such in its comprehensive permit application to the Town.
- g. The developer has indicated it will seek a waiver from the tree planting requirement of Medway's Subdivision Rules and Regulations (Section 7.19.2) which requires 3 trees per lot at 40' intervals. It does not appear that an alternative landscaping plan is offered. Landscaping is an important feature in subdivision design. This is a matter of significant concern. Some level of street tree landscaping should be incorporated to enhance the visual quality and environment of the neighborhood.
- h. The developer has requested relief from Sections 5 and 6 of Medway's Subdivision Rules and Regulations. Within these sections, there are provisions for performance guarantees which are a requirement of the Massachusetts Subdivision Control Law. This is an obligation of any subdivision developer and cannot be waived. Sections 5 and 6 also address the construction inspection and street acceptance processes and those provisions should not be waived.
- i. The application indicates there are to be 595 parking spaces – 336 to be provided for the 116 condominium units (112 garaged spaces and 224 driveway and visitor parking spaces) and 259 for the 76 detached, single family dwellings. The Board is concerned about the absence of visitor parking in the northeastern portion of the condominium section around units 101 – 116.

- j. Composition of Affordable Housing Units – 100% of the 192 proposed dwelling units are to be owner-occupied. The Board is concerned about how many years it will take for the local market to absorb that many owner-occupied dwellings. The Board would like to encourage the developer to revise this composition to include some rental units. In particular, some senior rental housing is very much needed in Medway. The Board suggests the developer work with the Medway Housing Authority and/or the Medway Affordable Housing Trust to consider developing senior housing in the area closest to Winthrop Street. This would provide a more varied distribution of housing types within Timber Crest and more directly address the range of Medway’s housing needs.
- k. Concern about Validity of Land Survey – It is our understanding from residents in the immediate vicinity of the Timber Crest site that survey work for the adjacent Cider Mill subdivision was the subject of civil lawsuits with residents on Fairway Lane in which the accuracy of survey lines was called into question. The results of the litigation are unknown but there is concern for the survey work for this site in that it might be dependent on those prior surveys. At a minimum, the status of those lawsuits should be researched and/or the developer’s engineering firm should conduct its own new property survey to ensure the accuracy of the land area under discussion.
- l. Stormwater Management – The developer has requested waivers from the Town’s stormwater regulations to be replaced by the State’s standards. Medway’s stormwater standards are more rigorous and we strongly recommend that they be adhered to protect both Timber Crest residents and the abutting properties from damaging stormwater runoff. With the addition of substantial paved areas, such as for parking, the developer must comply with the new stormwater rules to be issued by the federal government.
- m. Roadway Length – The Board approximates the roadway length for the single family residence portion of the site to be 2500 linear feet. This is a dead end street far in excess of the Town’s 600 foot maximum dead end street length. The plan does show a secondary emergency access easement over 13 Ohlson Circle. The Board has concerns about this dead-end roadway length and the adequacy of access for safety and emergency vehicles. Again, any concerns of the Fire Department should be addressed regarding the length of the dead end street and the adequacy of the roadways for the efficient access of emergency equipment.

**6. Municipal Planning and Affordable Housing Comments:**

The Town of Medway has made efforts to promote, preserve and create affordable housing. In addition, the Town would like to share its experience with affordable housing. Here are some comments for your consideration:

- a. Medway is a community that has embraced affordable housing production strategies advocated by the Commonwealth’s various housing agencies and the spirit of MGL c. 40B since its inception. Working toward realization of the widely-shared goals laid out in its Master Plan, Housing Production Plan and Trust Action Plan, the Town has adopted the Community Preservation Act; created, staffed, and coached both an Affordable Housing Committee and Trust; pursued many “best-practice” strategies; availed itself extensively to consultants and technical assistance from the Massachusetts Housing Partnership’s Community Initiative; created a redevelopment authority;



incorporated zoning initiatives into its bylaw to spur affordable housing production including inclusionary zoning; re-codified its zoning bylaws and equipped its Planning and Economic Development Board with broad permitting authority. The Town has been thoughtful in its planning efforts to encourage a more diverse housing stock while increasing the number of affordable housing units within the community.

- b. Medway's Specific Affordable Housing Marketing Environment - The demand for detached single family and townhouse ownership dwellings, whether new or for resale, has been markedly weak in Medway. Extraordinarily aggressive efforts have attracted few (if any) interested (let alone eligible) parties to information sessions and lotteries of ten units over four years. This past experience poses the question of how long would it take to sell the 48 affordable housing ownership units in the proposed development. The developer may want to consider including some rental units, as the need is strongly identified in the Town's Housing Production Plan. The Town's concern is that an overwhelming number of affordable housing ownership units will be introduced to the market without sufficient financial and marketing analysis and consequently without regard to what households desiring to live in our community actually need and can afford.
- c. Unit Durability – The Town urges the developer to guarantee that high-quality, durable and sustainable materials are used in the construction of the proposed project's affordable units. The Town wants to make sure that the affordable housing units will be constructed similar to the market rate units.
- d. SHI Eligibility - Given the importance placed on a locale's tally of affordable homes, absolute eligibility of every affordable housing unit to DHCD's SHI is essential. All aspects of the manner of conduct; profit limitations; permit conditions; drafting, execution and fulfillment of subsequent agreements by the developer, its heirs and successors; as well as the placement, appearance, construction, marketing, and sale of each unit as permanently restricted comport in form and substance with the requirements deemed adequate by MGL c. 40B and all related and subsequent regulations to qualify for inclusion in the Town's SHI and that compliance be diligently overseen and strictly enforced on a timely basis. The Town's concern is that, as long as the SHI is the measure of a community's progress toward surpassing the goals of MGL c. 40B, all conditions affording the Town the full and lasting measure of every protection available be identified, agreed to and performed by all parties involved.


## **7. Other General Concerns/Issues:**

- a. 102 Winthrop Street - In the site eligibility application, the developer states that the buildings on this property will be demolished to make way for the entrance to the single family home portion of the development. The developer answered no to the question in the application on whether the site or any buildings on the site are listed, nominated or eligible for listing on the National Register of Historic Places. In fact, 102 Winthrop Street is eligible and recommended for listing on the National Register of Historic Places as noted in the National Register Criteria Statement Form provided in information for the property on the Massachusetts Cultural Resource Information System. As this house is constructed in 1841 and given its historical significance, we believe it is subject to review by the Medway Historical Commission under Medway's Demolition Delay bylaw and also review by the Massachusetts Historical Commission.

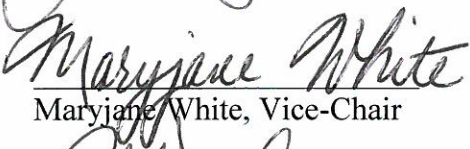
- b. Six out of the nine parcels which comprises the site for the proposed development presently have outstanding taxes totaling \$83,436.90 plus legal fees (as of the date of this letter) and five of these six parcels are in varying stages of foreclosure by the Town.
- c. Fiscal Impacts – The Town asserts that its ability to render services to the entire community as a whole could be stressed upon the impact of the development of 192 residential units. The Town requests that a full and formal fiscal impact review be conducted by the developer prior to the submission of any comprehensive permit.

The Town of Medway is appreciative of your consideration of our comments as you undertake your review. Where we believe the proposal as submitted is incomplete and lacking full detail, the Town of Medway strongly urges and requests that MassHousing provide our community with additional opportunity for comments as the development plan becomes more complete and/or takes its final form. We look forward to working with all parties involved to address, alleviate, and minimize, or even eliminate if possible, our concerns as this project advances through the Comprehensive Permit process. Should any additional information or clarity be required on any of our comments, please do not hesitate to contact us.

Very truly yours,



John A. Foresto, Chair



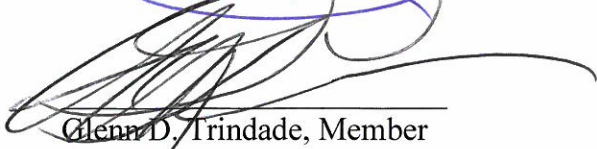
Maryjane White, Vice-Chair



Richard A. D'Innocenzo, Clerk



Dennis P. Crowley, Member



Glenn D. Trindade, Member

Cc: Michael J. Busby, 40B Project Coordinator, MassHousing