

From: jwchrystal@gmail.com
Sent: Monday, December 12, 2022 10:00 AM
To: Michele Decoteau
Cc: 'Randolph Haight'
Subject: Response to Mr. Quarles objections

Michele,

Although it is not a requirement for me to respond to Mr. Quarles objections to the Community at Village Brook project, I felt that many of his contentions and issues were baseless and his opinion only with no legal basis. Therefore I have responded in "Red" to his letter:

Deficiencies in HOP Proposal requiring
Denial of the Applicant's Application
Owners response Email

Re: Brookline Planning Board
SP #2022-B, H-42
Jay Chrystal, Housing for Older Persons Development, 23 Main Street

- I. The draft minutes of the September 15, PB minutes, p. 3, 1.117 characterize my testimony as saying "The developer was motivated by money." That is not a fair summary of what I said. Of course the developer is motivated by money. That is fine to a point. As I have said at almost every opportunity I have had to speak, I have no problem with development of this site as a conventional single-family 2 acre per lot subdivision. The developer estimated he could site 7 such units on this lot. That would still give him millions of dollars of profit. However, instead, and in violation of both the spirit of the general Town Ordinance and the HOP Ordinance, the developer insists on flattening the site so he can get more units into the project and sell 17 housing units instead of 7. **Regardless of motivation, as the owner of the property it is within my right to decide what the use of this property will be, provided the use meets all local and state regulations. As a point of contention, the abutter decided that 7 conventional lots could be sited, this was never discussed by the owner. There is no violation within the "spirit" of the HOP regulation with the proposed development. In fact the approved development meets both the spirit and the intent of all local zoning and subdivision regulations.**

In addition, he will sell more than 100,000 cubic yards of soil and gravel and all the marketable timber, allowing him to reap hundreds of thousands of more dollars out of this project. **This is allowed within the town regulations and all permits will be obtained to do so.**

I don't object to development of this site. I do object to development that seems as its only goal to squeeze every last dollar out of this site at the expense of the character and safety of this neighborhood and contrary to the spirit of the Zoning Ordinance.

Completely the abutter's opinion and has no legal merit nor facts.

Ms. Somers in her e-mail to you of October 4 supports this analysis as well. **Again simply one person's opinion without fact-based content.**

2. An excavation permit is required

- 102K cubic yards of soil and gravel removal can in no way be deemed "incidental".
- 4,000-5,000 dump truck loads; months of traffic impact 5 days/wk.
- We adopt all comments and evidence from Mr. Bechis, Mr. Tochko, the Nashua River Watershed Assoc. and recent October 4 and 5 e-mail comments from Ann Somers protesting this removal and arguing that an excavation permit is required.
- Town Counsel thinks permit required- Applicant bullied PB into not requiring such a permit.

The town regulation allows for excavation without an excavation permit provided the excavation is "incidental to construction" and this is defined as: Incidental to construction work" means the extraction of minerals which is necessary to enable the construction to be accomplished.

This definition has to criteria established volume of the removal for it is the volume required to complete the construction. Regardless of the permit, the Planning Board has established all the requirements/stipulations for the excavation to be completed. Adding the layer of a permit has to gain in control for the town.

3. Applicant was ordered to do a traffic study focusing on safety issues; applicant responded with a "traffic count," ignoring the safety issues and traffic report requirement. It also used 2017 data when more recent data is available. A third party traffic consultant was hired to complete this study. They followed the guidelines established within their profession to complete this study.

The Town's Engineer, KV Partners, LLC, in their October 6, 2022 letter, item 11 says the applicants' traffic count report is deficient because:

... it does not address the thousands of trucks required to remove the 100,000 CY of material from the site. Although this project has access to a State highway, clarification of what Town roads will be impacted by the truck traffic, both by traffic operations and heavy loadings, is required. The number of trucks per day (at 30) is less than the traffic impact after the 17 units have been completed. Only state roads are being utilized therefore the impact to town roads will be minimal.

4. The same letter at item 10 states that a "long-term maintenance plan" must be included for the infiltration and filtration basin.... Town review of this document is required.

- No such plan is provided.

This will be provided as part of the SWPPP which will be submitted after AOT approval and before construction begins.

5. The project is inconsistent with Town's Master Plan-Sec. 9.4 says "traffic is a long term concern for both vehicles and pedestrians and will continue to increase with future development" in this "Town Center" area. The traffic study determined that this development will be "low impact" to overall traffic of this road.

6. The development's Bylaws only became available today. I have not been able to adequately review them. However, there is no restriction at all on the unit owner's ability to lease to anyone. These restrictions are established and are in the By-laws.

Zoning Ordinance violations

We believe the applicants' proposal violates the following Ordinance provisions because they are either violated outright or not adequately addressed.

- p. 80 Sec. 2201.00, h "Purpose and Intent"-of Housing for Older Persons Developments is "to ensure that ... open space for passive and active recreation are provided within the development"

-no discussion by applicant; **Open Space has been established on the Site Plan and exceeds the Town requirement.**

- p. 81 Sec. 2203.02, a "Open Space"-at least 20% of total area must be permanently protected open space for low-impact recreation, etc. At least 50% of open space "shall be available and managed for passive or active recreation activities of the residents. This area may consist of walking trails, informal meeting areas, gardens, activity recreation areas or other recreational amenities."

-same problems discussed above. This is a complaint of the Nashua River Watershed Assoc. as well.

Areas for passive activities have been established on the Site Plan. Future gardens and additional passive recreation may be establish based on member wants and need in the future.

- p. 83 Sec. 2203.02, c "Building Design"-requires architectual renderings of a typical unit, the community center and all accessory buildings

-no rendering of the pump house **Pump house design will be established once the completed NHDES design in completed prior to community supply requirements.**

- p. 84 Sec. 2203.02, f "Pedestrian Linkage and Circulation"- must have "interconnecting walkways, trails and natural walking paths" which "shall be an integral part of all Housing for Older Persons developments" **Sidewalks and walking trails have been established on the site plan that was previously submitted to the Planning Board.**

-after much review with a magnifying glass we found the one "proposed walking trail" "to nowhere" that doesn't even go to the river; sited on one tiny section of the open space. **Mister Quarles statement confirms the previous indication that trails are established on the site plan.**

- p. 85 Sec. 2207 "Compliance"-Applicant was required to submit information from the NH Human Rights Commission:

... information that may be required by the Human Rights Commission in evaluating an application shall be submitted to the Planning Board, including a description of applicable provisions of the Human Rights Commission administrative rules and regulations, and whether there are requests for exemptions. **Established within the Condo Documents, the HOP regulation and the By-laws.**

- p. 65 Sec. 1805.01, b-all driveways must have a minimum distance from intersection of 100 ft. The applicant's common driveway entrance off Main Street is within 100ft. of the Main St./Sargent Road intersection. **The driveway is entering onto a State Highway and therefore is controlled under the jurisdiction of NHDOT. NHDOT has approved a Driveway Permit for this Site plan.**

Site Plan Regulations violations

We believe the applicants' proposal violates the following Site Plan Regulations because they are either violated outright or not adequately addressed.

Section 3.1 General

3.1.02 In the review of any site plan conducted under these regulations, the Board shall ascertain that adequate provisions have been made by the owner or his authorized agent for the following:

- a. Traffic circulation and access including adequacy of adjacent streets, entrances, and exits, traffic flow, sight distances, curb cuts, turning lanes, and existing or recommended traffic signalization.
- b. Pedestrian and bicycle safety and access.
- g. Environmental factors such as pollution, noise, odor, and protection of natural features.
- m. Board of Assessors review for Timber Cut Permit.
- n. Disposition of stumpage.

All of these items have been addressed within our application and on the submitted Site Plan.

Section 6.1 Submission Requirements

6.1.01 When the owner of the property or the applicant makes a formal application for site plan review, his/her application shall contain at least the following exhibits and information (see also the site plan review checklist-Appendix B):

gg. An artist's rendition of the site, including landscaping and signage. hh. A letter

stating the proposed disposal of tree stumps. If they are to be disposed of on site, areas shall be shown on the plat, and a reclamation plan shall be submitted as part of the application. Stump burial shall be directed to the side and rear setback areas along property boundaries as possible. Stump burial sites shall be located in a minimum of 25' from the edge of septic systems, 75' from wells, and 75' from the edge of a wetland. (5/6/99)

Stumps are being removed from the site and or chipped and used for storm water retention areas as part of the SWPPP

Section 6.6 Financial Guarantee

- 6.6.01 Prior to the final approval of a plat, a Financial Guarantee shall be filed with the Planning Board by the subdivider, developer, or his successors, in amount sufficient to cover the cost of construction or completion of streets, public improvements, landscaping, drainage structures, traffic signals, setting road bounds and bounds at all angles of individual lots, public parks or public recreation areas or other such improvements as required by the Board as shown on the Final Plat.
- 6.6.02 Requirements of the Financial Guarantee shall identify, precisely, the work to be performed, the standards by which satisfactory performance shall be judged. The Town's Consulting Engineer shall determine whether or not there has been satisfactory performance, and shall be part of the Final phase approval.
- 6.6.03 This Financial Guarantee shall be reviewed by Town Counsel and approved or disapproved as to compliance with the requirements and sureties by the Planning Board and/or the Selectboard.

6.6.05 Performance/Maintenance Guarantees: A surety provided through a cash savings account held by the Town of Brookline or a local regulated financial institution, by a Letter of Credit issued by a local regulated financial institution, or through a bond issued by a regulated insurance company authorized to do business in the State of New Hampshire...

All of these items will be addressed prior to beginning construction

I apologize for the odd formatting due to Mr. Quarles layout.

Sincerely
Jay Chrystal
Owner
Village Brook LLC