

Concord Square Planning & Development, Inc.

Memorandum

To: Lynnfield Planning Board

From: Angus Jennings, AICP

Date: March 11, 2008

Project: Lynnfield 40R Planned Village Development District
Proposed Meadow Walk Development Application

Applicant: National Development
c/o Edward Marsteiner
2310 Washington Street
Newton Lower Falls, MA 02462

Introduction

This is the second in a series of reports that we will prepare as part of our agreement with the Lynnfield Planning Board to provide review services relative to the proposed “Meadow Walk” development application, and to facilitate the public hearing process in a way that is transparent to the public. This is accompanied by a separate report to the Planning Board bearing today’s date and titled “Consistency Review of Meadow Walk PVDD Development Application.”

A project introduction and overview is included in our prior report dated February 9, 2008, which is on file with the Planning Board and is available online at the Town of Lynnfield website at http://www.town.lynnfield.ma.us/Pages/LynnfieldMA_MeadowWalk/PBDevInfo.

In accordance with the 40R statute and regulations and Section 9.5.12 of the Planned Village Development District Bylaw, the Planning Board is required to issue a decision on the application within the 120-day timeframe established by the 40R statute unless that date is extended at the applicant’s option. The Planning Board opened a public hearing on the proposed application on February 13, 2008, with a continued public hearing held on February 27. The public hearing will continue this Thursday, March 13th at 7:30 PM in the Selectmen’s Meeting Room in Lynnfield Town Hall.

Project Description

A project description is included in our prior report dated February 9, 2008, which is on file with the Planning Board and is available online at the Town of Lynnfield website.

Procedural History

The Meadow Walk Development Application was submitted to the Lynnfield Town Clerk on January 23, 2008. At the time of application, no waivers from the Design Standards were requested. Provisions of the PVDD Bylaw may not be waived.

As the review process moves forward, written comments received by the Planning Board and additional supplemental materials as received have and will continue to be placed online on a regular basis.

On January 24, the Planning Board Secretary and Concord Square Planning & Development, Inc., the Planning Board's peer review consultant, held an informational meeting for municipal officials to discuss the application review process. The attendance list from this meeting is included in our prior report. We have continued to participate in ongoing dialogue with various municipal departments in order to field inquiries, and ensure that continued hearing dates are widely known.

The applicant has submitted a separate application for review with the Lynnfield Conservation Commission. The Conservation Commission has retained a specialized consultant to review, among other things, the proposed stormwater management plan. We will keep the Planning Board apprised of this review process.

The applicant filed an Expanded Environmental Notification Form (ENF) with the MEPA Office on August 31, 2007, and filed a Draft Environmental Impact Report (DEIR) dated February 15, 2008 (transmittal letter dated February 29). The MEPA review process is currently underway. Copies of the DEIR are on file in Town Hall.

Materials Submitted for the Record

From the Applicant:

Meadow Walk Development Application. This application included a cover letter from National Development, completed development application including stated compliance with specific design standard requirements, both stamped and signed by the Applicant's landscape architect. The application was accompanied by a set of plans including site layout, residential and retail architectural renderings, stormwater management plan, lighting plan, street cross-sections and construction detail. As required by Sec. 9.5.11. of the Bylaw, the submittal included a proposed Master Affordable Housing Restriction Agreement and Rental Monitoring Services Agreement.

From Local Officials:

As required by the Bylaw Sec. 9.5.12.2.(c), copies of the Meadow Walk application materials were sent to Town departments along with a letter inviting their comments. Concord Square contacted departments in Town Hall by email on February 6 and February 29 to inform them of upcoming Planning Board hearings on the Meadow Walk Project. Each correspondence also included a reminder to submit comments to the Planning Board and to allow as much time as possible for their concerns to be addressed.

On March 6, 2008 Concord Square received an email from Jim Nugent at the Board of Health requesting an update on the status of the sewer arrangements for the project. We were informed by the Applicant that an agreement has been reached with the MWRA and Wakefield Sewer which will allow the project to tie into the Wakefield sewer system. We understand that the process of finalizing the paperwork is underway, but that the basic terms are agreed. This information was conveyed to Mr. Nugent on March 10th along with the assurance that his office would receive an official notice of the agreement once everything is complete.

From State Officials:

Concord Square notified Don Schmidt and Bill Reyelt at DHCD that the Meadow Walk application was filed. An initial meeting took place on February 26th at the DHCD offices in Boston to review the draft Master Affordable Housing Restriction Agreement and Rental Monitoring Services Agreement and ensure

that these documents are in the proper form to ensure addition of the housing units to the Town's Subsidized Housing Inventory (SHI).

DHCD was asked to review these documents during the meeting, which was attended by Angus Jennings from Concord Square, on behalf of the Town of Lynnfield; Ed Marsteiner from National Development; Bob Fishman, legal counsel to National; and the following personnel from DHCD: Don Schmidt, Bill Reyelt, Harriet Moss, Elaine Wijnja, and Karen Bresnahan.

Concord Square received an email from Harriet Moss at DHCD that included DHCD's comments on the draft Master Affordable Housing Restriction and on the Arborpoint Rental Monitoring Services Agreement documents on Thursday, March 6, 2008, a copy of which is attached to this report. The email cited issues they felt needed to be resolved before the Master Affordable Housing Restriction could be finalized. The email also included suggested language regarding the conditions that must be met to ensure the units will be and continue to be included in the Town's SHI. Bob Fishman is taking the lead on preparing modifications for submittal to DHCD. Concord Square will continue to monitor progress on this issue to ensure that all documents are in order.

Public comments received:

We are in receipt of written public comments received from Susan (last name not given), an abutter of the project on February 26, 2008. Susan was requested information regarding the projects plans for the right of ways between the houses from Walnut Street into the Meadow Walk Project land.

Completeness Review

The Bylaw at Sec. 9.5.12.2.(d) requires that the Planning Board "shall evaluate the proposal with regard to its completeness and shall submit an advisory report in writing to the Applicant certifying the completeness of the application." At the public hearing on February 13, the Planning Board voted its finding by a vote of 4-1 (Dresios dissenting) that the application as submitted was complete.

Development Application Review

We have completed our review of the submitted application and plans for consistency with the District Bylaw and Design Standards. Our consistency review is attached in a report identifying areas in which the plan is not consistent, or where additional information must be provided by the Applicant in order for the Board to issue a finding of consistency.

At the direction of the Planning Board, we have not reviewed the plans for consistency with the following sections of the Design Standards, pending their review by other peer reviewers retained by the Board or, in the case of stormwater management, by the Conservation Commission:

- Sec. 5.D. Landscaping
- Sec. 5.F. Lighting
- Sec. 5.G. Stormwater Management

It is our understanding that the Planning Board issued Invitations for Bid (IFB) for both landscaping and lighting, and that the Board has selected Lawrence Bartlett at Bartlett Design as a lighting peer review consultant. We're aware that multiple bids have been received for review of the landscaping plan, and that a selection by the Board is pending.

It should be noted that several aspects of the proposed development, including stormwater management, are also included in the Applicant's MEPA filing, and are subject to review and approval within that process. We requested and received a copy of the Meadow Walk ENF and DEIR. We will keep these documents on file as a reference, although we have not and do not plan to review them in detail.

Summary

The public hearing for Planning Board review of the proposed Meadow Walk application will continue on Thursday, March 13 at 7:30 PM. At the hearing, we will present a verbal summary of this report and our consistency review, and will invite preliminary response from the Applicant. Due to the number and nature of issues, we suggest that resolution of most issues will not be feasible this Thursday. However, we recommend setting out a timeline for completion of the consistency review. We understand that both the Planning Board lighting and landscaping consultants will be in attendance, and we can coordinate this schedule with their pending reviews.

Please feel free to contact my office at any time with questions or comments.

Thanks.

Angus Jennings

From: Moss, Harriet (OCD) [Harriet.Moss@state.ma.us]
Sent: Thursday, March 06, 2008 10:48 AM
To: rfishman@nutter.com; Angus Jennings
Cc: Schmidt, Donald (OCD)
Subject: Lynnfield c.40R

Dear Bob and Angus,

Thanks for coming in to meet with us last week. Don and I have reviewed the draft documents you gave us and have the following comments:

Master Affordable Housing Restriction:

1. Because this will not be a Local Initiative Program project, DHCD should not be made a party. However, there are still a few places in the restriction where DHCD does need to be included, i.e., in Sec. 5 (Marketing), Sec. 6 (regarding the subsidized housing inventory), and Sec. 13 (c) (regarding revision of the restriction in the case of condominium conversion). Sections 15 and 17 could be deleted, and there are various other references to LIP throughout that should be deleted. In many instances, DHCD should probably be replaced by the Administering Agency. The new cite for DHCD is G.L. c.23B §1 as amended by Chapter 19 of the Acts of 2007.

Also because this will not be a LIP project, paragraph D on p.1 should be changed to refer to the 40R statute and regulations (which will affect the references throughout to the "Regulations and Guidelines").

2. In paragraph B on p.1, please delete "for the rezoning of the property" because the district was not rezoned for the developer.

3. Paragraph C on p.1 - we don't think the language about the units counting in the town's subsidized housing inventory belongs here, because the zoning doesn't address it (and the SHI will be addressed elsewhere in the restriction).

4. Paragraph G on p.2 - in the last sentence, DHCD should be deleted, and this should reflect that the Board of Selectmen has sole authority to designate the Administering Agency.

5. We'd ask you to delete "luxury" in paragraph A on p.1.

6. Paragraph F, p. 2 - the new HUD Area that includes Lynnfield is the "Boston- Cambridge- Quincy, MA-NH MSA."

7. Regarding our discussion about over-income tenants, your draft does include the "next-available-unit rule" in Sec. 4(d), which assumes that market rate units can be substituted for affordable units. However, to be consistent with other programs, the cutoff should be 140% of "Maximum Income" rather than 140% of "Base Income" because Base Income is defined as the area median income. The designation of specific units as affordable in the restriction is acceptable provided that the units can "float" to satisfy the next-available-unit rule.

8. In Sec. 5 (a), in the third sentence please add that the preference for local residents may be *for up to 70% of the affordable units*. Also, please add language to Sec. 5 stating that all subsequent rentals will be from a list of applicants compiled in accordance with the Marketing Plan.

9. Sec. 12 - Most of the affordable housing restrictions we see specify that the term begins at a time other than entering into the restriction, e.g., when construction is complete (with an outside date) or when the last occupancy certificates are issued.

10. You asked for some language stating that all the units will count in the SHI - you could adapt the following which is from the LIP restriction:

All of the Units (if at least 25% of the Units are Low and Moderate Income Units) in the Project will be deemed low and moderate income housing and continue to be included in the Subsidized Housing Inventory in accordance with 760 CMR 56.03(2) for as long as the following three conditions are met: (1) this Agreement remains in full force and effect and neither the Municipality nor the Project Sponsor are in default hereunder; (2) the Project and each of the Low and Moderate Income Units continue to comply with the Regulations and the Guidelines as the same may be amended from time to time; and (3) each Low and Moderate Income Unit remains a Low and Moderate Income Unit as provided in section 2(c), above [Sec. 2(c) in the LIP restriction is the equivalent of your Sec. 3(d)]

Ex. B - Arborpoint Rental Monitoring Services Agreement:

1. Introductory paragraph: Rather than stating that the Administering Agency is the "Board of Selectmen or its designee," would it be preferable to just add the name of the Administering Agency when it's been identified (as in the introduction to the Master Agreement)?
2. Second recital - please delete "for the Project" because the rezoning was for a district rather than a project.
3. Sec. 1(a) - please specify as required by the zoning that the total number of bedrooms in the Affordable Housing Units will be, in so far as practicable, in the same proportion to the total number of bedrooms in the unrestricted units; alternatively, in Schedule A show the actual breakdown by unit type (# of bedrooms) for the unrestricted units in addition to the affordable units.
4. Sec. 1(f): The last sentence suggests that the Developer has the unilateral right to terminate the Administering Agency, which would not be consistent with its being the agent of the town. We would agree, though, that the Developer should be able to request the town's approval to terminate the Administering Agency for cause.
5. Sec. 1(k) - The provision should reflect that the Board of Selectmen has sole authority to appoint the Administering Agency, including a successor Administering Agency.

Although some of our comments draw on the zoning by-law, please note that DHCD has not reviewed this restriction for compliance with the by-law, which is the responsibility of municipal counsel.

Please let me know if you'd like to discuss any of these comments. I'll be away next week, but you can contact Don with any questions. We look forward to receiving your revised draft. Thanks,

Harriet

Harriet C. Moss, Counsel
 Department of Housing and Community Development
 100 Cambridge St., Suite 300
 Boston, MA 02114
 617-573-1502 (phone)
 617-573-1515 (fax)

3/10/2008

Victoria Maguire

From: Jim Nugent [jim-nugent@town.lynnfield.ma.us]
Sent: Thursday, March 06, 2008 11:18 AM
To: Victoria Maguire
Subject: Re: Meadow Walk Application - Planning Board Hearing Date and Comment Request

GOOD MORNING VICTORIA

THE BOARD OF HEALTH WOULD LIKE AND UPDATE AND STATUS OF THE SEWER DISCHARGE FROM THE PROJECT ...

JIM

----- Original Message -----

From: [Victoria Maguire](mailto:Victoria.Maguire@town.lynnfield.ma.us)
To: bettyadelson@town.lynnfield.ma.us ; jim-nugent@town.lynnfield.ma.us ; dpw@town.lynnfield.ma.us ; sfurey@town.lynnfield.ma.us ; jroberto@town.lynnfield.ma.us ; crichter@town.lynnfield.ma.us
Cc: [Kathy Randeale](mailto:krandele@town.lynnfield.ma.us) ; [Angus Jennings](mailto:angus.jennings@town.lynnfield.ma.us) ; [Victoria Maguire](mailto:Victoria.Maguire@town.lynnfield.ma.us)
Sent: Friday, February 29, 2008 10:49 AM
Subject: Meadow Walk Application - Planning Board Hearing Date and Comment Request

Good morning,

I'm writing to update you on the Meadow Walk Application review process currently being conducted by the Planning Board. The Board will hold its third hearing on the Application on Thursday, March 13th at 7:30pm in the Selectmen's Hearing Room in Town Hall.

If your department would like to submit comments to be addressed at this hearing, please submit them to Kathy Randeale, krandele@town.lynnfield.ma.us, by Friday, March 7th to allow the comments to be distributed and allow the Planning Board adequate time to review the materials.

I also want to take this opportunity to remind you that, in accordance with the Planned Village Development District Bylaw, Town departments have 60 days from the time they receive the Application to submit their comments to the Planning Board for consideration. This time limit, March 23rd, is fast approaching. While the Planning Board will continue to accept comments until they issue a decision towards the end of their 120 day review period, submitting comments or concerns to the Planning Board within the 60 day timeframe will ensure the issues can be properly addressed and included in the Planning Board's final decision on the application.

We will continue to keep you informed as additional hearing dates are set. Please contact our office or Kathy if you need any additional information.

Sincerely,

Victoria Maguire
 Planner
 Concord Square Planning & Development, Inc.
 294 Washington Street, Suite 312
 Boston, MA 02108

Victoria Maguire

From: Jim Nugent [jim-nugent@town.lynnfield.ma.us]
Sent: Tuesday, March 11, 2008 7:06 AM
To: Victoria Maguire
Subject: Re: Board of Health inquiry.

THANK YOU

JIM

----- Original Message -----

From: [Victoria Maguire](#)
To: jim-nugent@town.lynnfield.ma.us
Cc: [Kathy Randeale](#) ; EMarsteiner@Natdev.com ; [Angus Jennings](#)
Sent: Monday, March 10, 2008 11:52 AM
Subject: Board of Health inquiry.

Dear Jim,

We have recently learned that National Development has reached an agreement with the MWRA and Wakefield Sewer which will allow them to tie into the Wakefield sewer system for the Meadow Walk Project. We received this information during a recent conversation with Ed Marsteiner from National Development who said they are still in the process of finalizing the paperwork, but that the basic terms are agreed.

We passed your request along to Ed and have asked him to provide you with an official notice of the agreement once everything is in order. If we receive anything further in the meantime, we will send it along. If you and the Board of Health need the information by a more definitive date, please let us know and we will be happy to help.

I have copied both Ed and Kathy Randeale on this email.

Sincerely,

Victoria Maguire
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Boston, MA 02108

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victoria@concordsqdev.com
www.concordsqdev.com

Angus Jennings

From: Kathy Randeale [krandele@town.lynnfield.ma.us]
Sent: Tuesday, February 26, 2008 1:58 PM
To: Angus Jennings; 'Alan Dresios'; Dick Dalton; Donald Harriss; Richard O'Neil; 'tom hill'
Subject: FW: planning board

Hi All,
Maybe this can be addressed at the meeting tomorrow night.

Kath

Kathy L. Randeale, Secretary
Lynnfield Planning Board
55 Summer Street
Lynnfield, MA 01940

781-334-7209 FAX 781-334-7661

-----Original Message-----

From: shavice@comcast.net [mailto:shavice@comcast.net]
Sent: Tuesday, February 26, 2008 11:34 AM
To: Kathy Randeale
Subject: planning board

Hi Kathy,

At one of the open meetings with Angus (at the middle school) I asked if the two right of ways between the houses from Walnut Street into the Colonial land could be given up to avoid future walking paths or entrances to the mall. Everyone in the room said they agreed and Angus said that he would put that into the paperwork for the mall.

Would you please ask the Planning Board if that has happened? Is it firmly in writing?

If those rights of way have been nullified it will avoid pedestrians crossing Walnut Street at a point where oncoming traffic would not be able to see them quickly enough.

Plus it would eliminate cars from trying to find a short cut in or out of the mall thus pulling into ongoing traffic right at a bend in the street.

Thank you.

Susan