



WALL STREET DEVELOPMENT CORP.
REAL ESTATE DEVELOPERS

June 14, 2020

Ms. Ashley Clark, Community Development Director
Town of Walpole
135 School Street
Walpole, MA 02081

RE: Burns Avenue 40B – Comprehensive Permit – Dated January 13, 2020
Open Discussion of Conditions

Dear Ashley,

Thank you for phone call last week and your efforts to coordinate a discussion regarding the conditions under appeal related to the Comprehensive Permit issued January 13, 2020 (the “Decision”) for the project off Burns Avenue.

Enclosed for your review is a summary of the conditions related to procedural aspects of the Decision that are the subject, in part, of the appeal filed with the Housing Appeals Committee.

I look forward to discussing a mutually acceptable resolution that address these conditions.

Thank you for your attention in this matter.

Sincerely,

WALL STREET DEVELOPMENT CORP.


Louis Petrozzi, President

cc. Rob Truax – GLM Engineering Consultants, Inc.
Dean Harrison – 40B Consultant
Walpole Zoning Board of Appeals

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COMPREHENSIVE PERMIT DECISION – DATED JANUARY 13, 2020
WALL STREET DEVELOPMENT CORP.
AND BURNS AVENUE DEVELOPMENT LLC
JUNE 14, 2020

DISCUSSION OF CONDITIONS UNDER APPEAL

Section A – General:

Condition A.13:

The Applicant to submit to the Board prior to any construction or site development activities on the site, including (including site clearing, tree removal, grading, etc.) the following submissions:

- a. Final Architectural Plans
- b. Exterior Lighting Plan
- c. Landscape Plan
- d. Final Engineering Drawings and Plans

Discussion:

- a. Final Architectural Plans be submitted 30 days prior to issuance of a building permit
- b. Exterior Lighting Plan – Delete in its entirety or simplify parameters
- c. Landscape Plan – to be submitted 30 days prior to issuance of a building permit
- d. Final Engineering Drawings and Plans – prior to commencement of any site development
- e. Site clearing, tree removal and general clean-up activities permitted activities to commence at Applicant’s discretion with approved order of conditions from Walpole Conservation Commission or Mass – DEP.

Section C – Submission Requirements:

Condition C.1:

Prior to any construction or site development activities (including site clearing, tree removal, grading, etc.) on the Site, whether pursuant to a building permit, the Applicant shall:

Discussion:

Site clearing, tree removal and general clean-up activities permitted activities to commence at Applicant’s discretion with approved order of conditions from Walpole Conservation Commission or Mass – DEP.

Condition C.1.e:

A construction management plan shall be submitted to the Building Inspector for review and approval ...

Discussion:

Condition C.1.e is overly broad – requires simplification to a manageable scope or specific criteria.

Condition C.2:

Prior to the issuance of any building permits, the Applicant shall:

Condition C.2.h.:

The applicant shall provide security in the amount and form acceptable to the Town for emergency sediment control and site stabilization.

Discussion:

Condition C.2 and C.2.h., specifically, imposes a significant pre-construction financial obligation on the Applicant for an event that may not ever materialize, thus the conditions are arbitrary and unreasonable. Moreover, other means of enforcement exist to ensure compliance.

Condition C.2.i.:

The Applicant shall provide security in the sum of one hundred twenty-five percent (125%) of the bona fide estimate of the cost of restorative landscaping. These funds will be used to restore the site should the project be abandoned, and no construction activity takes place for a year.

Discussion:

Condition C.2 and C.2.i., specifically, imposes significant pre-construction financial obligation on the Applicant for an event that may not ever materialize, thus the conditions are arbitrary and unreasonable. Moreover, other means of enforcement exist to ensure compliance.

Section E – Project Design and Construction Conditions:

Condition E.6:

During construction, the Applicant shall comply with the construction management plan referenced in Condition C.1.e, above

Discussion:

Condition C.1.e needs simplification and manageable scope.

Condition E.10: Lighting shall comply with Condition A.13b, noted above

Discussion: Delete requirement.

Condition E.12:

Soil material used as backfill for pipes, access drives, or structures shall be certified by the Civil Engineer to the Building Inspector as meeting design specifications, as applicable.

Discussion: Town Engineer conducts inspection to confirm design specifications

Condition E.13:

Construction activities “be conducted between the hours of 8:00 a.m. and 5:00 p.m., Monday through Saturday. Any work causing noise over 85 decibels at the property line shall be further restricted to hours of 11:00 a.m. to 3:00 p.m.” The imposition of Condition E.13 unreasonably restricts the Applicant’s ability to construct the Project and discriminates against the construction of this Project from all others allowed in the Town. Moreover, the imposition of this condition will render the building of the Project uneconomic and fails to apply the local requirements or regulations as equally as possible to subsidized and unsubsidized housing developments.

Discussion:

Hours of permitted construction activities should be consistent with the those outlined in the town bylaws (7:00 AM – 7:00 PM).

Condition E.23:

Prior to the commencement of any work on the site, the Applicant and the site general contractor shall submit a plan indicating soil, debris and other deleterious materials to be removed as well as materials to be brought into the Property.

Discussion:

Amount of materials required to be removed from the Property cannot be determined until tree removal, clearing and clean-up activities have been undertaken.

Section F – Roadway and Traffic Safety Conditions:

Condition F.5:

The Applicant shall repave the entire length of Burns Avenue in compliance with Town standards. A leveling course of bituminous concrete will be required from curb to curb for the entire existing street and driveway aprons will be tied in unless not required after the overlay, as determined by the DPW.

Discussion:

The scope and specifications of the repaving of the public way portion of Burns Avenue shall be mutually determined with the DPW.

Condition F.7:

The entirety of Burns Avenue and Burns Avenue Extension shall include the repaving of both sidewalks and the extension of the existing sidewalks. The sidewalks along both sides of Burns Avenue and Burns Avenue Extension shall be consistent with the existing sidewalk on Burns Avenue and shall be a minimum of five (5) feet wide ...

Discussion:

The scope of off-site improvements related to sidewalks – one sidewalk on the project side of Burns Avenue to be repaved to match existing sidewalk width.

Condition F.18:

The Applicant shall grant the Town of Walpole an easement allowing the Town snow plow access and snow plowing, snow storage and/or snow removal operations in, through and around the hammerhead paved area at the end of Burns Avenue.

Discussion:

Snow plow access and snow plowing, snow storage and/or snow removal for existing Burns Avenue to be mutually agreed upon.

Section G – Police, Fire and Emergency Medical Conditions:

Condition G.2:

A Standby generator and pump room/building shall be installed to maintain the operation and good working condition of the sprinkler system to be installed in the dwelling units.”

Discussion:

Regular inspections and testing are sufficient to verify the operation and good working condition of the sprinkler system in each proposed building.

Section H – Water, Septic, Sewer and Utilities:

Condition H.9. a and b.:

Refer to Oder of Conditions issued by Walpole Conservation Commission.

Discussion:

Superseding Oder of Conditions has been issued by the Mass DEP and is now jurisdictional to the project

Section I – Completion of Infrastructure:

Condition I.1:

Requires security for the installation of the infrastructure shown on the Final Plans, including Consistent with the provisions of G.L. 41, sec.81U...

Discussion:

G.L. 41, sec. 81U is a provision under the subdivision control law. This project is not a subdivision and no security for completion is required.

Condition I. a.:

No occupancy permit for a dwelling unit shall be issued until (1) the entirety of Burns Avenue and the roadway shown on the Final Plans providing access to the subject buildings has been installed, excepting final course of pavement

Discussion:

The issuance of occupancy certificates shall be based only on the construction and sufficiency of the improvements within the project site, not off-site improvements that are the responsibility of the town.

Condition I.1.a.:

Describes the requirements to obtain final occupancy permits such as, “if the Applicant desires to obtain such final occupancy permits for the final dwelling unit before completion of said Final Infrastructure, it shall deposit monetary security with the Town securing the installation and construction of such Final Infrastructure. The amount of such security and any necessary contingency shall be determined by the Board The form of the security agreement binding such security shall be subject to review by Town Counsel.”

Discussion:

The requirement of depositing monetary security to secure the installation and construction of infrastructure is not a local requirement or regulation and is being applied unequally to this subsidized housing development than that required for unsubsidized housing developments.