

December 22, 2017

By First Class Mail and EmailBrian P. Murphy
River Stone, LLC
923 Washington Street
Norwell, MA 02061

RE: River Stone Comprehensive Permit Application

Mr. Murphy:

At a duly noticed meeting of the Hingham Zoning Board of Appeals on Thursday, December 21, 2017, the members unanimously voted to direct the Zoning Administrator or Counsel to inform the Applicant of the votes of the Board. As the Zoning Administrator is out of the office, the undersigned, as Counsel to the Board for this Application, hereby delivers this letter as directed by the Board.

The Hingham Zoning Board of Appeals, upon motion and second, unanimously voted (3-0) as follows:

“The Board finds that the submissions of the Applicant to date have not met the requirements of 40B, of the regulations promulgated under 40B, and of the local regulations which are applicable to this Application, and the Board further finds that a delay in the Applicant providing us this information prejudices the ability of the Board to proceed in an expedited manner and to comply with the time limits imposed by the state statute in making determinations for this project.”

As noted above, the Board of Appeals, upon further motion and second, unanimously voted to direct the Zoning Administrator or Counsel to inform the Applicant that the Board has made the above determination and to request that all documents be provided on an expedited basis to the Board, and that the Board may be required to request further time because of the delay in the Applicant providing information required by the regulations. As to the documents and information to be submitted by the Applicant, reference was made by the Board to the deficiencies in the Application as outlined in the letter to the Applicant from the Zoning Administrator, dated December 19, 2017.

A copy of the December 19, 2017 letter, previously hand delivered to the Applicant by the Zoning Administrator at the Board's hearing on December 19, 2017, is attached hereto for reference.

Sincerely,


Susan C. Murphy
Town of Hingham Special Counsel

Enclosure

Cc: Warren Baker, Esq. (by email)
Members of the Zoning Board of Appeals (by email)
Emily Wentworth, Zoning Administrator (by email)

TOWN OF HINGHAM

Board of Appeals



December 19, 2017

Brian P. Murphy
River Stone, LLC
923 Washington Street
Norwell, MA 02061

RE: River Stone Comprehensive Permit Application - Compliance with Regulations and Requests for Information

Mr. Murphy:

River Stone, LLC, the Applicant, has applied for a Comprehensive Permit under Massachusetts General Laws Chapter 40B, Sections 20 through 23, as amended, and the regulations promulgated at 760 CMR 56.00 et seq. ("40B Regulations"), to construct a 36-unit condominium development, including 9 affordable units, on approximately 6.7 acres of land located off Ward Street (Map 124, Lots 70-75 and 26) in Residence District B.

The purpose of this letter is to confirm our previous communications, particularly with respect to the required timeframes for you, as Applicant, to file required submission documents and to pay the required initial peer review consultant fee. In addition, this letter summarizes a number of deficiencies in your application. The following outlines both verbal and written discussions regarding submissions and payment of the peer review fee as well as requests made by the Board and me, as Zoning Administrator, in an attempt to address these deficiencies.

1. Hearing Timeline: A timeline setting forth all of the relevant dates, in accordance with the 40B Regulations, is attached as Exhibit A. This timeline amends the timeline previously provided by my office. The timeline is subject to revision based on continuances of hearings as may be agreed upon by the Applicant and the Board. As you know, there have been communications between my office and Attorney Baker related to the hearing schedule and potential continued hearing dates and deadlines; however, the Applicant should look to the attached timeline going forward as the basis for our schedule in this matter.

2. Materials and Peer Review Funds Submission Deadline: As outlined below, the dates by which you have committed to submit updated materials and to pay the peer review have passed on more than one occasion. As I recently communicated to you (and for the reasons discussed in more detail below), **the deadline to submit revised materials and to remit peer review funds is Thursday, December 21, 2017 at 4:30 PM** (close of business for Town offices).

State (760 CMR 56.05(5)) and local regulations (Section G of the Rules and Regulations) expressly allow the Board to employ outside consultant review of the proposed plan and technical studies. You and I initially discussed peer review in my office on or about the date that the application was filed. At that time we discussed consultants that the Board typically engages and you provided me with feedback on the possible consultants. As the Zoning Administrator, I engaged consultants on behalf of the Board based in part on our discussion.

Peer review was further discussed during the Board's initial hearing on this matter on April 27, 2016. As the Zoning Administrator, I outlined the process used to select outside consultants, noting that a number of technical details customarily requiring review were not included with your original application. These materials include a Traffic Impact and Access Study, which was eventually received by the Board during the hearing on April 27, 2016. Additional discussions related to peer review took place during the Board's subsequent hearing on May 11, 2016. At that time, Attorney Warren Baker acknowledged the importance of a peer review of technical documents such as a Stormwater Management Report. He then represented that the Report would be finalized and submitted to the Board within a week. However, no Stormwater Management Report was submitted at that time or up until the time that the stay took effect on July 6, 2017, nor has one been received since the lifting of the stay on October 31, 2017.

Following issuance of the Housing Appeal Committee's Interlocutory Appeal and the resulting conclusion of the stay on October 31, 2017, the Zoning Administrator contacted the Applicant and its representatives to discuss the hearing schedule. On November 15, 2017, you and Attorney Baker agreed to meet with informally with me and the Town's special real estate counsel, Susan Murphy. The meeting took place at the Zoning Department Office on November 21, 2017. At that time, you represented that the plans had been revised to address the concerns you heard during the initial hearings. You indicated that these revised plans would be submitted the following day. Immediately following the meeting, I confirmed by email that peer review costs to review the revised plans and materials would be \$11,450.

The Board did not receive the plans and peer review funds as promised on November 22, 2017. The following week, I sent an email, dated November 27, 2017, to check on the status of the submission. On November 28, 2017, Attorney Baker responded. He indicated in his message that the Applicant was "reviewing in earnest different options and reconfigurations regarding the project..." He asked the Board to consider continuing the scheduled hearing on December 19, 2017 to mid-January. The additional time, according to Attorney Baker's request, would allow your team to "re-evaluate the project and to avoid duplicative costs and review fees."

3. Deficiencies in Application: On May 10, 2016, the Board received a written request from Attorney Baker, counsel to River Stone, LLC, "seeking greater clarity regarding the Board's concerns regarding the application and additional information. He represented that the application complies with the submittal requirements pursuant to 760 CMR 56.05 and the Board's Rules and Regulations. In response, during its public hearing on May 11, 2016, the Board discussed specific areas of both compliance and noncompliance with submission requirements under either the Department of Housing and Community Development ("DHCD") Regulations at 760 CMR 56.00 or the Board of Appeals Rules and Regulations. You were also presented with a summary of certain local concerns raised by town officials concerning the proposed project. The following outlines the Board's concerns with respect to the specified regulations and local concerns:

A. Noncompliance with 40B Regulations Submission Requirements

The River Stone comprehensive permit application fails to meet several submission elements specified under 760 CMR 56.05. Missing elements include:

- A landscaping plan (760 CMR 56.05(a))
- Typical building sections (760 CMR 56.05(c))
- Complete list of requested waivers from *all* local regulations from which relief is sought (760 CMR 56.05(h))

Additionally, the Tabulation of Proposed Buildings, as required by 760 CMR 56.05(d)), and included in Tab 5 of the application, includes a number of errors and/or discrepancies with the submitted plan set. The tabulation specifies the "number of buildings" as "10 Acres." The size of both 2 and 3 bedroom units is called out as 2100 GFA; however, the submitted floor plans depict 2328-2352 GFA for typical 2-bedroom units. The 3-bedroom floor plan does not provide this information at all.

B. Noncompliance with Local Submission Requirements

The Board of Appeals Rules and Regulations ("Rules and Regulations"), Section E, identify additional submittal requirements for comprehensive permit applications that are consistent with Chapter 40B. Namely, the Board requires sufficient engineering detail to enable it to make an informed decision on the request. As it relates to River Stone, the Board requires the following additional detail as specified in Section E.1-4 of the Rules and Regulations:

- Roadway and driveway profiles and details (E.1.a and b)
- Parking spaces and arrangements (E.1.d)
- Adequacy of open space and recreational areas proposed within the site (E.1.e)
- Adequacy of sewage disposal arrangements, the suitability of local soils for disposal (E.2.b)
- Adequacy of drainage arrangements (E.2.c)
- Adequacy of fire protection and access for emergency vehicles and personnel (E.2.d)
- Adequacy of the applicant's proposed arrangements for dealing with traffic circulation within the site and on adjacent streets (E.2.e)

During its hearing of May 11, 2016, the Board highlighted particular concerns with the proposed drainage plan. The application does not include a Stormwater Management Plan or supporting calculations. Additionally, the plans depict a connection to public drainage infrastructure in the Ward Street layout, which is not permitted for private ways in Hingham absent an easement which would require approval of Town Meeting.

C. Lack of Response to the Project Eligibility Letter and Local Concerns

In January 2016 a consolidated review of the proposed plan was conducted and comments were offered by the Board of Selectmen to the Subsidizing Agency, MassHousing. Based in part on this feedback as well as comments from the general public, MassHousing included in its Project Eligibility Letter, dated March 16, 2016, explicit instructions to address the following issues more fully during the public hearing process: flood plain management; protection of wetlands, river and wildlife habitat/conservation areas; local and state requirements related to public water supply; storm water runoff; wastewater treatment, and hazardous waste safety; traffic volume, circulation, and safety, as well as pedestrian improvements.

In addition, the Board received review comments from local officials and provided copies of the following to the Applicant:

1. Comments from Capt. David Damstra, Fire Prevention Officer, dated May 11, 2016
2. Memo from Sarah Corey, Planning Board Chairman, dated April 26, 2016
3. Comments from Glenn Olsson, Chief of Police, dated April 19, 2016
4. Comments from Loni Fournier, Conservation Officer, dated December 4, 2015, inserted into record April 26, 2016
5. Comments from Bruce Capman, Executive Health Officer, dated April 4, 2016

The Application has not directly addressed most of the above-referenced items raised by MassHousing in the Project Eligibility Letter. Further, the Board has not received responses to the concerns raised by local officials in the above-listed comment letters.

Based on the foregoing summary of the status, it is expected that the Applicant will make the required submissions and pay the required peer review fee as discussed above by no later than this Thursday, December 21, 2017. Further, the Board expects the Applicant to work towards addressing all of the deficiencies in the Application prior to the next scheduled hearing on this Application.

Thank you,



Emily Wentworth
Senior Planner/Zoning Administrator

Cc: Warren Baker, Esq.
Members of the Zoning Board of Appeals
Susan C. Murphy, Esq.

Exhibit A

River Stone Comprehensive Permit Application Timeline

Application Date 3/29/2016
Hearing Deadlines 4/28/2016

Hearing Opens 4/27/2016
Continued Dates 5/11/2016
6/6/2016

10% Letter Filed 5/12/2016
DHCD Response 6/16/2016
Number of Days Tolled 35

Appeal Filed 7/6/2016
Interlocutory Decision Issued 10/31/2017
Days Stayed 482

Total Days Tolled or Stayed 517

Deadline to Close Hearing 3/25/2018 180 days to conduct the hearing, plus 517 days tolled or stayed
Deadline to Render Decision 5/4/2018 40 days to render decision after hearing closes
Deadline to File Decision 5/18/2018 14 days to file decision