

Paul J. Avella
94 Grist Mill Road
Littleton, Massachusetts 01460

July 4, 2011

Ms. Anne E. Howard
Chief Operating Officer
Massachusetts Development Finance Agency
160 Federal Street
Boston, MA 02110

Dear Ms. Howard,

1. I am writing to you to express my extreme disappointment in your decision to provide a Project eligibility determination for Fifteen Great Road Apartments, Littleton, MA (Your letter, dated June 30, 2011, Attachment 1), and to request your reconsideration of that decision.
2. In your letter, you assert that you determined Project eligibility, “in accordance with 760 CMR 56.04,” and that you “reviewed all other criteria required on such regulations.” You further assert that a site visit occurred on May 31, 2011, and that you reviewed inputs from the Town of Littleton and “from third parties.” Since you did not mention those “third parties” by name, I assume that you included in the “third parties,” letters from State Senator Jamie Eldridge and State Representative James Arciero. Both indicated that they would write to you expressing their concerns with the Project having viewed the Project from the abutters’ properties.

Justification for your decision is offered in paragraph five of your letter. In it you write, “The conceptual project design is generally appropriate for the site taking into consideration factors such as proposed use, conceptual site plan and building massing, topography, environmental resources, (sic) integration into existing development patterns (emphasis added).”

Your letter indicates plainly that your determination of Project eligibility is solely derived from your site visit and by the documentation provided to you by Mr. David Hale, Omni Development, Fifteen Great Road II LLC. Unfortunately, it seems that the various factors you considered were not thoroughly fact checked for accuracy prior to you issuing your decision. While each on its own deserves such fact checking prior to any follow-on decisions, I find it extraordinarily necessary to vigorously refute two of your findings that the Project satisfactorily fulfills the criteria: specifically, integration into existing development patterns, and the veracity of “ownership” certifications. For your convenience, however, I have included other information in attachment 2 outlining additional discrepancies in the record.

- a. First, I will address integration into existing development patterns

- i. This assertion is dubious at best, if not disingenuous. **No structure approaches the height of the Project's proposed buildings** in all of Littleton in general, and certainly not in the sited neighborhood to include the area in Acton. Two-story, single-family homes on one-acre lots about the site in Littleton. Single-story and two-story retail businesses (restaurants, insurance agency, pool supply, hairdresser, etc) about the site in Acton. Attachment 3. **Photos**, offers ample evidence substantiating my assertion.

The nearest buildings approaching the dimensions Mr. Hale proposes are six-tenths of a mile away in Acton, at Avalon Apartments. These apartments are located in an office park, not a residential neighborhood. Furthermore, no structure, other than the Avalon Apartments is any higher than three-story, flat roof office buildings. The Fifteen Great Road, Littleton, MA Project buildings will tower over even those office buildings. Please allow me to reiterate, the Project buildings, one of which is detailed at 72-feet will tower over three-story, flat roof office buildings. For more emphasis, the **Project buildings would become the highest in Littleton**, taller than IBM's building along I-495. Incidentally, the IBM building is IBM's largest software development campus in the world.

Of some extreme irony, or perhaps arrogance, Mr. Hale recommended at a Littleton Board of Selectmen meeting that the abutters take the time to view his work at Avalon in order for the abutters to gain an appreciation of the aesthetics he offers and how his Project would integrate into an existing residential neighborhood of two-story, single-family homes.

In attachment 3, **Photos**, are pictures of the Avalon Apartments and the surrounding area of the site offered for your review. The **Avalon complex, when viewed from the front road, towers well over 100 feet above the road** level. As noted above, the complex is situated in a commercial office building area, not a residential neighborhood. The **Avalon Apartment complex does not represent Littleton** in any way shape or form. **Mr. Hale's proposed structures most certainly do not integrate into "existing development patterns."**

Mr. Hale would have you believe that structures located six-tenths of a mile away from the site, in another town, and situated in an office park, are illustrative of an aesthetical integration suitable for sitting 0.015 miles (75 feet, or one-quarter of a football field) from single-family homes. This is nothing short of absurd.

M.G.L. Chapter 40B Comprehensive Permit Projects, is quite clear in stating,

“Relationship to Adjacent Streets-- -- Likewise, the manner in which the buildings relate to adjacent streets is critically important. Massing should take into account the pattern of the existing street frontage as well as maintain a human scale by reasonably relating the height of buildings to the width of the public way.”

Grist Mill Road is an adjacent street. The criteria outlined in law is not met. The project fails to meet the criteria established in law.

To reiterate, and to emphasize, **structures of the size Mr. Hale proposes do not fit into Littleton’s town-wide development patterns.** As an adjunct to the site survey, a short tour of Littleton would quickly reveal this is the case.

- ii. Mr. Hale proposes building four- and five-story structures. His claim is that they are only three- and four-stories tall. However, when approaching the entrances to the proposed buildings, **as outlined by Mr. Hale himself in many public meetings, it is clear that the actual number of levels of each building to be four and five.**
- iii. Adding insult to injury, Mr. Hale proposes a major road that would track within 30 feet of single-family back yards clearly indicating that the project fails to integrate into existing development patterns. **Residential neighborhoods usually have backyards abutting back yards, not major roadways.**
- iv. A more faithful rendering of the situation would be gained by unfettered access to the proposed site and a tour of the Grist Mill Road neighborhood by you and other Massachusetts Development Finance Agency representatives.

b. Secondly, Ownership Certifications

- i. In your letter, under “Limited Dividend,” you write that Omni has, “...confirmed that the Applicant is the developer of the Project and will be the owner of the Project.” **This is in direct contradiction to Mr. Hales own words.** The developer told the Littleton Board of Selectman on April 25, 2011, that the site drawings were conceptual in nature. At a meeting with abutters on April 27, 2011, Mr. Hale told the abutters, “I am in the land development business...we’ll permit and **someone else will build this** (emphasis added).” Please note the quotations marks. This is not an anecdotal statement on my part. It is a **direct quote** of Mr. Hale. Certainly, **this does not** reconcile with your confirmation of ownership comment in your letter.

Earlier, I mentioned Mr. Hale’s representation of his work at Avalon Apartments. It must be noted that Mr. **Hale did not build that project.** He left that to others following his cut and run after having secured

development rights to the land, and in turn selling them. **Again, this is in direct contradiction** to your letter, where you write, "...confirmed that the Applicant is the developer of the Project and will be the owner of the Project."

Mr. Hale exhibits a "pie-in-the-sky" concept designed to elicit Commonwealth approval for what is an otherwise undefined project, of undefined scope. **The Town of Littleton and the Massachusetts Development Finance Agency of Massachusetts have no way of even partially knowing the developer's true intent at 15 Great Road.** To claim such knowledge given the overwhelming lack of clear evidence is casts doubt on the process.

To show good faith, perhaps Mr. Hale would post a significant bond guarantying he will retain ownership.

3. To be clear, I support land development. I would not be living in my home of today were it not for land developers. I purchased my home following 30 years of living in some rather nasty places on our planet, to include Iraq on more occasions then I care to remember, while serving our nation in the United States Air Force. This is the home I intend to die in. I purchased it with the local zoning laws/regulations well known to me as single-family lots, not four- and five-story apartment complexes. Madam, your decision, if allowed to stand does a disservice to me, a veteran of many foreign entanglements.
4. To be equally clear, this is not an affordable housing issue for me. It is, in plain and simple language, the wrong Project, in the wrong place. An objective observation of the enormity of the proposed structures alongside single-family homes unambiguously leaves the observer with but **only one conclusion: It does not fit!**
5. We are a nation of law, to be applied equally to all. I write this letter to you on our Nation's birthday, trusting in your wisdom and respect for law as I respectfully request that you reassess the Fifteen Great Road, Littleton, MA Project. I ask that you reexamine the facts, and **fully take into consideration the local existing development patterns,** and arrive at the conclusion that four- and five-story buildings as included in the Project **are not in character** with the two-story, single-family homes abutting the Project, and **disapprove the Project.**

Sincerely,

Paul J. Avella

Cc:

The Honorable Deval Patrick, Governor of Massachusetts
The Honorable Martha Coakley, Attorney General of the Commonwealth
Mr. Greg Bialecki Secretary, Executive Office of Housing and Economic Development
Massachusetts State Senator Jamie Eldridge (Acton, Littleton)
Massachusetts State Senator Susan Fargo (Concord)
Massachusetts State Representative James Arciero (Littleton, Westford)
Massachusetts State Representative Cory Atkins (precincts 1, 2 and 6, of the town of Acton)
Massachusetts State Representative Jennifer Benson (precincts 3, 4 and 5, of the town of Acton)
Littleton Board of Selectmen
Littleton Planning Board
Littleton Board of Health
Littleton Conservation Commission
Littleton Zoning Board of Appeals
Nashoba Valley Chamber of Commerce
Massachusetts Better Business Bureau
Boston Globe
Lowell-Sun
Littleton Independent
Mr. Bill Shields – WBZ TV
Mr. Joe Shortsleeve WBZ TV I-Team

Attachments:

1. Massachusetts Development Finance Agency letter, June 30, 2011
<http://www.littletonma.org/filestorage/49/3596/65/8458/11136/15GreatRd-MassDevelopment-ProjectEligibilityLetter-30Jun2011.pdf>
2. Additional Information
3. Photos

Attachment 2. Additional Information

1. Proposed use of the site taking, and immediately adjacent infrastructure

- a. Mr. Hale claims he is building a GREEN development, yet the project offers no such certification. The proposer's documentation is misleading for reviewers. (Developer acknowledged this at BoS meeting, April 25, 2011; and again, at a meeting for abutters, April 27, 2011.)
- b. Mr. Hale's exhibits 4 & 8 (Exhibit_04_&_08_-_40B_Developmenet_Plan.pdf) indicate a "public 50' wide" Grist Mill Road. This is intentionally misleading. While the right of way for Grist Mill is 50', the paved road is only 24' wide. The material as presented is deceiving, as it indicates Grist Mill Road has substantial capacity for the proposed development. This capacity plainly does not exist and is an inaccurate representation.
- c. Mr. Hale claims control of the land illustrated in Omni Development LCC documents pertaining to the proposal. Yet, according to the registry of deeds and town tax records, the lots proposed for the apartment complex are owned by the MAYEL Corporation, not Omni. Exhibit 1 "Site Control" submitted by the applicant shows a Purchase and Sale agreement from "15 Great Rd LLC" to "15 Great Rd II LLC". However, there is no documentation indicating that they have agreement and control from the MAYEL Corporation regarding these parcels.
- d. Among parcels the developer claims control over is Lot 56. Deeds for Grist Mill reference an approved subdivision plan 1349 of 2003. In examining that plan, there is no road indicated for Lot 56. Deeds for the Grist Mill Homes reference a plan that also does not indicate road access on lot 56. Allowing a road represents a substantial change to the approved Apple D'or subdivision. In addition, Littleton Planning Board document, Amendment to Certificate of Approval for Red-Line Revisions of a Definitive Subdivision Plan, dated January 30, 2003, in paragraph G clearly states, "No lot on Grist Mill Road will be used for access to possible future development on adjacent parcels (Assessor's Map U-1, Parcels 2, 3, 4, 5, 6, 7, 8, and/or 9)." (Emphasis added)"
- e. The developer's draft plans show wetlands and a pond (Exhibit_04_&_08_-_40B_Developmenet_Plan.pdf) behind the lot that touches 94/96 Grist Mill, yet the road they show goes through that land and has two drainage ponds less than 100 feet from the pond.

2. Safety

- a. There are insufficient sight lines at the Project's proposed road intersection with RTs2a/119, currently a 50MPH section of road. There is a hillcrest just before the proposed entry. Stopping distance may be greater than sight distance allows.

Traffic exiting from the proposed road would have to contend with traffic on RTs 2A/119 traversing from Acton to Littleton. Mr. Hale has offered no evidence of line of sight studies for that portion of RTs 2A/119.

- b. The proposed road also potentially opens access to Town of Westford lots that abut 57 through 69 Grist Mill Road. Lacking evidence to the contrary, Mr. Hale seems to be deliberately obfuscating intended use of this road. Any such expansion of the road network will only further contribute to overloading residential roads that are designed for access to homes sited on one-acre plots, not as thoroughfares between two towns. Mr. Hale did state that with zoning change or use variance, he could include for-profit elderly housing, or he could propose **“other uses.”** He has not identified these other uses.
- c. Mr. Hale claims easy access to amenities in the area yet, offers no pedestrian safe passage along RTs 2A/119.
- d. Site parking lots on the plan design favors the funneling of traffic towards Grist Mill Road. This would cause residents of the apartment complex to undertake a 270-degree turn out of the parking lot to exit via Great Road.
- e. There is insufficient turning area for fire trucks; the front of all buildings except one has obstructed access, thus hindering emergency vehicle response; two buildings have no access to their backside; no flow tests, hydrant main size, or available water for firefighting studies have been presented (Littleton Fire Prevention Officers, letter, April 19, 2011)

Attachment 3, Photos



Photo 1. Avalon Apartments



Photos 2 & 3. Examples of Grist Mill Road abutters of proposed Project



Photos 4 & 5. Examples of abutting structures in Acton in Nagog Park



Photos 6 & 7. Examples of abutting structures in Acton in Nagog Park, and in Littleton